Volume 4

# STATUTES OF CALIFORNIA

## AND DIGESTS OF MEASURES

## 2008

Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,
Presidential Primary Election, February 5, 2008,
Statewide Direct Primary Election, June 3, 2008
and General Election, November 4, 2008

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

**2007–08 Regular Session**
**2007–08 First Extraordinary Session**
**2007–08 Second Extraordinary Session**
**2007–08 Third Extraordinary Session**
**2007–08 Fourth Extraordinary Session**

*Compiled by*
DIANE F. BOYER-VINE
*Legislative Counsel*

# CHAPTER 585

An act to add Section 14629 to the Government Code, relating to the State Capitol.

[Approved by Governor September 29, 2008. Filed with Secretary of State September 29, 2008.]

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

SECTION 1. Section 14629 is added to the Government Code, to read:

14629. (a) The Military Order of the Purple Heart, Capitol Chapter 385, or any successor entity, may plan and construct a memorial in the Capitol Historic Region, in consultation with the department, to honor California residents who have been awarded the Purple Heart.

(b) The Purple Heart Memorial Review Committee is hereby established and shall include as members all of the following:

(1) The Director of General Services, or his or her designee.

(2) The State Historic Preservation Officer, or his or her designee.

(3) A Member of the Assembly appointed by the Speaker of the Assembly.

(4) A Member of the Senate appointed by the Senate Committee on Rules.

(c) The committee shall consult with the Military Order of the Purple Heart, Capitol Chapter 385, to identify an appropriate location for the memorial in the Capitol Historic Region and review a memorial design.

(d) The department, in consultation with the Military Order of the Purple Heart, Capitol Chapter 385, shall accomplish the following goals:

(1) Review of the preliminary design plans to identify potential maintenance concerns.

(2) Ensure Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) compliance, and other safety concerns.

(3) Review and approval of proper California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) documents prepared for work at the designated historic property.

(4) Review of final construction documents to ensure that all requirements are met.

(5) Prepare the right-of-entry permit outlining the final area of work, final construction documents, construction plans, the contractor hired to perform the work, insurance, bonding, provisions for damage to state property, and inspection requirements.

(6) Prepare a maintenance agreement outlining the Military Order of the Purple Heart, Capitol Chapter 385's responsibility for the long-term maintenance of the memorial due to aging, vandalism, or relocation.

(7) Inspect the construction performed by the contractor selected by the Military Order of the Purple Heart, Capitol Chapter 385.

(e) If the Military Order of the Purple Heart, Capitol Chapter 385 undertakes responsibility to construct a memorial under this section, it shall, in consultation with the department, establish a schedule for the design, construction, and dedication of the memorial, implement procedures to solicit designs for the memorial and devise a selection process for the choice of the design, and establish a program for the dedication of the memorial.

(f) The department and the Purple Heart Memorial Review Committee shall approve the design of the memorial.

(g) If the Military Order of the Purple Heart, Capitol Chapter 385 undertakes responsibility to construct a memorial under this section, it shall not begin construction of the memorial until the master plan of the State Capitol Park is approved and adopted by the Joint Committee on Rules and the Joint Committee on Rules and the Department of Finance have determined that sufficient private funding is available to construct and maintain the memorial.

(h) The planning, construction, and maintenance of the memorial shall be funded exclusively through private donations to a nonprofit foundation, the Purple Heart Memorial Foundation, to be established for that purpose.

(i) If the Military Order of the Purple Heart, Capitol Chapter 385 undertakes responsibility to construct a memorial under this section, it shall sign a maintenance agreement with the state, as created under paragraph (6) of subdivision (d), to maintain the memorial with private contributions.

(j) Notwithstanding any other provision of law, any new veterans memorial approved pursuant to the master plan of the State Capitol Park, as adopted by the Joint Committee on Rules, shall be constructed within the existing boundary of the Capitol Veterans Memorial.

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## CHAPTER 586

An act to amend Section 1277 of the Code of Civil Procedure, relating to name changes.

[Approved by Governor September 29, 2008. Filed with Secretary of State September 29, 2008.]

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

SECTION 1. 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), (c), 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.

(3) For any petition under this subdivision, the current legal name of the petitioner shall be kept confidential by the court and shall not be published or posted in the court's calendars, indexes, or register of actions, as required by Article 7 (commencing with Section 69840) of Chapter 5 of Title 8 of the Government Code, or by any means or in any public forum, including a hardcopy or an electronic copy, or any other type of public media or display.

(4) (A) A petitioner may request that the court file the petition and any other papers associated with the proceeding under seal. The court may consider the request at the same time as the petition for name change, and may grant the request in any case in which the court finds that all of the following factors apply:

(i) There exists an overriding interest that overcomes the right of public access to the record.

(ii) The overriding interest supports sealing the record.

(iii) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed.

(iv) The proposed order to seal the records is narrowly tailored.

(v) No less restrictive means exist to achieve the overriding interest.

(B) On or before January 1, 2010, the Judicial Council shall develop rules of court and forms consistent with the requirements of this paragraph.

(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.

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## CHAPTER 587

An act to amend Section 13957 of the Government Code, relating to crime victims, and making an appropriation therefor.

[Approved by Governor September 29, 2008. Filed with Secretary of State September 29, 2008.]

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

SECTION 1. Section 13957 of the Government Code is amended to read:

13957. (a) The board may grant for pecuniary loss, when the board determines it will best aid the person seeking compensation, as follows:

(1) Subject to the limitations set forth in Section 13957.2, reimburse the amount of medical or medical-related expenses incurred by the victim, including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.

(2) Subject to the limitations set forth in Section 13957.2, reimburse the amount of outpatient psychiatric, psychological, or other mental health counseling-related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code, and including family psychiatric, psychological, or mental health counseling for the successful treatment of the victim provided to family members of the victim in the presence of the victim, whether or not the family member relationship existed at the time of the crime, that became necessary as a direct result of the crime, subject to the following conditions:

(A) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed ten thousand dollars ($10,000):

(i) A victim.

(ii) A derivative victim who is the surviving parent, sibling, child, spouse, fiancé, or fiancée of a victim of a crime that directly resulted in the death of the victim.

(iii) A derivative victim, as described in paragraphs (1) to (4), inclusive, of subdivision (c) of Section 13955, who is the primary caretaker of a minor victim whose claim is not denied or reduced pursuant to Section 13956 in a total amount not to exceed ten thousand dollars ($10,000) for not more than two derivative victims.

(B) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed five thousand dollars ($5,000):

(i) A derivative victim not eligible for reimbursement pursuant to subparagraph (A), provided that mental health counseling of a derivative victim described in paragraph (5) of subdivision (c) of Section 13955, shall be reimbursed only if that counseling is necessary for the treatment of the victim.

(ii) A victim of a crime of unlawful sexual intercourse with a minor committed in violation of subdivision (d) of Section 261.5 of the Penal Code. A derivative victim of a crime committed in violation of subdivision (d) of Section 261.5 of the Penal Code shall not be eligible for reimbursement of mental health counseling expenses.

(iii) A minor who suffers emotional injury as a direct result of witnessing a violent crime and who is not eligible for reimbursement of

the costs of outpatient mental health counseling under any other provision of this chapter. To be eligible for reimbursement under this clause, the minor must have been in close proximity to the victim when he or she witnessed the crime.

(C) The board may reimburse a victim or derivative victim for outpatient mental health counseling in excess of that authorized by subparagraphs (A) or (B) or for inpatient psychiatric, psychological, or other mental health counseling if the claim is based on dire or exceptional circumstances that require more extensive treatment, as approved by the board.

(D) Expenses for psychiatric, psychological, or other mental health counseling related services may be reimbursed only if the services were provided by either of the following individuals:

(i) A person who would have been authorized to provide those services pursuant to former Article 1 (commencing with Section 13959) as it read on January 1, 2002.

(ii) A person who is licensed by the state to provide those services, or who is properly supervised by a person who is so licensed, subject to the board's approval and subject to the limitations and restrictions the board may impose.

(3) Reimburse the expenses of nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(4) Subject to the limitations set forth in Section 13957.5, authorize compensation equal to the loss of income or loss of support, or both, that a victim or derivative victim incurs as a direct result of the victim's or derivative victim's injury or the victim's death. If the victim or derivative victim requests that the board give priority to reimbursement of loss of income or support, the board may not pay medical expenses, or mental health counseling expenses, except upon the request of the victim or derivative victim or after determining that payment of these expenses will not decrease the funds available for payment of loss of income or support.

(5) Authorize a cash payment to or on behalf of the victim for job retraining or similar employment-oriented services.

(6) Reimburse the claimant for the expense of installing or increasing residential security, not to exceed one thousand dollars ($1,000). Reimbursement shall be made either upon verification by law enforcement that the security measures are necessary for the personal safety of the claimant or verification by a mental health treatment provider that the security measures are necessary for the emotional well-being of the claimant. For purposes of this paragraph, a claimant is the crime victim, or, if the victim is deceased, a person who resided

with the deceased at the time of the crime. Installing or increasing residential security may include, but need not be limited to, both of the following:

(A) Home security device or system.

(B) Replacing or increasing the number of locks.

(7) Reimburse the expense of renovating or retrofitting a victim's residence or a vehicle, or both, to make the residence, the vehicle, or both, accessible or the vehicle operational by a victim upon verification that the expense is medically necessary for a victim who is permanently disabled as a direct result of the crime, whether the disability is partial or total.

(8) (A) Authorize a cash payment or reimbursement not to exceed two thousand dollars ($2,000) to a victim for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(B) The cash payment or reimbursement made under this paragraph shall only be awarded to one victim per crime giving rise to the relocation. The board may authorize more than one relocation per crime if necessary for the personal safety or emotional well-being of the victim. However, the total cash payment or reimbursement for all relocations due to the same crime shall not exceed two thousand dollars ($2,000).

(C) The board may, under compelling circumstances, award a second cash payment or reimbursement to a victim for another crime if both of the following conditions are met:

(i) The crime occurs more than three years from the date of the crime giving rise to the initial relocation cash payment or reimbursement.

(ii) The crime does not involve the same offender.

(D) When a relocation payment or reimbursement is provided to a victim of sexual assault or domestic violence and the identity of the offender is known to the victim, the victim shall agree not to inform the offender of the location of the victim's new residence and not to allow the offender on the premises at any time, or shall agree to seek a restraining order against the offender.

(9) When a victim dies as a result of a crime, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay any of the following expenses:

(A) The medical expenses incurred as a direct result of the crime in an amount not to exceed the rates or limitations established by the board.

(B) The funeral and burial expenses incurred as a direct result of the crime, not to exceed seven thousand five hundred dollars ($7,500).

(10) When the crime occurs in a residence, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs to clean the scene of the crime in an amount not to exceed one thousand dollars ($1,000). Services reimbursed pursuant to this subdivision shall be performed by persons registered with the State Department of Public Health as trauma scene waste practitioners in accordance with Chapter 9.5 (commencing with Section 118321) of Part 14 of Division 104 of the Health and Safety Code.

(11) Reimburse the licensed child care expenses necessarily incurred by a victim or derivative victim as a direct result of a crime that resulted in physical injury or death, if the following conditions are met:

(A) The injured or deceased victim was a primary caregiver for the victim's dependent children.

(B) The total reimbursement for all child care expenses does not exceed five thousand dollars ($5,000). The board shall have the ability to set a lower reimbursement amount if necessary to protect the solvency of the Restitution Fund.

(C) The periods of time for which child care expenses may be reimbursed do not exceed a total of 180 days. The time periods need not be continuous.

(D) The child care expenses are consistent with the usual and customary rates charged by the child care provider for other children in the provider's care. If the provider only cares for the victim's children, the reimbursement rate shall not exceed two hundred dollars ($200) per week for one child or four hundred dollars ($400) per week for two or more children subject to the limit in subparagraph (E).

(E) No victim or derivative victim may receive reimbursement for child care expenses in addition to reimbursement subject to paragraph (4).

(F) This paragraph is a pilot program and shall be operative only until January 1, 2010.

(b) The total award to or on behalf of each victim or derivative victim may not exceed thirty-five thousand dollars ($35,000), except that this amount may be increased to seventy thousand dollars ($70,000) if federal funds for that increase are available.

SEC. 2. Section 13957 of the Government Code is amended to read:

13957. (a) The board may grant for pecuniary loss, when the board determines it will best aid the person seeking compensation, as follows:

(1) Subject to the limitations set forth in Section 13957.2, reimburse the amount of medical or medical-related expenses incurred by the victim, including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the

crime, or the use of which became necessary as a direct result of the crime.

(2) Subject to the limitations set forth in Section 13957.2, reimburse the amount of outpatient psychiatric, psychological, or other mental health counseling-related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center as defined by Section 13837 of the Penal Code, and including family psychiatric, psychological, or mental health counseling for the successful treatment of the victim provided to family members of the victim in the presence of the victim, whether or not the family member relationship existed at the time of the crime, that became necessary as a direct result of the crime, subject to the following conditions:

(A) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed ten thousand dollars ($10,000):

(i) A victim.

(ii) A derivative victim who is the surviving parent, sibling, child, spouse, fiancé, or fiancée of a victim of a crime that directly resulted in the death of the victim.

(iii) A derivative victim, as described in paragraphs (1) to (4), inclusive, of subdivision (c) of Section 13955, who is the primary caretaker of a minor victim whose claim is not denied or reduced pursuant to Section 13956 in a total amount not to exceed ten thousand dollars ($10,000) for not more than two derivative victims.

(B) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed five thousand dollars ($5,000):

(i) A derivative victim not eligible for reimbursement pursuant to subparagraph (A), provided that mental health counseling of a derivative victim described in paragraph (5) of subdivision (c) of Section 13955, shall be reimbursed only if that counseling is necessary for the treatment of the victim.

(ii) A victim of a crime of unlawful sexual intercourse with a minor committed in violation of subdivision (d) of Section 261.5 of the Penal Code. A derivative victim of a crime committed in violation of subdivision (d) of Section 261.5 of the Penal Code shall not be eligible for reimbursement of mental health counseling expenses.

(iii) A minor who suffers emotional injury as a direct result of witnessing a violent crime and who is not eligible for reimbursement of the costs of outpatient mental health counseling under any other provision of this chapter. To be eligible for reimbursement under this clause, the minor must have been in close proximity to the victim when he or she witnessed the crime.

(C) The board may reimburse a victim or derivative victim for outpatient mental health counseling in excess of that authorized by subparagraphs (A) or (B) or for inpatient psychiatric, psychological, or other mental health counseling if the claim is based on dire or exceptional circumstances that require more extensive treatment, as approved by the board.

(D) Expenses for psychiatric, psychological, or other mental health counseling-related services may be reimbursed only if the services were provided by either of the following individuals:

(i) A person who would have been authorized to provide those services pursuant to former Article 1 (commencing with Section 13959) as it read on January 1, 2002.

(ii) A person who is licensed by the state to provide those services, or who is properly supervised by a person who is so licensed, subject to the board's approval and subject to the limitations and restrictions the board may impose.

(3) Reimburse the expenses of nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.

(4) Subject to the limitations set forth in Section 13957.5, authorize compensation equal to the loss of income or loss of support, or both, that a victim or derivative victim incurs as a direct result of the victim's or derivative victim's injury or the victim's death. If the victim or derivative victim requests that the board give priority to reimbursement of loss of income or support, the board may not pay medical expenses, or mental health counseling expenses, except upon the request of the victim or derivative victim or after determining that payment of these expenses will not decrease the funds available for payment of loss of income or support.

(5) Authorize a cash payment to or on behalf of the victim for job retraining or similar employment-oriented services.

(6) Reimburse the claimant for the expense of installing or increasing residential security, not to exceed one thousand dollars ($1,000). Reimbursement shall be made either upon verification by law enforcement that the security measures are necessary for the personal safety of the claimant or verification by a mental health treatment provider that the security measures are necessary for the emotional well-being of the claimant. For purposes of this paragraph, a claimant is the crime victim, or, if the victim is deceased, a person who resided with the deceased at the time of the crime. Installing or increasing residential security may include, but need not be limited to, both of the following:

(A) Home security device or system.

(B) Replacing or increasing the number of locks.

(7) Reimburse the expense of renovating or retrofitting a victim's residence or a vehicle, or both, to make the residence, the vehicle, or both, accessible or the vehicle operational by a victim upon verification that the expense is medically necessary for a victim who is permanently disabled as a direct result of the crime, whether the disability is partial or total.

(8) (A) Authorize a cash payment or reimbursement not to exceed two thousand dollars ($2,000) to a victim for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(B) The cash payment or reimbursement made under this paragraph shall only be awarded to one claimant per crime giving rise to the relocation. The board may authorize more than one relocation per crime if necessary for the personal safety or emotional well-being of the claimant. However, the total cash payment or reimbursement for all relocations due to the same crime shall not exceed two thousand dollars ($2,000). For purposes of this paragraph a claimant is the crime victim, or, if the victim is deceased, a person who resided with the deceased at the time of the crime.

(C) The board may, under compelling circumstances, award a second cash payment or reimbursement to a victim for another crime if both of the following conditions are met:

(i) The crime occurs more than three years from the date of the crime giving rise to the initial relocation cash payment or reimbursement.

(ii) The crime does not involve the same offender.

(D) When a relocation payment or reimbursement is provided to a victim of sexual assault or domestic violence and the identity of the offender is known to the victim, the victim shall agree not to inform the offender of the location of the victim's new residence and not to allow the offender on the premises at any time, or shall agree to seek a restraining order against the offender.

(9) When a victim dies as a result of a crime, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay any of the following expenses:

(A) The medical expenses incurred as a direct result of the crime in an amount not to exceed the rates or limitations established by the board.

(B) The funeral and burial expenses incurred as a direct result of the crime, not to exceed seven thousand five hundred dollars ($7,500).

(10) When the crime occurs in a residence, the board may reimburse any individual who voluntarily, and without anticipation of personal

gain, pays or assumes the obligation to pay the reasonable costs to clean the scene of the crime in an amount not to exceed one thousand dollars ($1,000). Services reimbursed pursuant to this subdivision shall be performed by persons registered with the State Department of Public Health as trauma scene waste practitioners in accordance with Chapter 9.5 (commencing with Section 118321) of Part 14 of Division 104 of the Health and Safety Code.

(11) Reimburse the licensed child care expenses necessarily incurred by a victim or derivative victim as a direct result of a crime that resulted in physical injury or death, if the following conditions are met:

(A) The injured or deceased victim was a primary caregiver for the victim's dependent children.

(B) The total reimbursement for all child care expenses does not exceed five thousand dollars ($5,000). The board shall have the ability to set a lower reimbursement amount if necessary to protect the solvency of the Restitution Fund.

(C) The periods of time for which child care expenses may be reimbursed do not exceed a total of 180 days. The time periods need not be continuous.

(D) The child care expenses are consistent with the usual and customary rates charged by the child care provider for other children in the provider's care. If the provider only cares for the victim's children, the reimbursement rate shall not exceed two hundred dollars ($200) per week for one child or four hundred dollars ($400) per week for two or more children subject to the limit in subparagraph (E).

(E) No victim or derivative victim may receive reimbursement for child care expenses in addition to reimbursement subject to paragraph (4).

(F) This paragraph is a pilot program and shall be operative only until January 1, 2010.

(b) The total award to or on behalf of each victim or derivative victim may not exceed thirty-five thousand dollars ($35,000), except that this amount may be increased to seventy thousand dollars ($70,000) if federal funds for that increase are available.

SEC. 3. Section 2 of this bill incorporates amendments to Section 13957 of the Government Code proposed by both this bill and AB 717. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 13957 of the Government Code, and (3) this bill is enacted after AB 717, in which case Section 1 of this bill shall not become operative.

# CHAPTER 588

An act to add Section 22511.3 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. Section 22511.3 is added to the Vehicle Code, to read:

22511.3. (a) A veteran displaying special license plates issued under Section 5101.3, 5101.4, 5101.5, 5101.6, or 5101.8 may park his or her motor vehicle, weighing not more than 6,000 pounds gross weight, without charge, in a metered parking space.

(b) Nothing in this section restricts the rights of a person displaying either a special identification license plate issued pursuant to Section 5007 or a distinguishing placard issued pursuant to Section 22511.55 or 22511.59.

(c) (1) This section does not exempt a vehicle displaying special license plates issued under Section 5101.3, 5101.4, 5101.5, 5101.6, or 5101.8 from compliance with any other state law or ordinance, including, but not limited to, vehicle height restrictions, zones that prohibit stopping, parking, or standing of all vehicles, parking time limitations, street sweeping, restrictions of the parking space to a particular type of vehicle, or the parking of a vehicle that is involved in the operation of a street vending business.

(2) This section does not authorize a vehicle displaying special license plates issued under Section 5101.3, 5101.4, 5101.5, 5101.6, or 5101.8 to park in a state parking facility that is designated only for state employees.

(3) This section does not authorize a vehicle displaying special license plates issued under Section 5101.3, 5101.4, 5101.5, 5101.6, or 5101.8 to park during time periods other than the normal business hours of, or the maximum time allotted by, a state or local authority parking facility.

(4) This section does not require the state or a local authority to designate specific parking spaces for vehicles displaying special license plates issued under Section 5101.3, 5101.4, 5101.5, 5101.6, or 5101.8.

(d) A local authority's compliance with subdivision (a) is solely contingent upon the approval of its governing body.

# CHAPTER 589

An act relating to public schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature finds and declares both of the following:

(a) The purpose of the task force described in subdivision (a) of Section 2 of this act is to review and make recommendations regarding the Interstate Compact on Educational Opportunity for Military Children.

(b) The intent of the Interstate Compact on Educational Opportunity for Military Children is to remove barriers to educational success imposed on children of military families because of the frequent moves and deployment of their parents by doing all of the following:

(1) Facilitating the timely enrollment of the children of military families in public schools and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance and age requirements.

(2) Facilitating a pupil placement process that ensures that the children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment.

(3) Facilitating the qualification and eligibility of the children of military families for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

(4) Facilitating the on-time graduation of the children of military families.

(5) Providing for the promulgation and enforcement of administrative rules implementing the provisions of the compact.

(6) Providing for the uniform collection and sharing of information between and among states that have adopted the compact, schools, and military families pursuant to the provisions of the compact.

(7) Promoting coordination between the compact and other interstate compacts affecting military children.

(8) Promoting flexibility and cooperation between the educational system, parents, and pupils in order to achieve educational success for pupils.

SEC. 2. (a) The Superintendent of Public Instruction shall convene and support a task force to review and make recommendations regarding the Interstate Compact on Educational Opportunity for Military Children. Members of the task force may use teleconferencing, phone conferencing, or both to participate in any meeting of the task force.

(b) The task force shall review the compact and issue a final report regarding the compact that includes, at a minimum, all of the following:

(1) Identification and examination of educational transition and deployment issues that affect military children.

(2) The implications of, and interplay between, the compact and applicable federal law regarding public schools.

(3) The implications of, and interplay between, the compact and applicable state law regarding public schools.

(4) The legal obligations the compact would impose on the state if it were adopted.

(5) Discussion of provisions within the compact that raise concerns among the task force members and recommendations on the most effective manner to address those concerns.

(c) The task force shall include all of the following members:

(1) Two members of the Senate appointed by the Senate Committee on Rules, or their designees, and two members of the Assembly appointed by the Speaker of the Assembly, or their designees, who represent legislative districts with a high concentration of military children.

(2) A representative from the United States Department of Defense, at the discretion of the Under Secretary of Defense for Personnel and Readiness.

(3) The Superintendent of Public Instruction or his or her designee.

(4) A representative from a county office of education for a county with a high concentration of military children, selected by the Superintendent of Public Instruction.

(5) Two school district superintendents or their representatives from school districts with a high concentration of military children, selected by the Superintendent of Public Instruction.

(6) The Secretary for Education or his or her designee.

(7) A member of the State Board of Education or his or her designee.

(8) The commanders from Navy Region Southwest and Marine Corps Installations West, or their designated uniformed representatives.

(9) A member of the governing board of a school district with a high concentration of military children, or his or her representative, selected by the Superintendent of Public Instruction.

(10) The Director of State Planning and Research or his or her designee.

(d) A member of the task force shall not receive compensation for his or her services as a member of the task force or reimbursement for expenses.

(e) The task force shall present its final report of findings and conclusions, including recommendations for legislative action, if necessary, to the appropriate committees of the Legislature by January 1, 2009. The report shall be concise and may be produced and submitted solely in electronic format.

(f) This section shall become inoperative on June 30, 2009.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the task force convened by the Superintendent of Public Instruction to prepare and present its final report by January 1, 2009, so the Legislature can act to promote the educational achievement of the children of military families at the earliest possible time, it is necessary that this act take effect immediately.

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## CHAPTER 590

An act to add Section 18991 to the Government Code, relating to public employment.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 18991 is added to the Government Code, to read:

18991. (a) Notwithstanding any other provision of law, persons retired from the United States military, honorably discharged from active military duty with a service-connected disability, or honorably discharged from active duty, shall be eligible to apply for promotional civil service examinations, including examinations for career executive assignments, for which they meet the minimum qualifications as prescribed by the class specification. Persons receiving passing scores shall have their names placed on promotional lists resulting from these examinations or otherwise gain eligibility for appointment. In evaluating minimum qualifications, related military experience shall be considered state civil

service experience in a class deemed comparable by the State Personnel Board, based on the duties and responsibilities assigned.

(b) In cases where promotional examinations are given by more than one department for the same classification, the employee shall select one department in which to compete. Once this selection is made, it cannot be changed for the duration of the promotional list established from the examination in which the employee participated. Employees may transfer list eligibility between departments in the same manner as provided for civil service employees.

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## CHAPTER 591

An act to amend Sections 5600.3, 5806, 5807, and 5808 of, and to add Section 5815 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 5600.3 of the Welfare and Institutions Code is amended to read:

5600.3. To the extent resources are available, the primary goal of the use of funds deposited in the mental health account of the local health and welfare trust fund should be to serve the target populations identified in the following categories, which shall not be construed as establishing an order of priority:

(a) (1) Seriously emotionally disturbed children or adolescents.

(2) For the purposes of this part, "seriously emotionally disturbed children or adolescents" means minors under the age of 18 years who have a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental disorder, which results in behavior inappropriate to the child's age according to expected developmental norms. Members of this target population shall meet one or more of the following criteria:

(A) As a result of the mental disorder, the child has substantial impairment in at least two of the following areas: self-care, school functioning, family relationships, or ability to function in the community; and either of the following occur:

(i) The child is at risk of removal from home or has already been removed from the home.

(ii) The mental disorder and impairments have been present for more than six months or are likely to continue for more than one year without treatment.

(B) The child displays one of the following: psychotic features, risk of suicide or risk of violence due to a mental disorder.

(C) The child meets special education eligibility requirements under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(b) (1) Adults and older adults who have a serious mental disorder.

(2) For the purposes of this part, "serious mental disorder" means a mental disorder that is severe in degree and persistent in duration, which may cause behavioral functioning which interferes substantially with the primary activities of daily living, and which may result in an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period of time. Serious mental disorders include, but are not limited to, schizophrenia, bipolar disorder, post-traumatic stress disorder, as well as major affective disorders or other severely disabling mental disorders. This section shall not be construed to exclude persons with a serious mental disorder and a diagnosis of substance abuse, developmental disability, or other physical or mental disorder.

(3) Members of this target population shall meet all of the following criteria:

(A) The person has a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a substance use disorder or developmental disorder or acquired traumatic brain injury pursuant to subdivision (a) of Section 4354 unless that person also has a serious mental disorder as defined in paragraph (2).

(B) (i) As a result of the mental disorder, the person has substantial functional impairments or symptoms, or a psychiatric history demonstrating that without treatment there is an imminent risk of decompensation to having substantial impairments or symptoms.

(ii) For the purposes of this part, "functional impairment" means being substantially impaired as the result of a mental disorder in independent living, social relationships, vocational skills, or physical condition.

(C) As a result of a mental functional impairment and circumstances, the person is likely to become so disabled as to require public assistance, services, or entitlements.

(4) For the purpose of organizing outreach and treatment options, to the extent resources are available, this target population includes, but is not limited to, persons who are any of the following:

(A) Homeless persons who are mentally ill.

(B) Persons evaluated by appropriately licensed persons as requiring care in acute treatment facilities including state hospitals, acute inpatient facilities, institutes for mental disease, and crisis residential programs.

(C) Persons arrested or convicted of crimes.

(D) Persons who require acute treatment as a result of a first episode of mental illness with psychotic features.

(5) California veterans in need of mental health services and who meet the existing eligibility requirements of this section, shall be provided services to the extent services are available to other adults pursuant to this section. Veterans who may be eligible for mental health services through the United States Department of Veterans Affairs should be advised of these services by the county and assisted in linking to those services.

(A) No eligible veteran shall be denied county mental health services based solely on his or her status as a veteran.

(B) Counties shall refer a veteran to the county veterans service officer, if any, to determine the veteran's eligibility for, and the availability of, mental health services provided by the United States Department of Veterans Affairs or other federal health care provider.

(C) Counties should consider contracting with community-based veterans' services agencies, where possible, to provide high-quality, veteran specific mental health services.

(c) Adults or older adults who require or are at risk of requiring acute psychiatric inpatient care, residential treatment, or outpatient crisis intervention because of a mental disorder with symptoms of psychosis, suicidality, or violence.

(d) Persons who need brief treatment as a result of a natural disaster or severe local emergency.

SEC. 2. Section 5806 of the Welfare and Institutions Code is amended to read:

5806. The State Department of Mental Health shall establish service standards that ensure that members of the target population are identified, and services provided to assist them to live independently, work, and reach their potential as productive citizens. The department shall provide annual oversight of grants issued pursuant to this part for compliance with these standards. These standards shall include, but are not limited to, all of the following:

(a) A service planning and delivery process that is target population based and includes the following:

(1) Determination of the numbers of clients to be served and the programs and services that will be provided to meet their needs. The local director of mental health shall consult with the sheriff, the police chief, the probation officer, the mental health board, contract agencies, and family, client, ethnic, and citizen constituency groups as determined by the director.

(2) Plans for services, including outreach to families whose severely mentally ill adult is living with them, design of mental health services, coordination and access to medications, psychiatric and psychological services, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and veterans' services. Plans shall also contain evaluation strategies, that shall consider cultural, linguistic, gender, age, and special needs of minorities in the target populations. Provision shall be made for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services due to limited-English-speaking ability and cultural differences. Recipients of outreach services may include families, the public, primary care physicians, and others who are likely to come into contact with individuals who may be suffering from an untreated severe mental illness who would be likely to become homeless if the illness continued to be untreated for a substantial period of time. Outreach to adults may include adults voluntarily or involuntarily hospitalized as a result of a severe mental illness.

(3) Provisions for services to meet the needs of target population clients who are physically disabled.

(4) Provision for services to meet the special needs of older adults.

(5) Provision for family support and consultation services, parenting support and consultation services, and peer support or self-help group support, where appropriate for the individual.

(6) Provision for services to be client-directed and that employ psychosocial rehabilitation and recovery principles.

(7) Provision for psychiatric and psychological services that are integrated with other services and for psychiatric and psychological collaboration in overall service planning.

(8) Provision for services specifically directed to seriously mentally ill young adults 25 years of age or younger who are homeless or at significant risk of becoming homeless. These provisions may include continuation of services that would still be received through other funds had eligibility not been terminated due to age.

(9) Services reflecting special needs of women from diverse cultural backgrounds, including supportive housing that accepts children, personal services coordinator therapeutic treatment, and substance treatment programs that address gender specific trauma and abuse in the lives of

persons with mental illness, and vocational rehabilitation programs that offer job training programs free of gender bias and sensitive to the needs of women.

(10) Provision for housing for clients that is immediate, transitional, permanent, or all of these.

(11) Provision for clients who have been suffering from an untreated severe mental illness for less than one year, and who do not require the full range of services but are at risk of becoming homeless unless a comprehensive individual and family support services plan is implemented. These clients shall be served in a manner that is designed to meet their needs.

(12) Provision for services for veterans.

(b) Each client shall have a clearly designated mental health personal services coordinator who may be part of a multidisciplinary treatment team who is responsible for providing or assuring needed services. Responsibilities include complete assessment of the client's needs, development of the client's personal services plan, linkage with all appropriate community services, monitoring of the quality and followthrough of services, and necessary advocacy to ensure each client receives those services which are agreed to in the personal services plan. Each client shall participate in the development of his or her personal services plan, and responsible staff shall consult with the designated conservator, if one has been appointed, and, with the consent of the client, consult with the family and other significant persons as appropriate.

(c) The individual personal services plan shall ensure that members of the target population involved in the system of care receive age, gender, and culturally appropriate services or appropriate services based on any characteristic listed or defined in Section 11135 of the Government Code, to the extent feasible, that are designed to enable recipients to:

(1) Live in the most independent, least restrictive housing feasible in the local community, and for clients with children, to live in a supportive housing environment that strives for reunification with their children or assists clients in maintaining custody of their children as is appropriate.

(2) Engage in the highest level of work or productive activity appropriate to their abilities and experience.

(3) Create and maintain a support system consisting of friends, family, and participation in community activities.

(4) Access an appropriate level of academic education or vocational training.

(5) Obtain an adequate income.

(6) Self-manage their illness and exert as much control as possible over both the day-to-day and long-term decisions which affect their lives.

(7) Access necessary physical health care and maintain the best possible physical health.

(8) Reduce or eliminate serious antisocial or criminal behavior and thereby reduce or eliminate their contact with the criminal justice system.

(9) Reduce or eliminate the distress caused by the symptoms of mental illness.

(10) Have freedom from dangerous addictive substances.

(d) The individual personal services plan shall describe the service array that meets the requirements of subdivision (c), and to the extent applicable to the individual, the requirements of subdivision (a).

SEC. 3. Section 5807 of the Welfare and Institutions Code is amended to read:

5807. (a) The State Department of Mental Health shall require counties which receive funding to develop interagency collaboration with shared responsibilities for services under this part and achievement of the client and cost outcome goals and interagency collaboration goals specified.

(b) Collaborative activities shall include:

(1) Identification of those agencies that have a significant joint responsibility for the target population and ensuring collaboration on planning for services to that population.

(2) Identification of gaps in services to members of the target population, development of policies to assure service effectiveness and continuity, and setting priorities for interagency services.

(3) Implementation of public and private collaborative programs whenever possible to better serve the target population.

(4) Provision of interagency case management services to coordinate resources to target population members who are using the services of more than one agency.

(5) Coordination with federal agencies responsible for providing veterans' services, as well as national, state, and local nonprofit organizations that provide veterans' services, to maximize the integration of services and to eliminate duplicative efforts.

SEC. 4. Section 5808 of the Welfare and Institutions Code is amended to read:

5808. In order to reduce the state and county cost of a mental health system of care, participating counties shall collect reimbursement for services from clients which shall be the same as patient fees established pursuant to Section 5710, fees paid by private or public third-party payers, federal financial participation for Medicaid or Medicare services or veterans' services, and other financial sources when available.

SEC. 5. Section 5815 is added to the Welfare and Institutions Code, to read:

5815. The State Department of Health Care Services, in conjunction with the State Department of Mental Health, shall seek all available federal funding for mental health services for veterans.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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## CHAPTER 592

An act to amend Section 19775.18 of the Government Code, relating to state employees.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 19775.18 of the Government Code is amended to read:

19775.18. (a) In addition to the benefits provided pursuant to Sections 19775 and 19775.1, a state employee who, as a member of the California National Guard or a United States military reserve organization, is ordered to active duty on and after September 11, 2001, as a result of the War on Terrorism, shall have the benefits provided for in subdivision (b).

(b) Any state employee to which subdivision (a) applies, while on active duty, shall receive from the state, for the duration of the event known as the War on Terrorism, as authorized pursuant to Sections 12302 and 12304 of Title 10 of the United States Code, but not for more than 365 calendar days, as part of his or her compensation both of the following:

(1) The difference between the amount of his or her military pay and allowances and the amount the employee would have received as a state employee, including any merit raises that would otherwise have been granted during the time the individual was on active duty. The amount an employee, as defined in Section 18526, would have received as a state employee, including any merit raises that would otherwise have

been granted during the time the individual was on active duty, shall be determined by the Department of Personnel Administration.

(2) All benefits that he or she would have received had he or she not served on active duty unless the benefits are prohibited or limited by vendor contracts.

(c) Any individual receiving compensation pursuant to subdivision (b) who does not reinstate to state service following active duty, shall have that compensation treated as a loan payable with interest at the rate earned on the Pooled Money Investment Account. This subdivision does not apply to compensation received pursuant to Section 19775.

(d) Benefits provided under paragraph (1) of subdivision (b) shall only be provided to a state employee who was not eligible to participate in a federally sponsored income protection program for National Guard personnel or military reserve personnel, or both, called into active duty, as determined by the Department of Personnel Administration. For a state employee eligible to participate in a federally sponsored income protection program, and whose monthly salary as a state employee was higher than the sum of his or her military pay and allowances and the maximum allowable benefit under the federally sponsored income protection program, the state employee shall receive the amount payable under paragraph (1) of subdivision (b), but that amount shall be reduced by the maximum allowable benefit under the federally sponsored income protection program. For individuals who elected the federally sponsored income protection program, the state shall reimburse for the cost of the insurance premium for the period of time on active duty, not to exceed 365 calendar days.

(e) The Governor may, by executive order, extend the period of time for the receipt of benefits provided pursuant to this section by no more than an additional 1,460 calendar days.

(f) (1) "Military pay and allowances" for the purposes of this section does not include hazardous duty pay, hostile fire pay, or imminent danger pay. A state employee is entitled to retain these and any other special and incentive pay provided by the federal government.

(2) "State employee" for the purposes of this section means an employee as defined in Section 18526 or an officer or employee of the legislative, executive, or judicial department of the state.

(g) This section does not apply to any state employee entitled to additional compensation or benefits pursuant to Section 19775.16 or 19775.17 of this code, or Section 395.08 of the Military and Veterans Code.

(h) This section does not apply to any active duty served after the close of the War on Terrorism.

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## CHAPTER 593

An act to add Section 399.5 to the Military and Veterans Code, relating to health screening.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 399.5 is added to the Military and Veterans Code, to read:

399.5. (a) (1) The Secretary of the California Department of Veterans Affairs, or his or her designees, shall assist any eligible member or veteran who returns or has returned to this state in obtaining an appropriate health screening test for traumatic brain injury and post-traumatic stress disorder.

(2) The eligible member or veteran must return or have returned to this state after service.

(b) (1) In order to effectively provide the assistance required by subdivision (a), the Secretary of the California Department of Veterans Affairs, or his or her designees, shall develop and implement a plan for outreach to eligible members and veterans who have returned from combat. The Adjutant General, or his or her designee, shall also develop and implement a plan for outreach to eligible members of the California National Guard who have returned from combat and remain on duty in order to effectively provide the service required by subdivision (a).

(2) Each outreach plan shall provide information to eligible members and veterans concerning traumatic brain injury and post-traumatic stress disorder, the possible impacts associated with traumatic brain injury and post-traumatic stress disorder, and the right to screening services.

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

(1) "Eligible member" means a member who served under Title 10 of the United States Code as designated by Executive Orders Nos. 12744 and 13239 of the President of the United States.

(2) "Member" or "member of the Armed Forces" means a member of the Armed Forces of the United States, including the California National Guard, who is a resident of this state.

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## CHAPTER 594

An act to amend Section 279 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 279 of the Revenue and Taxation Code is amended to read:

279. (a) A claim for the disabled veterans' property tax exemption described in Section 205.5 filed by the owner of a dwelling, once granted, shall remain in continuous effect unless any of the following occurs:

(1) Title to the property changes.

(2) The owner does not occupy the dwelling as his or her principal place of residence on the lien date.

(A) If a veteran is, on the lien date, confined to a hospital or other care facility but principally resided at a dwelling immediately prior to that confinement, the veteran will be deemed to occupy that same dwelling as his or her principal place of residence on the lien date, provided that the dwelling has not been rented or leased as described in Section 205.5.

(B) If a person receiving the disabled veterans' exemption is not occupying the dwelling on the lien date because the dwelling was damaged in a misfortune or calamity, the person will be deemed to occupy that same dwelling as his or her principal place of residence on the lien date, provided the person's absence from the dwelling is temporary and the person intends to return to the dwelling when possible to do so. Except as provided in subparagraph (C), when a dwelling has been totally destroyed, and thus no dwelling exists on the lien date, the exemption provided by Section 205.5 is not applicable until the structure has been replaced and is occupied as a dwelling.

(C) A dwelling that was totally destroyed in a disaster for which the Governor proclaimed a state of emergency, that qualified for the exemption provided by Section 205.5 and has not changed ownership since the disaster, will be deemed occupied by the person receiving a

disabled veterans' exemption on the lien date provided the person intends to reconstruct a dwelling on the property and occupy the dwelling as his or her principal place of residence when it is possible to do so.

(3) The property is altered so that it is no longer a dwelling.

(4) The veteran is no longer disabled as defined in Section 205.5.

(b) The assessor of each county shall verify the continued eligibility of each person receiving a disabled veterans' exemption, and shall provide for a periodic audit of, and establish a control system to monitor, disabled veterans' exemption claims.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

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## CHAPTER 595

An act to amend Section 648 of the Military and Veterans Code, relating to veterans.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 648 of the Military and Veterans Code is amended to read:

648. (a) Except as provided by subdivision (b), decorations authorized by this code and decorations, medals, badges, ribbons, and insignia authorized by the laws or regulations of the United States pertaining to the National Guard, Air National Guard, and Naval Militia may be worn by officers, warrant officers, and enlisted men and women in accordance with the code, laws, or regulations. However, decorations awarded by other states and territories of the United States may be worn, but shall be subordinated to those issued by federal and state laws or regulations. No other decorations, medals, badges, ribbons, or insignia may be worn. A violation of this section shall constitute a misdemeanor.

(b) Decorations authorized by this code and decorations or medals from the Armed Forces of the United States, the California National Guard, State Military Reserve, or Naval Militia, or any service medals or badges awarded to the members of such forces, may be worn by uniformed public safety personnel in accordance with the code, laws, or regulations, during the business week prior to Veterans Day and

Memorial Day, the day of Veterans Day and Memorial Day, and the business day immediately following Veterans Day and Memorial Day. The employer of the uniformed public safety personnel shall retain the right to prohibit the wearing of military decorations pursuant to this subdivision if the employer determines that wearing the military decorations poses a safety hazard to the uniformed public safety personnel or to the public.

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## CHAPTER 596

An act to amend Section 293 of the Penal Code, relating to crime, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 293 of the Penal Code is amended to read:

293. (a) Any employee of a law enforcement agency who personally receives a report from any person, alleging that the person making the report has been the victim of a sex offense, shall inform that person that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record, pursuant to Section 6254 of the Government Code.

(b) Any written report of an alleged sex offense shall indicate that the alleged victim has been properly informed pursuant to subdivision (a) and shall memorialize his or her response.

(c) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies where authorized or required by law, the address of a person who alleges to be the victim of a sex offense.

(d) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies where authorized or required by law, the name of a person who alleges to be the victim of a sex offense, if that person has elected to exercise his or her right pursuant to this section and Section 6254 of the Government Code.

(e) For purposes of this section, sex offense means any crime listed in paragraph (2) of subdivision (f) of Section 6254 of the Government Code.

(f) Parole officers of the Department of Corrections and Rehabilitation and hearing officers of the parole authority, and probation officers of county probation departments, shall be entitled to receive information pursuant to subdivisions (c) and (d) only if the person to whom the information pertains alleges that he or she is the victim of a sex offense, the alleged perpetrator of which is a parolee who is alleged to have committed the sex offense while on parole, or in the case of a county probation officer, the person who is alleged to have committed the sex offense is a probationer or is under investigation by a county probation department.

SEC. 1.5. Section 293 of the Penal Code is amended to read:

293. (a) Any employee of a law enforcement agency who personally receives a report from any person, alleging that the person making the report has been the victim of a sex offense, or was forced to commit an act of prostitution because he or she is the victim of human trafficking, as defined in Section 236.1, shall inform that person that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record, pursuant to Section 6254 of the Government Code.

(b) Any written report of an alleged sex offense shall indicate that the alleged victim has been properly informed pursuant to subdivision (a) and shall memorialize his or her response.

(c) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies where authorized or required by law, the address of a person who alleges to be the victim of a sex offense or who was forced to commit an act of prostitution because he or she is the victim of human trafficking, as defined in Section 236.1.

(d) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies where authorized or required by law, the name of a person who alleges to be the victim of a sex offense or who was forced to commit an act of prostitution because he or she is the victim of human trafficking, as defined in Section 236.1, if that person has elected to exercise his or her right pursuant to this section and Section 6254 of the Government Code.

(e) For purposes of this section, sex offense means any crime listed in paragraph (2) of subdivision (f) of Section 6254 of the Government Code.

(f) Parole officers of the Department of Corrections and Rehabilitation and hearing officers of the parole authority, and probation officers of county probation departments, shall be entitled to receive information pursuant to subdivisions (c) and (d) only if the person to whom the information pertains alleges that he or she is the victim of a sex offense or was forced to commit an act of prostitution because he or she is the victim of human trafficking, as defined in Section 236.1, the alleged perpetrator of which is a parolee who is alleged to have committed the offense while on parole, or in the case of a county probation officer, the person who is alleged to have committed the offense is a probationer or is under investigation by a county probation department.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 293 of the Penal Code proposed by both this bill and AB 2810. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, but this bill becomes operative first, (2) each bill amends Section 293 of the Penal Code, and (3) this bill is enacted after AB 2810, in which case Section 293 of the Penal Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 2810, at which time Section 1.5 of this bill shall become operative.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the public, county probation officers need victim information as soon as possible for legitimate law enforcement purposes even though they are not conducting an investigation to prepare a presentence report.

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## CHAPTER 597

An act to add and repeal Section 11005.4 of the Government Code, relating to state property.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 11005.4 is added to the Government Code, to read:

11005.4. (a) For purposes of this section, the following terms have the following meanings:

(1) "Accepted nutritional guidelines" as used in this section means the following:

(A) Beverages that are the following or meet the following standards:

(i) Water.

(ii) Milk, including, but not limited to, soy milk, rice milk, and other similar dairy or nondairy milk.

(iii) Electrolyte replacement beverages that do not contain more than 42 grams of added sweetener per 20-ounce serving.

(iv) One hundred percent fruit juice.

(v) Fruit-based drinks that are composed of no less than 50 percent fruit juice and that have no added sweeteners.

(B) Food that meets the following standards:

(i) Not more than 35 percent of its total calories are from fat. This clause does not apply to nuts, seeds, or whole grain products.

(ii) Not more than 10 percent of its total calories are from saturated fats.

(iii) Not more than 35 percent of its total weight is from sugar. This clause does not apply to fruits and vegetables.

(2) "Added sweetener" means any additive that enhances the sweetness of a beverage, including, but not limited to, added sugar, but does not include the natural sugar or sugars that are contained within the fruit juice that is a component of the beverage.

(3) "State property" as used in this section means all real property, or part thereof, used for state purposes and either owned, leased, rented, or otherwise controlled by, and occupied by, any state agency.

(4) "Vending machine" means any mechanical device the operation of which depends upon the insertion of a coin or other thing representative of value and that dispenses or vends a food product or beverage, but does not include any mechanical device that is unable to dispense any food or beverage meeting accepted nutritional guidelines without physical alteration or any mechanical device that solely dispenses or vends hot beverages or ice cream.

(b) A vendor that operates or maintains a vending machine on state property shall do all of the following:

(1) Offer at least 35 percent of the food in a vending machine that meets accepted nutritional guidelines.

(2) Offer at least one-third of the beverages in a vending machine that meets accepted nutritional guidelines. A separate one-third of the beverages offered in the vending machine shall either meet accepted nutritional guidelines or be flavored milk, beverages containing less than 20 calories per 12 ounce serving, or beverages that are composed of at least 50 percent fruit juice that may contain noncaloric sweetener. The remaining one-third of the beverages offered in the vending machine may be any beverage allowed by law.

(c) A vendor may meet the requirements in subdivision (b) by offering 25 percent of the food in a vending machine that meets accepted nutritional guidelines by January 1, 2009, and by offering the total 35 percent of the food required to meet accepted nutritional guidelines by January 1, 2011.

(d) If a vendor operates or maintains two or more vending machines that are located next to each other, the provisions of subdivisions (b) and (c) may be met by calculating the percentage of the total food and beverages offered in all of the adjacent machines.

(e) This section shall remain in effect only until four years after the last date that a vendor may meet the requirements of paragraph (1) of subdivision (b), as specified in subdivision (c), and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

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## CHAPTER 598

An act to amend Section 290.46 of the Penal Code, relating to sex offenders.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 290.46 of the Penal Code is amended to read:

290.46. (a) (1) On or before the dates specified in this section, the Department of Justice shall make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in this section. The department shall update the Internet Web site on an ongoing basis. All information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the Internet Web site. The name or address of the person's employer and the listed person's criminal history

other than the specific crimes for which the person is required to register shall not be included on the Internet Web site. The Internet Web site shall be translated into languages other than English as determined by the department.

(2) (A) On or before July 1, 2010, the Department of Justice shall make available to the public, via an Internet Web site as specified in this section, as to any person described in subdivisions (b), (c), or (d), the following information:

(i) The year of conviction of his or her most recent offense requiring registration pursuant to Section 290.

(ii) The year he or she was released from incarceration for that offense.

(iii) Whether he or she was subsequently incarcerated for any other felony, if that fact is reported to the department. If the department has no information about a subsequent incarceration for any felony, that fact shall be noted on the Internet Web site.

However, no year of conviction shall be made available to the public unless the department also is able to make available the corresponding year of release of incarceration for that offense, and the required notation regarding any subsequent felony.

(B) (i) Any state facility that releases from incarceration a person who was incarcerated because of a crime for which he or she is required to register as a sex offender pursuant to Section 290 shall, within 30 days of release, provide the year of release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department.

(ii) Any state facility that releases a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register shall, within 30 days of release, advise the Department of Justice of that fact.

(iii) Any state facility that, prior to January 1, 2007, released from incarceration a person who was incarcerated because of a crime for which he or she is required to register as a sex offender pursuant to Section 290 shall provide the year of release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(iv) Any state facility that, prior to January 1, 2007, released a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register shall advise the Department of Justice of that fact in a manner and format approved by

the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(3) The State Department of Mental Health shall provide to the Department of Justice Sex Offender Tracking Program the names of all persons committed to its custody pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, within 30 days of commitment, and shall provide the names of all of those persons released from its custody within five working days of release.

(b) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, prior adjudication as a sexually violent predator, the address at which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a).

(2) This subdivision shall apply to the following offenses and offenders:

(A) Section 207 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(B) Section 209 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(C) Paragraph (2) or (6) of subdivision (a) of Section 261.

(D) Section 264.1.

(E) Section 269.

(F) Subdivision (c) or (d) of Section 286.

(G) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a felony.

(H) Subdivision (c) or (d) of Section 288a.

(I) Section 288.3, provided that the offense is a felony.

(J) Section 288.4, provided that the offense is a felony.

(K) Section 288.5.

(L) Subdivision (a) or (j) of Section 289.

(M) Section 288.7.

(N) Any person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code.

(O) A felony violation of Section 311.1.

(P) A felony violation of subdivision (b), (c), or (d) of Section 311.2.

(Q) A felony violation of Section 311.3.

(R) A felony violation of subdivision (a), (b), (c), or (d) of Section 311.4.

(S) Section 311.10.

(T) A felony violation of Section 311.11.

(c) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a). On or before July 1, 2006, the Department of Justice shall determine whether any person convicted of an offense listed in paragraph (2) also has one or more prior or subsequent convictions of an offense listed in subdivision (c) of Section 290, and, for those persons, the Department of Justice shall make available to the public via the Internet Web site the address at which the person resides. However, the address at which the person resides shall not be disclosed until a determination is made that the person is, by virtue of his or her additional prior or subsequent conviction of an offense listed in subdivision (c) of Section 290, subject to this subdivision.

(2) This subdivision shall apply to the following offenses:

(A) Section 220, except assault to commit mayhem.

(B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

(C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 286.

(D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 288a.

(E) Subdivision (b), (d), (e), or (i) of Section 289.

(d) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, this subdivision, the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a) or the address at which the person resides.

(2) This subdivision shall apply to the following offenses and offenders:

(A) Subdivision (a) of Section 243.4, provided that the offense is a felony.

(B) Section 266, provided that the offense is a felony.

(C) Section 266c, provided that the offense is a felony.

(D) Section 266j.

(E) Section 267.

(F) Subdivision (c) of Section 288, provided that the offense is a misdemeanor.

(G) Section 288.3, provided that the offense is a misdemeanor.

(H) Section 288.4, provided that the offense is a misdemeanor.

(I) Section 626.81.

(J) Section 647.6.

(K) Section 653c.

(L) Any person required to register pursuant to Section 290 based upon an out-of-state conviction, unless that person is excluded from the Internet Web site pursuant to subdivision (e). However, if the Department of Justice has determined that the out-of-state crime, if committed or attempted in this state, would have been punishable in this state as a crime described in subdivision (c) of Section 290, the person shall be placed on the Internet Web site as provided in subdivision (b) or (c), as applicable to the crime.

(e) (1) If a person has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision, and he or she has been convicted of no other offense listed in subdivision (b), (c), or (d) other than those listed in this subdivision, that person may file an application with the Department of Justice, on a form approved by the department, for exclusion from the Internet Web site. If the department determines that the person meets the requirements of this subdivision, the department shall grant the exclusion and no information concerning the person shall be made available via the Internet Web site described in this section. He or she bears the burden of proving the facts that make him or her eligible for exclusion from the Internet Web site. However, a person who has filed for or been granted an exclusion from the Internet Web site is not relieved of his or her duty to register as a sex offender pursuant to Section 290 nor from any otherwise applicable provision of law.

(2) This subdivision shall apply to the following offenses:

(A) A felony violation of subdivision (a) of Section 243.4.

(B) Section 647.6, if the offense is a misdemeanor.

(C) A felony violation of Section 311.1, subdivision (b), (c), or (d) of Section 311.2, or Section 311.3, 311.4, 311.10, or 311.11 if the person

submits to the department a certified copy of a probation report filed in court that clearly states that all victims involved in the commission of the offense were at least 16 years of age or older at the time of the commission of the offense.

(D) (i) An offense for which the offender successfully completed probation, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(ii) An offense for which the offender is on probation at the time of his or her application, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(iii) If, subsequent to his or her application, the offender commits a violation of probation resulting in his or her incarceration in county jail or state prison, his or her exclusion, or application for exclusion, from the Internet Web site shall be terminated.

(iv) For the purposes of this subparagraph, "successfully completed probation" means that during the period of probation the offender neither received additional county jail or state prison time for a violation of probation nor was convicted of another offense resulting in a sentence to county jail or state prison.

(3) If the department determines that a person who was granted an exclusion under a former version of this subdivision would not qualify for an exclusion under the current version of this subdivision, the department shall rescind the exclusion, make a reasonable effort to provide notification to the person that the exclusion has been rescinded, and, no sooner than 30 days after notification is attempted, make information about the offender available to the public on the Internet Web site as provided in this section.

(4) Effective January 1, 2012, no person shall be excluded pursuant to this subdivision unless the offender has submitted to the department documentation sufficient for the department to determine that he or she has a SARATSO risk level of low or moderate-low.

(f) The Department of Justice shall make a reasonable effort to provide notification to persons who have been convicted of the commission or attempted commission of an offense specified in subdivision (b), (c), or (d), that on or before July 1, 2005, the department is required to make information about specified sex offenders available to the public via an Internet Web site as specified in this section. The Department of Justice shall also make a reasonable effort to provide notice that some offenders are eligible to apply for exclusion from the Internet Web site.

(g) (1) A designated law enforcement entity, as defined in subdivision (f) of Section 290.45, may make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in paragraph (2).

(2) The law enforcement entity may make available by way of an Internet Web site the information described in subdivision (c) if it determines that the public disclosure of the information about a specific offender by way of the entity's Internet Web site is necessary to ensure the public safety based upon information available to the entity concerning that specific offender.

(3) The information that may be provided pursuant to this subdivision may include the information specified in subdivision (b) of Section 290.45. However, that offender's address may not be disclosed unless he or she is a person whose address is on the Department of Justice's Internet Web site pursuant to subdivision (b) or (c).

(h) For purposes of this section, "offense" includes the statutory predecessors of that offense, or any offense committed in another jurisdiction that, if committed or attempted to be committed in this state, would have been punishable in this state as an offense listed in subdivision (c) of Section 290.

(i) Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(j) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars ($10,000) and not more than fifty thousand dollars ($50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison.

(k) Any person who is required to register pursuant to Section 290 who enters an Internet Web site established pursuant to this section shall be punished by a fine not exceeding one thousand dollars ($1,000),

imprisonment in a county jail for a period not to exceed six months, or by both that fine and imprisonment.

(*l*) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information that is disclosed pursuant to this section for purposes relating to any of the following is prohibited:

(A) Health insurance.

(B) Insurance.

(C) Loans.

(D) Credit.

(E) Employment.

(F) Education, scholarships, or fellowships.

(G) Housing or accommodations.

(H) Benefits, privileges, or services provided by any business establishment.

(3) This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3, Section 8808 of the Family Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(4) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) or in violation of paragraph (2) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars ($250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars ($25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the information available via an Internet Web site established pursuant to this section in violation of paragraph (2), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(m) The public notification provisions of this section are applicable to every person described in this section, without regard to when his or her crimes were committed or his or her duty to register pursuant to Section 290 arose, and to every offense described in this section, regardless of when it was committed.

(n) On or before July 1, 2006, and every year thereafter, the Department of Justice shall make a report to the Legislature concerning the operation of this section.

(o) A designated law enforcement entity and its employees shall be immune from liability for good faith conduct under this section.

(p) The Attorney General, in collaboration with local law enforcement and others knowledgeable about sex offenders, shall develop strategies to assist members of the public in understanding and using publicly available information about registered sex offenders to further public safety. These strategies may include, but are not limited to, a hotline for community inquiries, neighborhood and business guidelines for how to respond to information posted on this Web site, and any other resource that promotes public education about these offenders.

SEC. 1.5. Section 290.46 of the Penal Code is amended to read:

290.46. (a) (1) On or before the dates specified in this section, the Department of Justice shall make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in this section. The department shall update the Internet Web site on an ongoing basis. All information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the Internet Web site. The name or address of the person's employer and the listed person's criminal history other than the specific crimes for which the person is required to register shall not be included on the Internet Web site. The Internet Web site shall be translated into languages other than English as determined by the department.

(2) (A) On or before July 1, 2010, the Department of Justice shall make available to the public, via an Internet Web site as specified in this section, as to any person described in subdivision (b), (c), or (d), the following information:

(i) The year of conviction of his or her most recent offense requiring registration pursuant to Section 290.

(ii) The year he or she was released from incarceration for that offense.

(iii) Whether he or she was subsequently incarcerated for any other felony, if that fact is reported to the department. If the department has no information about a subsequent incarceration for any felony, that fact shall be noted on the Internet Web site.

However, no year of conviction shall be made available to the public unless the department also is able to make available the corresponding year of release of incarceration for that offense, and the required notation regarding any subsequent felony.

(B) (i) Any state facility that releases from incarceration a person who was incarcerated because of a crime for which he or she is required to register as a sex offender pursuant to Section 290 shall, within 30 days of release, provide the year of release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department.

(ii) Any state facility that releases a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register shall, within 30 days of release, advise the Department of Justice of that fact.

(iii) Any state facility that, prior to January 1, 2007, released from incarceration a person who was incarcerated because of a crime for which he or she is required to register as a sex offender pursuant to Section 290 shall provide the year of release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(iv) Any state facility that, prior to January 1, 2007, released a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register shall advise the Department of Justice of that fact in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(3) The State Department of Mental Health shall provide to the Department of Justice Sex Offender Tracking Program the names of all persons committed to its custody pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, within 30 days of commitment, and shall provide the names of all of those persons released from its custody within five working days of release.

(b) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical

description, including gender and race, date of birth, criminal history, prior adjudication as a sexually violent predator, the address at which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a).

(2) This subdivision shall apply to the following offenses and offenders:

(A) Section 187 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286, 288, 288a, or 289.

(B) Section 207 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(C) Section 209 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(D) Paragraph (2) or (6) of subdivision (a) of Section 261.

(E) Section 264.1.

(F) Section 269.

(G) Subdivision (c) or (d) of Section 286.

(H) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a felony.

(I) Subdivision (c) or (d) of Section 288a.

(J) Section 288.3, provided that the offense is a felony.

(K) Section 288.4, provided that the offense is a felony.

(L) Section 288.5.

(M) Subdivision (a) or (j) of Section 289.

(N) Section 288.7.

(O) Any person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code.

(P) A felony violation of Section 311.1.

(Q) A felony violation of subdivision (b), (c), or (d) of Section 311.2.

(R) A felony violation of Section 311.3.

(S) A felony violation of subdivision (a), (b), (c), or (d) of Section 311.4.

(T) Section 311.10.

(U) A felony violation of Section 311.11.

(c) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department

of Justice deems relevant, but not the information excluded pursuant to subdivision (a). On or before July 1, 2006, the Department of Justice shall determine whether any person convicted of an offense listed in paragraph (2) also has one or more prior or subsequent convictions of an offense listed in subdivision (c) of Section 290, and, for those persons, the Department of Justice shall make available to the public via the Internet Web site the address at which the person resides. However, the address at which the person resides shall not be disclosed until a determination is made that the person is, by virtue of his or her additional prior or subsequent conviction of an offense listed in subdivision (c) of Section 290, subject to this subdivision.

(2) This subdivision shall apply to the following offenses:

(A) Section 220, except assault to commit mayhem.

(B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

(C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 286.

(D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 288a.

(E) Subdivision (b), (d), (e), or (i) of Section 289.

(d) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, this subdivision, the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a) or the address at which the person resides.

(2) This subdivision shall apply to the following offenses and offenders:

(A) Subdivision (a) of Section 243.4, provided that the offense is a felony.

(B) Section 266, provided that the offense is a felony.

(C) Section 266c, provided that the offense is a felony.

(D) Section 266j.

(E) Section 267.

(F) Subdivision (c) of Section 288, provided that the offense is a misdemeanor.

(G) Section 288.3, provided that the offense is a misdemeanor.

(H) Section 288.4, provided that the offense is a misdemeanor.

(I) Section 626.81.

(J) Section 647.6.

(K) Section 653c.

(L) Any person required to register pursuant to Section 290 based upon an out-of-state conviction, unless that person is excluded from the Internet Web site pursuant to subdivision (e). However, if the Department of Justice has determined that the out-of-state crime, if committed or attempted in this state, would have been punishable in this state as a crime described in subdivision (c) of Section 290, the person shall be placed on the Internet Web site as provided in subdivision (b) or (c), as applicable to the crime.

(e) (1) If a person has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision, and he or she has been convicted of no other offense listed in subdivision (b), (c), or (d) other than those listed in this subdivision, that person may file an application with the Department of Justice, on a form approved by the department, for exclusion from the Internet Web site. If the department determines that the person meets the requirements of this subdivision, the department shall grant the exclusion and no information concerning the person shall be made available via the Internet Web site described in this section. He or she bears the burden of proving the facts that make him or her eligible for exclusion from the Internet Web site. However, a person who has filed for or been granted an exclusion from the Internet Web site is not relieved of his or her duty to register as a sex offender pursuant to Section 290 nor from any otherwise applicable provision of law.

(2) This subdivision shall apply to the following offenses:

(A) A felony violation of subdivision (a) of Section 243.4.

(B) Section 647.6, if the offense is a misdemeanor.

(C) A felony violation of Section 311.1, subdivision (b), (c), or (d) of Section 311.2, or Section 311.3, 311.4, 311.10, or 311.11 if the person submits to the department a certified copy of a probation report filed in court that clearly states that all victims involved in the commission of the offense were at least 16 years of age or older at the time of the commission of the offense.

(D) (i) An offense for which the offender successfully completed probation, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(ii) An offense for which the offender is on probation at the time of his or her application, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(iii) If, subsequent to his or her application, the offender commits a violation of probation resulting in his or her incarceration in county jail or state prison, his or her exclusion, or application for exclusion, from the Internet Web site shall be terminated.

(iv) For the purposes of this subparagraph, "successfully completed probation" means that during the period of probation the offender neither received additional county jail or state prison time for a violation of probation nor was convicted of another offense resulting in a sentence to county jail or state prison.

(3) If the department determines that a person who was granted an exclusion under a former version of this subdivision would not qualify for an exclusion under the current version of this subdivision, the department shall rescind the exclusion, make a reasonable effort to provide notification to the person that the exclusion has been rescinded, and, no sooner than 30 days after notification is attempted, make information about the offender available to the public on the Internet Web site as provided in this section.

(4) Effective January 1, 2012, no person shall be excluded pursuant to this subdivision unless the offender has submitted to the department documentation sufficient for the department to determine that he or she has a SARATSO risk level of low or moderate-low.

(f) The Department of Justice shall make a reasonable effort to provide notification to persons who have been convicted of the commission or attempted commission of an offense specified in subdivision (b), (c), or (d), that on or before July 1, 2005, the department is required to make information about specified sex offenders available to the public via an Internet Web site as specified in this section. The Department of Justice shall also make a reasonable effort to provide notice that some offenders are eligible to apply for exclusion from the Internet Web site.

(g) (1) A designated law enforcement entity, as defined in subdivision (f) of Section 290.45, may make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in paragraph (2).

(2) The law enforcement entity may make available by way of an Internet Web site the information described in subdivision (c) if it determines that the public disclosure of the information about a specific offender by way of the entity's Internet Web site is necessary to ensure the public safety based upon information available to the entity concerning that specific offender.

(3) The information that may be provided pursuant to this subdivision may include the information specified in subdivision (b) of Section 290.45. However, that offender's address may not be disclosed unless he or she is a person whose address is on the Department of Justice's Internet Web site pursuant to subdivision (b) or (c).

(h) For purposes of this section, "offense" includes the statutory predecessors of that offense, or any offense committed in another jurisdiction that, if committed or attempted to be committed in this state, would have been punishable in this state as an offense listed in subdivision (c) of Section 290.

(i) Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(j) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars ($10,000) and not more than fifty thousand dollars ($50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison.

(k) Any person who is required to register pursuant to Section 290 who enters an Internet Web site established pursuant to this section shall be punished by a fine not exceeding one thousand dollars ($1,000), imprisonment in a county jail for a period not to exceed six months, or by both that fine and imprisonment.

(*l*) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information that is disclosed pursuant to this section for purposes relating to any of the following is prohibited:

(A) Health insurance.

(B) Insurance.

(C) Loans.

(D) Credit.

(E) Employment.

(F) Education, scholarships, or fellowships.

(G) Housing or accommodations.

(H) Benefits, privileges, or services provided by any business establishment.

(3) This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3, Section 8808 of the Family Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(4) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) or in violation of paragraph (2) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars ($250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars ($25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the information available via an Internet Web site established pursuant to this section in violation of paragraph (2), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(m) The public notification provisions of this section are applicable to every person described in this section, without regard to when his or her crimes were committed or his or her duty to register pursuant to Section 290 arose, and to every offense described in this section, regardless of when it was committed.

(n) On or before July 1, 2006, and every year thereafter, the Department of Justice shall make a report to the Legislature concerning the operation of this section.

(o) A designated law enforcement entity and its employees shall be immune from liability for good faith conduct under this section.

(p) The Attorney General, in collaboration with local law enforcement and others knowledgeable about sex offenders, shall develop strategies to assist members of the public in understanding and using publicly

available information about registered sex offenders to further public safety. These strategies may include, but are not limited to, a hotline for community inquiries, neighborhood and business guidelines for how to respond to information posted on this Internet Web site, and any other resource that promotes public education about these offenders.

SEC. 2. The changes made to Section 290.46 of the Penal Code by this act shall not become operative until January 1, 2010, and their costs shall be paid for using existing resources.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 290.46 of the Penal Code proposed by this bill and SB 1302. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 290.46 of the Penal Code, and (3) this bill is enacted after SB 1302, in which case Section 290.46 of the Penal Code, as amended by SB 1302, shall become operative and remain operative only until January 1, 2010, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

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## CHAPTER 599

An act to amend Sections 290.46, 1203.065, 1203.067, 12021, 12022.3, and 12022.8 of the Penal Code, relating to sex offenders.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 290.46 of the Penal Code is amended to read:

290.46. (a) (1) On or before the dates specified in this section, the Department of Justice shall make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in this section. The department shall update the Internet Web site on an ongoing basis. All information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the Internet Web site. The name or address of the person's employer and the listed person's criminal history other than the specific crimes for which the person is required to register shall not be included on the Internet Web site. The Internet Web site shall be translated into languages other than English as determined by the department.

(2) (A) On or before July 1, 2010, the Department of Justice shall make available to the public, via an Internet Web site as specified in this section, as to any person described in subdivision (b), (c), or (d), the following information:

(i) The year of conviction of his or her most recent offense requiring registration pursuant to Section 290.

(ii) The year he or she was released from incarceration for that offense.

(iii) Whether he or she was subsequently incarcerated for any other felony, if that fact is reported to the department. If the department has no information about a subsequent incarceration for any felony, that fact shall be noted on the Internet Web site.

However, no year of conviction shall be made available to the public unless the department also is able to make available the corresponding year of release of incarceration for that offense, and the required notation regarding any subsequent felony.

(B) (i) Any state facility that releases from incarceration a person who was incarcerated because of a crime for which he or she is required to register as a sex offender pursuant to Section 290 shall, within 30 days of release, provide the year of release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department.

(ii) Any state facility that releases a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register shall, within 30 days of release, advise the Department of Justice of that fact.

(iii) Any state facility that, prior to January 1, 2007, released from incarceration a person who was incarcerated because of a crime for which he or she is required to register as a sex offender pursuant to Section 290 shall provide the year of release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(iv) Any state facility that, prior to January 1, 2007, released a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register shall advise the Department of Justice of that fact in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(3) The State Department of Mental Health shall provide to the Department of Justice Sex Offender Tracking Program the names of all persons committed to its custody pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, within 30 days of commitment, and shall provide the names of all of those persons released from its custody within five working days of release.

(b) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, prior adjudication as a sexually violent predator, the address at which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a).

(2) This subdivision shall apply to the following offenses and offenders:

(A) Section 187 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286, 288, 288a, or 289.

(B) Section 207 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(C) Section 209 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(D) Paragraph (2) or (6) of subdivision (a) of Section 261.

(E) Section 264.1.

(F) Section 269.

(G) Subdivision (c) or (d) of Section 286.

(H) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a felony.

(I) Subdivision (c) or (d) of Section 288a.

(J) Section 288.3, provided that the offense is a felony.

(K) Section 288.4, provided that the offense is a felony.

(L) Section 288.5.

(M) Subdivision (a) or (j) of Section 289.

(N) Section 288.7.

(O) Any person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code.

(c) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in paragraph (2), the Department of Justice shall

make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a). On or before July 1, 2006, the Department of Justice shall determine whether any person convicted of an offense listed in paragraph (2) also has one or more prior or subsequent convictions of an offense listed in subdivision (c) of Section 290, and, for those persons, the Department of Justice shall make available to the public via the Internet Web site the address at which the person resides. However, the address at which the person resides shall not be disclosed until a determination is made that the person is, by virtue of his or her additional prior or subsequent conviction of an offense listed in subdivision (c) of Section 290, subject to this subdivision.

(2) This subdivision shall apply to the following offenses:

(A) Section 220, except assault to commit mayhem.

(B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

(C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 286.

(D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 288a.

(E) Subdivision (b), (d), (e), or (i) of Section 289.

(d) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, this subdivision, the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a) or the address at which the person resides.

(2) This subdivision shall apply to the following offenses and offenders:

(A) Subdivision (a) of Section 243.4, provided that the offense is a felony.

(B) Section 266, provided that the offense is a felony.

(C) Section 266c, provided that the offense is a felony.

(D) Section 266j.

(E) Section 267.

(F) Subdivision (c) of Section 288, provided that the offense is a misdemeanor.

(G) Section 288.3, provided that the offense is a misdemeanor.

(H) Section 288.4, provided that the offense is a misdemeanor.

(I) Section 626.81.

(J) Section 647.6.

(K) Section 653c.

(L) Any person required to register pursuant to Section 290 based upon an out-of-state conviction, unless that person is excluded from the Internet Web site pursuant to subdivision (e). However, if the Department of Justice has determined that the out-of-state crime, if committed or attempted in this state, would have been punishable in this state as a crime described in subdivision (c) of Section 290, the person shall be placed on the Internet Web site as provided in subdivision (b) or (c), as applicable to the crime.

(e) (1) If a person has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision, and he or she has been convicted of no other offense listed in subdivision (b), (c), or (d) other than those listed in this subdivision, that person may file an application with the Department of Justice, on a form approved by the department, for exclusion from the Internet Web site. If the department determines that the person meets the requirements of this subdivision, the department shall grant the exclusion and no information concerning the person shall be made available via the Internet Web site described in this section. He or she bears the burden of proving the facts that make him or her eligible for exclusion from the Internet Web site. However, a person who has filed for or been granted an exclusion from the Internet Web site is not relieved of his or her duty to register as a sex offender pursuant to Section 290 nor from any otherwise applicable provision of law.

(2) This subdivision shall apply to the following offenses:

(A) A felony violation of subdivision (a) of Section 243.4.

(B) Section 647.6, if the offense is a misdemeanor.

(C) (i) An offense for which the offender successfully completed probation, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(ii) An offense for which the offender is on probation at the time of his or her application, provided that the offender submits to the

department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(iii) If, subsequent to his or her application, the offender commits a violation of probation resulting in his or her incarceration in county jail or state prison, his or her exclusion, or application for exclusion, from the Internet Web site shall be terminated.

(iv) For the purposes of this subparagraph, "successfully completed probation" means that during the period of probation the offender neither received additional county jail or state prison time for a violation of probation nor was convicted of another offense resulting in a sentence to county jail or state prison.

(3) If the department determines that a person who was granted an exclusion under a former version of this subdivision would not qualify for an exclusion under the current version of this subdivision, the department shall rescind the exclusion, make a reasonable effort to provide notification to the person that the exclusion has been rescinded, and, no sooner than 30 days after notification is attempted, make information about the offender available to the public on the Internet Web site as provided in this section.

(4) Effective January 1, 2012, no person shall be excluded pursuant to this subdivision unless the offender has submitted to the department documentation sufficient for the department to determine that he or she has a SARATSO risk level of low or moderate-low.

(f) The Department of Justice shall make a reasonable effort to provide notification to persons who have been convicted of the commission or attempted commission of an offense specified in subdivision (b), (c), or (d), that on or before July 1, 2005, the department is required to make information about specified sex offenders available to the public via an Internet Web site as specified in this section. The Department of Justice shall also make a reasonable effort to provide notice that some offenders are eligible to apply for exclusion from the Internet Web site.

(g) (1) A designated law enforcement entity, as defined in subdivision (f) of Section 290.45, may make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in paragraph (2).

(2) The law enforcement entity may make available by way of an Internet Web site the information described in subdivision (c) if it determines that the public disclosure of the information about a specific

offender by way of the entity's Internet Web site is necessary to ensure the public safety based upon information available to the entity concerning that specific offender.

(3) The information that may be provided pursuant to this subdivision may include the information specified in subdivision (b) of Section 290.45. However, that offender's address may not be disclosed unless he or she is a person whose address is on the Department of Justice's Internet Web site pursuant to subdivision (b) or (c).

(h) For purposes of this section, "offense" includes the statutory predecessors of that offense, or any offense committed in another jurisdiction that, if committed or attempted to be committed in this state, would have been punishable in this state as an offense listed in subdivision (c) of Section 290.

(i) Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(j) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars ($10,000) and not more than fifty thousand dollars ($50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison.

(k) Any person who is required to register pursuant to Section 290 who enters an Internet Web site established pursuant to this section shall be punished by a fine not exceeding one thousand dollars ($1,000), imprisonment in a county jail for a period not to exceed six months, or by both that fine and imprisonment.

(*l*) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information that is disclosed pursuant to this section for purposes relating to any of the following is prohibited:

(A) Health insurance.

(B) Insurance.

(C) Loans.

(D) Credit.

(E) Employment.

(F) Education, scholarships, or fellowships.

(G) Housing or accommodations.

(H) Benefits, privileges, or services provided by any business establishment.

(3) This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3, Section 8808 of the Family Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(4) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) or in violation of paragraph (2) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars ($250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars ($25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the information available via an Internet Web site established pursuant to this section in violation of paragraph (2), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(m) The public notification provisions of this section are applicable to every person described in this section, without regard to when his or her crimes were committed or his or her duty to register pursuant to Section 290 arose, and to every offense described in this section, regardless of when it was committed.

(n) On or before July 1, 2006, and every year thereafter, the Department of Justice shall make a report to the Legislature concerning the operation of this section.

(o) A designated law enforcement entity and its employees shall be immune from liability for good faith conduct under this section.

(p) The Attorney General, in collaboration with local law enforcement and others knowledgeable about sex offenders, shall develop strategies to assist members of the public in understanding and using publicly available information about registered sex offenders to further public safety. These strategies may include, but are not limited to, a hotline for

community inquiries, neighborhood and business guidelines for how to respond to information posted on this Internet Web site, and any other resource that promotes public education about these offenders.

SEC. 1.5. Section 290.46 of the Penal Code is amended to read:

290.46. (a) (1) On or before the dates specified in this section, the Department of Justice shall make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in this section. The department shall update the Internet Web site on an ongoing basis. All information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the Internet Web site. The name or address of the person's employer and the listed person's criminal history other than the specific crimes for which the person is required to register shall not be included on the Internet Web site. The Internet Web site shall be translated into languages other than English as determined by the department.

(2) (A) On or before July 1, 2010, the Department of Justice shall make available to the public, via an Internet Web site as specified in this section, as to any person described in subdivision (b), (c), or (d), the following information:

(i) The year of conviction of his or her most recent offense requiring registration pursuant to Section 290.

(ii) The year he or she was released from incarceration for that offense.

(iii) Whether he or she was subsequently incarcerated for any other felony, if that fact is reported to the department. If the department has no information about a subsequent incarceration for any felony, that fact shall be noted on the Internet Web site.

However, no year of conviction shall be made available to the public unless the department also is able to make available the corresponding year of release of incarceration for that offense, and the required notation regarding any subsequent felony.

(B) (i) Any state facility that releases from incarceration a person who was incarcerated because of a crime for which he or she is required to register as a sex offender pursuant to Section 290 shall, within 30 days of release, provide the year of release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department.

(ii) Any state facility that releases a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register shall, within 30 days of release, advise the Department of Justice of that fact.

(iii) Any state facility that, prior to January 1, 2007, released from incarceration a person who was incarcerated because of a crime for which he or she is required to register as a sex offender pursuant to Section 290 shall provide the year of release for his or her most recent offense requiring registration to the Department of Justice in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(iv) Any state facility that, prior to January 1, 2007, released a person who is required to register pursuant to Section 290 from incarceration whose incarceration was for a felony committed subsequently to the offense for which he or she is required to register shall advise the Department of Justice of that fact in a manner and format approved by the department. The information provided by the Department of Corrections and Rehabilitation shall be limited to information that is currently maintained in an electronic format.

(3) The State Department of Mental Health shall provide to the Department of Justice Sex Offender Tracking Program the names of all persons committed to its custody pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, within 30 days of commitment, and shall provide the names of all of those persons released from its custody within five working days of release.

(b) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, prior adjudication as a sexually violent predator, the address at which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a).

(2) This subdivision shall apply to the following offenses and offenders:

(A) Section 187 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286, 288, 288a, or 289.

(B) Section 207 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(C) Section 209 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(D) Paragraph (2) or (6) of subdivision (a) of Section 261.

(E) Section 264.1.

(F) Section 269.

(G) Subdivision (c) or (d) of Section 286.

(H) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a felony.

(I) Subdivision (c) or (d) of Section 288a.

(J) Section 288.3, provided that the offense is a felony.

(K) Section 288.4, provided that the offense is a felony.

(L) Section 288.5.

(M) Subdivision (a) or (j) of Section 289.

(N) Section 288.7.

(O) Any person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code.

(P) A felony violation of Section 311.1.

(Q) A felony violation of subdivision (b), (c), or (d) of Section 311.2.

(R) A felony violation of Section 311.3.

(S) A felony violation of subdivision (a), (b), (c), or (d) of Section 311.4.

(T) Section 311.10.

(U) A felony violation of Section 311.11.

(c) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a). On or before July 1, 2006, the Department of Justice shall determine whether any person convicted of an offense listed in paragraph (2) also has one or more prior or subsequent convictions of an offense listed in subdivision (c) of Section 290, and, for those persons, the Department of Justice shall make available to the public via the Internet Web site the address at which the person resides. However, the address at which the person resides shall not be disclosed until a determination is made that the person is, by virtue of his or her additional prior or subsequent conviction of an offense listed in subdivision (c) of Section 290, subject to this subdivision.

(2) This subdivision shall apply to the following offenses:

(A) Section 220, except assault to commit mayhem.

(B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

(C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 286.

(D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or (i), of Section 288a.

(E) Subdivision (b), (d), (e), or (i) of Section 289.

(d) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, this subdivision, the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a) or the address at which the person resides.

(2) This subdivision shall apply to the following offenses and offenders:

(A) Subdivision (a) of Section 243.4, provided that the offense is a felony.

(B) Section 266, provided that the offense is a felony.

(C) Section 266c, provided that the offense is a felony.

(D) Section 266j.

(E) Section 267.

(F) Subdivision (c) of Section 288, provided that the offense is a misdemeanor.

(G) Section 288.3, provided that the offense is a misdemeanor.

(H) Section 288.4, provided that the offense is a misdemeanor.

(I) Section 626.81.

(J) Section 647.6.

(K) Section 653c.

(L) Any person required to register pursuant to Section 290 based upon an out-of-state conviction, unless that person is excluded from the Internet Web site pursuant to subdivision (e). However, if the Department of Justice has determined that the out-of-state crime, if committed or attempted in this state, would have been punishable in this state as a crime described in subdivision (c) of Section 290, the person shall be placed on the Internet Web site as provided in subdivision (b) or (c), as applicable to the crime.

(e) (1) If a person has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision, and he or she has been convicted of no other offense listed in subdivision (b), (c), or (d) other than those listed in this subdivision, that person may

file an application with the Department of Justice, on a form approved by the department, for exclusion from the Internet Web site. If the department determines that the person meets the requirements of this subdivision, the department shall grant the exclusion and no information concerning the person shall be made available via the Internet Web site described in this section. He or she bears the burden of proving the facts that make him or her eligible for exclusion from the Internet Web site. However, a person who has filed for or been granted an exclusion from the Internet Web site is not relieved of his or her duty to register as a sex offender pursuant to Section 290 nor from any otherwise applicable provision of law.

(2) This subdivision shall apply to the following offenses:

(A) A felony violation of subdivision (a) of Section 243.4.

(B) Section 647.6, if the offense is a misdemeanor.

(C) A felony violation of Section 311.1, subdivision (b), (c), or (d) of Section 311.2, or Section 311.3, 311.4, 311.10, or 311.11 if the person submits to the department a certified copy of a probation report filed in court that clearly states that all victims involved in the commission of the offense were at least 16 years of age or older at the time of the commission of the offense.

(D) (i) An offense for which the offender successfully completed probation, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(ii) An offense for which the offender is on probation at the time of his or her application, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the offender was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.

(iii) If, subsequent to his or her application, the offender commits a violation of probation resulting in his or her incarceration in county jail or state prison, his or her exclusion, or application for exclusion, from the Internet Web site shall be terminated.

(iv) For the purposes of this subparagraph, "successfully completed probation" means that during the period of probation the offender neither

received additional county jail or state prison time for a violation of probation nor was convicted of another offense resulting in a sentence to county jail or state prison.

(3) If the department determines that a person who was granted an exclusion under a former version of this subdivision would not qualify for an exclusion under the current version of this subdivision, the department shall rescind the exclusion, make a reasonable effort to provide notification to the person that the exclusion has been rescinded, and, no sooner than 30 days after notification is attempted, make information about the offender available to the public on the Internet Web site as provided in this section.

(4) Effective January 1, 2012, no person shall be excluded pursuant to this subdivision unless the offender has submitted to the department documentation sufficient for the department to determine that he or she has a SARATSO risk level of low or moderate-low.

(f) The Department of Justice shall make a reasonable effort to provide notification to persons who have been convicted of the commission or attempted commission of an offense specified in subdivision (b), (c), or (d), that on or before July 1, 2005, the department is required to make information about specified sex offenders available to the public via an Internet Web site as specified in this section. The Department of Justice shall also make a reasonable effort to provide notice that some offenders are eligible to apply for exclusion from the Internet Web site.

(g) (1) A designated law enforcement entity, as defined in subdivision (f) of Section 290.45, may make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in paragraph (2).

(2) The law enforcement entity may make available by way of an Internet Web site the information described in subdivision (c) if it determines that the public disclosure of the information about a specific offender by way of the entity's Internet Web site is necessary to ensure the public safety based upon information available to the entity concerning that specific offender.

(3) The information that may be provided pursuant to this subdivision may include the information specified in subdivision (b) of Section 290.45. However, that offender's address may not be disclosed unless he or she is a person whose address is on the Department of Justice's Internet Web site pursuant to subdivision (b) or (c).

(h) For purposes of this section, "offense" includes the statutory predecessors of that offense, or any offense committed in another jurisdiction that, if committed or attempted to be committed in this state, would have been punishable in this state as an offense listed in subdivision (c) of Section 290.

(i) Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(j) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars ($10,000) and not more than fifty thousand dollars ($50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison.

(k) Any person who is required to register pursuant to Section 290 who enters an Internet Web site established pursuant to this section shall be punished by a fine not exceeding one thousand dollars ($1,000), imprisonment in a county jail for a period not to exceed six months, or by both that fine and imprisonment.

(*l*) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information that is disclosed pursuant to this section for purposes relating to any of the following is prohibited:

(A) Health insurance.

(B) Insurance.

(C) Loans.

(D) Credit.

(E) Employment.

(F) Education, scholarships, or fellowships.

(G) Housing or accommodations.

(H) Benefits, privileges, or services provided by any business establishment.

(3) This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3, Section 8808 of the Family Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(4) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) or in violation of paragraph (2) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars ($250), and attorney's fees, exemplary

damages, or a civil penalty not exceeding twenty-five thousand dollars ($25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the information available via an Internet Web site established pursuant to this section in violation of paragraph (2), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(m) The public notification provisions of this section are applicable to every person described in this section, without regard to when his or her crimes were committed or his or her duty to register pursuant to Section 290 arose, and to every offense described in this section, regardless of when it was committed.

(n) On or before July 1, 2006, and every year thereafter, the Department of Justice shall make a report to the Legislature concerning the operation of this section.

(o) A designated law enforcement entity and its employees shall be immune from liability for good faith conduct under this section.

(p) The Attorney General, in collaboration with local law enforcement and others knowledgeable about sex offenders, shall develop strategies to assist members of the public in understanding and using publicly available information about registered sex offenders to further public safety. These strategies may include, but are not limited to, a hotline for community inquiries, neighborhood and business guidelines for how to respond to information posted on this Internet Web site, and any other resource that promotes public education about these offenders.

SEC. 2. Section 1203.065 of the Penal Code is amended to read:

1203.065. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who is convicted of violating paragraph (2) or (6) of subdivision (a) of Section 261, Section 264.1, 266h, 266i, 266j, or 269, paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 286, paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 288a, Section 288.7, subdivision (a) of Section 289, or subdivision (b) of Section 311.4.

(b) (1) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person who is convicted of violating paragraph (7) of subdivision (a) of Section 261, subdivision (k) of Section 286, subdivision (k) of Section 288a, subdivision (g) of Section 289, or Section 220 for assault with intent to commit a specified sexual offense.

(2) When probation is granted, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

SEC. 3. Section 1203.067 of the Penal Code is amended to read:

1203.067. (a) Notwithstanding any other law, before probation may be granted to any person convicted of a felony specified in Section 261, 262, 264.1, 286, 288, 288a, 288.5, or 289, who is eligible for probation, the court shall do all of the following:

(1) Order the defendant evaluated pursuant to Section 1203.03, or similar evaluation by the county probation department.

(2) Conduct a hearing at the time of sentencing to determine if probation of the defendant would pose a threat to the victim. The victim shall be notified of the hearing by the prosecuting attorney and given an opportunity to address the court.

(3) Order any psychiatrist or psychologist appointed pursuant to Section 288.1 to include a consideration of the threat to the victim and the defendant's potential for positive response to treatment in making his or her report to the court. Nothing in this section shall be construed to require the court to order an examination of the victim.

(b) If a defendant is granted probation pursuant to subdivision (a), the court shall order the defendant to be placed in an appropriate treatment program designed to deal with child molestation or sexual offenders, if an appropriate program is available in the county.

(c) Any defendant ordered to be placed in a treatment program pursuant to subdivision (b) shall be responsible for paying the expense of his or her participation in the treatment program as determined by the court. The court shall take into consideration the ability of the defendant to pay, and no defendant shall be denied probation because of his or her inability to pay.

SEC. 4. Section 12021 of the Penal Code is amended to read:

12021. (a) (1) Any person who has been convicted of a felony under the laws of the United States, the State of California, or any other state, government, or country or of an offense enumerated in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted to the use of any narcotic drug, and who owns, purchases, receives, or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns, purchases, receives, or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, and who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, purchases, receives, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).

(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge who sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or

elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) (i) Finds that the petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred.

(ii) In making its decision, the court shall consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under this section, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by this subdivision.

(3) Any person who is subject to the prohibition imposed by this subdivision because of a conviction of an offense prior to that offense being added to paragraph (1) may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) (i) Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred.

(ii) In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been granted relief pursuant to paragraph (2) or (3) shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

(d) (1) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, purchases, receives, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(2) For any person who is subject to subdivision (a), (b), or (c), the court shall, at the time judgment is imposed, provide on a form supplied by the Department of Justice, a notice to the defendant prohibited by this section from owning, purchasing, receiving, possessing or having under his or her custody or control, any firearm. The notice shall inform the defendant of the prohibition regarding firearms and include a form to facilitate the transfer of firearms. Failure to provide the notice shall not be a defense to a violation of this section.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, any offense enumerated in paragraph (1) of subdivision (c), or any offense described in subdivision (a) of Section 12025, subdivision (a) of Section 12031, or subdivision (a) of Section 12034, and (2) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the

Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, any offense enumerated in paragraph (1) of subdivision (c), or any offense described in subdivision (a) of Section 12025, subdivision (a) of Section 12031, or subdivision (a) of Section 12034, shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both punishments.

(g) (1) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is prohibited from doing so by a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, a protective order as defined in Section 6218 of the Family Code, a protective order issued pursuant to Section 136.2 or 646.91 of this code, or a protective order issued pursuant to Section 15657.03 of the Welfare and Institutions Code, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(2) Every person who owns or possesses a firearm knowing that he or she is prohibited from doing so by a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, a protective order as defined in Section 6218 of the Family Code, a protective order issued pursuant to Section 136.2 or 646.91 of this code, or a protective order issued pursuant to Section 15657.03 of the Welfare and Institutions Code, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one

year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(3) The Judicial Council shall provide notice on all protective orders that the respondent is prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a firearm while the protective order is in effect. The order shall also state that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed within a specified time of receipt of the order. The order shall state the penalties for a violation of the prohibition. The order shall also state on its face the expiration date for relinquishment.

(4) If probation is granted upon conviction of a violation of this subdivision, the court shall impose probation consistent with Section 1203.097.

(h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:

(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.

(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.

(D) If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.

(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.

(i) Subject to available funding, the Attorney General, working with the Judicial Council, the California Alliance Against Domestic Violence, prosecutors, and law enforcement, probation, and parole officers, shall develop a protocol for the implementation of the provisions of this section. The protocol shall be designed to facilitate the enforcement of restrictions on firearm ownership, including provisions for giving notice to defendants who are restricted, provisions for informing those defendants of the procedures by which defendants shall dispose of firearms when required to do so, provisions explaining how defendants

shall provide proof of the lawful disposition of firearms, and provisions explaining how defendants may obtain possession of seized firearms when legally permitted to do so pursuant to this section or any other provision of law. The protocol shall be completed on or before January 1, 2005.

SEC. 5. Section 12022.3 of the Penal Code is amended to read:

12022.3. For each violation of Section 220 involving a specified sexual offense, or for each violation or attempted violation of Section 261, 262, 264.1, 286, 288, 288a, or 289, and in addition to the sentence provided, any person shall receive the following:

(a) A 3-, 4-, or 10-year enhancement if the person uses a firearm or a deadly weapon in the commission of the violation.

(b) A one-, two-, or five-year enhancement if the person is armed with a firearm or a deadly weapon.

SEC. 6. Section 12022.8 of the Penal Code is amended to read:

12022.8. Any person who inflicts great bodily injury, as defined in Section 12022.7, on any victim in a violation of Section 220 involving a specified sexual offense, or a violation or attempted violation of paragraph (2), (3), or (6) of subdivision (a) of Section 261, paragraph (1) or (4) of subdivision (a) of Section 262, Section 264.1, subdivision (b) of Section 288, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person as provided in Section 286 or 288a shall receive a five-year enhancement for each violation in addition to the sentence provided for the felony conviction.

SEC. 7. Section 1.5 of this bill incorporates amendments to Section 290.46 of the Penal Code proposed by both this bill and SB 1187. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, but this bill becomes operative first, (2) each bill amends Section 290.46 of the Penal Code, and (3) this bill is enacted after SB 1187, in which case Section 290.46 of the Penal Code, as amended by Section 1 of this bill, shall remain operative only until January 1, 2010, at which time Section 1.5 of this bill shall become operative.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 600

An act to add Section 114094 to the Health and Safety Code, relating to food facilities.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Over the past two decades, there has been a significant increase in the number of meals prepared or eaten outside the home, with an estimated one-third of calories being consumed in, and almost one-half of total food dollars being spent on, food purchased from or eaten at restaurants and other food facilities.

(b) Increased caloric intake is a key factor contributing to the alarming increase in obesity in the United States. According to the Centers for Disease Control and Prevention, two-thirds of American adults are overweight or obese, and the rates of obesity have tripled in children and teens since 1980.

(c) Obesity increases the risk of diabetes, heart disease, stroke, some cancers, and other health problems.

(d) Broader availability of nutrition information regarding foods served at restaurants and other food service establishments would allow customers to make more informed decisions about the food they purchase.

(e) Three-quarters of American adults report using food labels on packaged foods, which are required by the federal Nutrition Labeling and Education Act of 1990.

(f) Availability of nutrition information regarding restaurant food assists consumers who are monitoring their diets or dealing with chronic diseases, such as cardiovascular disease and diabetes.

(g) Consumers should be provided with point of purchase access to nutritional information when eating out in order to make informed decisions involving their health and diet.

(h) It is the intent of the Legislature to provide consumers with better access to nutritional information about prepared foods sold at food

facilities so that consumers can understand the nutritional value of available foods.

SEC. 2. Section 114094 is added to the Health and Safety Code, to read:

114094. (a) For purposes of this section, the following definitions shall apply:

(1) "Food facility" means a food facility in the state that operates under common ownership or control with at least 19 other food facilities with the same name in the state that offer for sale substantially the same menu items, or operates as a franchised outlet of a parent company with at least 19 other franchised outlets with the same name in the state that offer for sale substantially the same menu items, except that a "food facility" does not include the following:

(A) Certified farmer's markets.

(B) Commissaries.

(C) Grocery stores, except for separately owned food facilities to which this section otherwise applies that are located in the grocery store. For purposes of this paragraph, "grocery store" means a store primarily engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, and fresh meats, fish, and poultry. "Grocery store" includes convenience stores.

(D) Licensed health care facilities.

(E) Mobile support units.

(F) Public and private school cafeterias.

(G) Restricted food service facilities.

(H) Retail stores in which a majority of sales are from a pharmacy, as defined in Section 4037 of the Business and Professions Code.

(I) Vending machines.

(2) "Calorie content information" means the total number of calories per standard menu item, as that item is usually prepared and offered for sale.

(3) "Drive-through" means an area where a customer may provide an order for and receive standard menu items while occupying a motor vehicle.

(4) "Menu board" means a posted list or pictorial display of food or beverage items offered for sale by a food facility.

(5) "Nutritional information" includes, but is not limited to, all of the following, per standard menu item, as that item is usually prepared and offered for sale:

(A) Total number of calories.

(B) Total number of grams of carbohydrates.

(C) Total number of grams of saturated fat.

(D) Total number of milligrams of sodium.

(6) "Point of sale" means the location where a customer makes an order.

(7) "Standard menu item" means a food or beverage item offered for sale by a food facility through a menu, menu board, or display tag at least 180 days per calendar year, except that "standard menu item does not include any of the following:

(A) A food item that is customized on a case-by-case basis in response to an unsolicited customer request.

(B) An alcoholic beverage, the labeling of which is not regulated by the federal Food and Drug Administration.

(C) A packaged food otherwise subject to the nutrition labeling requirements of the federal Nutrition Labeling and Education Act of 1990.

(D) A food Hem when served at a consumer self-service salad bar.

(E) A food or beverage Hem when served at a consumer self-service buffet.

(8) "Reasonable basis" means any reasonable means recognized by the federal Food and Drug Administration of determining nutritional information, as well as calorie content information, for a standard menu item, as usually prepared and offered for sale, including, but not limited to, nutrient databases and laboratory analyses.

(9) "Appetizer" means a food item that in generally served prior to a food item that is generally regarded as the primary food item in a meal. An "appetizer" includes a first course, starter, or small plate.

(10) "Dessert" means a food item that in generally served after a food item that is generally regarded as the primary food item in a meal. "Dessert" includes, but is not limited to, cakes, pastries, pies, ice cream and food items that contain ice cream, confections, and other sweets.

(b) (1) Commencing July 1, 2009, to December 31, 2010, inclusive, every food facility shall either disclose nutritional information as required by paragraph (2), or comply with subdivision (c) during this period of time.

(2) (A) In order to comply with paragraph (1), a food facility that does not provide sit-down service shall disclose the information in a clear and conspicuous manner on a brochure that is made available at the point of sale prior to or during the placement of an order. A food facility that provides sit-down service shall provide the nutritional information in a clear and conspicuous size and typeface on at least one of the following:

(i) A brochure available on the table.

(ii) A menu next to each standard menu item.

(iii) A menu, under an index section that is separate from the listing of standard menu items.

(iv) A menu insert.

(v) A table tent on the table.

(B) Notwithstanding subparagraph (A), a food facility that has a drive-through area and uses a menu board to display or list standard menu items at the point of sale shall, for purposes of the drive-through area only, disclose the nutritional information in a clear and conspicuous manner on a brochure that is available upon request, and shall conspicuously display a notice at the point of sale that reads: "NUTRITION INFORMATION IS AVAILABLE UPON REQUEST" or other similar statement that indicates the disclosure of nutrition information is available upon request.

(c) (1) On and after January 1, 2011, every food facility that provides a menu shall disclose calorie content information for a standard menu item next to the item on the menu in a size and typeface that is clear and conspicuous.

(2) On and after January 1, 2011, every food facility that uses an indoor menu board shall disclose calorie content information for a standard menu item next to the item on the menu board in a size and typeface that is clear and conspicuous.

(3) On and after January 1, 2011, every food facility that uses a display tag as an alternative to a menu or menu board to describe a standard menu item that is displayed for sale in a display case within the food facility shall disclose calorie content information for that standard menu item on the display tag for that item in a size and typeface that is clear and conspicuous.

(4) On and after January 1, 2011, every food facility that has a drive-through area and uses a menu board to display or list standard menu items at the point of sale shall, for purposes of the drive-through area only, disclose the nutritional information for each standard menu item in a clear and conspicuous manner on a brochure that is available upon request, and shall clearly and conspicuously display a notice at the point of sale that reads: "NUTRITION INFORMATION IS AVAILABLE UPON REQUEST" or other similar statement that indicates the disclosure of nutrition information upon request. If a food facility subject to this paragraph discloses nutritional information in the manner described in subparagraph (B) of paragraph (2) of subdivision (b), the food facility shall be deemed to be in compliance with this paragraph.

(d) For purposes of subdivision (c), the disclosure of calorie content information on a menu or menu board next to a standard menu item that is a combination of at least two standard menu items on the menu or menu board, shall, based upon all possible combinations for that standard menu item, include both the minimum amount of calories for the calorie

count information and the maximum amount of calories for the calorie count information. If there is only one possible total amount of calories, then this total shall be disclosed.

(e) For purposes of subdivision (c), the disclosure of calorie content information on a menu or menu board next to a standard menu item that is not an appetizer or dessert, but is intended to serve more than one individual, shall include both of the following:

(1) The number of individuals intended to be served by the standard menu item.

(2) The calorie content information per individual serving. If the standard menu item is a combination of at least two standard menu items, this disclosure shall, based upon all possible combinations for that standard menu item, include both the minimum amount of calories for the calorie count information and the maximum amount of calories. If there is only one possible total amount of calories, then this total shall be disclosed.

(f) The nutritional information and calorie content information required by this section shall be determined on a reasonable basis. A reasonable basis determination of nutritional information and calorie content information shall be required only once per standard menu item, provided that portion size is reasonably consistent and the food facility follows a standardized recipe and trains to a consistent method of preparation.

(g) (1) Every brochure provided pursuant to this section shall include the statement: "Recommended limits for a 2,000 calorie daily diet are 20 grams of saturated fat and 2,300 milligrams of sodium."

(2) Menus and menu boards may include a disclaimer that indicates that there may be variations in nutritional content across servings, based on variations in overall size and quantities of ingredients, and based on special ordering.

(h) This section shall not be construed to create or enhance any claim, right of action, or civil liability that did not previously exist under state law or limit any claim, right of action, or civil liability that otherwise exists under state law. The only enforcement mechanism of the section is the local enforcement agency.

(i) This section shall not be construed to preclude any food facility from voluntarily providing nutritional information in addition to the requirements of this section.

(j) To the extent consistent with federal law, this section, as well as any other state law that regulates the disclosure of nutritional information, is a matter of statewide concern and occupies the whole field of regulation regarding the disclosure of nutritional information by a food facility. No ordinance or regulation of a local government shall regulate the

dissemination of nutritional information by a food facility. Any ordinance or regulation that violates this prohibition is void and shall have no force or effect.

(k) Commencing July 1, 2009, a food facility that violates this section is guilty of an infraction, punishable by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500), which may be assessed by a local enforcement agency. However, a food facility may not be found to violate this section more than once during an inspection visit. Notwithstanding Section 114395, a violation of this section is not a misdemeanor.

(*l*) If any provision of this section, or the application thereof, is for any reason held invalid, ineffective, or unconstitutional by a court of competent jurisdiction, the remainder of this section, shall not be affected thereby, and to this end, the provisions of this section are severable.

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.

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## CHAPTER 601

An act to amend, repeal, and add Section 6601 of the Welfare and Institutions Code, relating to sexually violent predators, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) There is within the State Department of Mental Health the Sex Offender Commitment Program (SOCP). The SOCP exists to implement

the provisions of the sexually violent predator civil commitment program (Article 4 (commencing with Section 6600) of Part 2 of Division 6 of the Welfare and Institutions Code).

(b) The sexually violent predator civil commitment program requires clinical evaluations of potential sexually violent predators for possible commitment in order to provide treatment, as well as to protect California's citizens from possible victimization by sexually violent predators.

(c) Persons referred to the SOCP by the Department of Corrections and Rehabilitation as possible sexually violent predators and who meet the preliminary screening criteria must undergo precommitment evaluations by at least two professionals who meet the requirements specified in Section 6601 of the Welfare and Institutions Code.

(d) It is difficult for the state to recruit and retain individuals with the required expertise within the civil service.

(e) Evaluations must be conducted in a timely manner to avoid the release into society of possible sexually violent predators.

(f) It is the intent of the Legislature to ensure the protection of California's residents by providing the State Department of Mental Health with the necessary flexibility in obtaining experienced professionals, both within the civil service and through contracts, so that sexually violent predator evaluations can occur within the statutory timeframe.

SEC. 2. Section 6601 of the Welfare and Institutions Code is amended to read:

6601. (a) (1) Whenever the Secretary of the Department of Corrections and Rehabilitation determines that an individual who is in custody under the jurisdiction of the Department of Corrections and Rehabilitation, and who is either serving a determinate prison sentence or whose parole has been revoked, may be a sexually violent predator, the secretary shall, at least six months prior to that individual's scheduled date for release from prison, refer the person for evaluation in accordance with this section. However, if the inmate was received by the department with less than nine months of his or her sentence to serve, or if the inmate's release date is modified by judicial or administrative action, the secretary may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the inmate's scheduled release date.

(2) A petition may be filed under this section if the individual was in custody pursuant to his or her determinate prison term, parole revocation term, or a hold placed pursuant to Section 6601.3, at the time the petition is filed. A petition shall not be dismissed on the basis of a later judicial or administrative determination that the individual's custody was

unlawful, if the unlawful custody was the result of a good faith mistake of fact or law. This paragraph shall apply to any petition filed on or after January 1, 1996.

(b) The person shall be screened by the Department of Corrections and Rehabilitation and the Board of Parole Hearings based on whether the person has committed a sexually violent predatory offense and on a review of the person's social, criminal, and institutional history. This screening shall be conducted in accordance with a structured screening instrument developed and updated by the State Department of Mental Health in consultation with the Department of Corrections and Rehabilitation. If as a result of this screening it is determined that the person is likely to be a sexually violent predator, the Department of Corrections and Rehabilitation shall refer the person to the State Department of Mental Health for a full evaluation of whether the person meets the criteria in Section 6600.

(c) The State Department of Mental Health shall evaluate the person in accordance with a standardized assessment protocol, developed and updated by the State Department of Mental Health, to determine whether the person is a sexually violent predator as defined in this article. The standardized assessment protocol shall require assessment of diagnosable mental disorders, as well as various factors known to be associated with the risk of reoffense among sex offenders. Risk factors to be considered shall include criminal and psychosexual history, type, degree, and duration of sexual deviance, and severity of mental disorder.

(d) Pursuant to subdivision (c), the person shall be evaluated by two practicing psychiatrists or psychologists, or one practicing psychiatrist and one practicing psychologist, designated by the Director of Mental Health, one or both of whom may be independent professionals as defined in subdivision (g). If both evaluators concur that the person has a diagnosed mental disorder so that he or she is likely to engage in acts of sexual violence without appropriate treatment and custody, the Director of Mental Health shall forward a request for a petition for commitment under Section 6602 to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment.

(e) If one of the professionals performing the evaluation pursuant to subdivision (d) does not concur that the person meets the criteria specified in subdivision (d), but the other professional concludes that the person meets those criteria, the Director of Mental Health shall arrange for further examination of the person by two independent professionals selected in accordance with subdivision (g).

(f) If an examination by independent professionals pursuant to subdivision (e) is conducted, a petition to request commitment under this article shall only be filed if both independent professionals who evaluate the person pursuant to subdivision (e) concur that the person meets the criteria for commitment specified in subdivision (d). The professionals selected to evaluate the person pursuant to subdivision (g) shall inform the person that the purpose of their examination is not treatment but to determine if the person meets certain criteria to be involuntarily committed pursuant to this article. It is not required that the person appreciate or understand that information.

(g) Any independent professional who is designated by the Secretary of the Department of Corrections and Rehabilitation or the Director of Mental Health for purposes of this section shall not be a state government employee, shall have at least five years of experience in the diagnosis and treatment of mental disorders, and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. The requirements set forth in this section also shall apply to any professionals appointed by the court to evaluate the person for purposes of any other proceedings under this article.

(h) If the State Department of Mental Health determines that the person is a sexually violent predator as defined in this article, the Director of Mental Health shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment in the superior court.

(i) If the county's designated counsel concurs with the recommendation, a petition for commitment shall be filed in the superior court of the county in which the person was convicted of the offense for which he or she was committed to the jurisdiction of the Department of Corrections and Rehabilitation. The petition shall be filed, and the proceedings shall be handled, by either the district attorney or the county counsel of that county. The county board of supervisors shall designate either the district attorney or the county counsel to assume responsibility for proceedings under this article.

(j) The time limits set forth in this section shall not apply during the first year that this article is operative.

(k) If the person is otherwise subject to parole, a finding or placement made pursuant to this article shall toll the term of parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code.

(*l*) Pursuant to subdivision (d), the attorney designated by the county pursuant to subdivision (i) shall notify the State Department of Mental Health of its decision regarding the filing of a petition for commitment within 15 days of making that decision.

(m) (1) The department shall provide the fiscal and policy committees of the Legislature, including the Chairperson of the Joint Legislative Budget Committee, and the Department of Finance, with a semiannual update on the progress made to hire qualified state employees to conduct the evaluation required pursuant to subdivision (d). The first update shall be provided no later than July 10, 2009.

(2) On or before January 2, 2010, the department shall report to the Legislature on all of the following:

(A) The costs to the department for the sexual offender commitment program attributable to the provisions in Proposition 83 of the November 2006 general election, otherwise known as Jessica's Law.

(B) The number and proportion of inmates evaluated by the department for commitment to the program as a result of the expanded evaluation and commitment criteria in Jessica's Law.

(C) The number and proportion of those inmates who have actually been committed for treatment in the program.

(3) This section shall remain in effect and be repealed on the date that the director executes a declaration, which shall be provided to the fiscal and policy committees of the Legislature, including the Chairperson of the Joint Legislative Budget Committee, and the Department of Finance, specifying that sufficient qualified state employees have been hired to conduct the evaluations required pursuant to subdivision (d), or January 1, 2011, whichever occurs first.

SEC. 3. Section 6601 is added to the Welfare and Institutions Code, to read:

6601. (a) (1) Whenever the Secretary of the Department of Corrections and Rehabilitation determines that an individual who is in custody under the jurisdiction of the Department of Corrections and Rehabilitation, and who is either serving a determinate prison sentence or whose parole has been revoked, may be a sexually violent predator, the secretary shall, at least six months prior to that individual's scheduled date for release from prison, refer the person for evaluation in accordance with this section. However, if the inmate was received by the department with less than nine months of his or her sentence to serve, or if the inmate's release date is modified by judicial or administrative action, the secretary may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the inmate's scheduled release date.

(2) A petition may be filed under this section if the individual was in custody pursuant to his or her determinate prison term, parole revocation term, or a hold placed pursuant to Section 6601.3, at the time the petition is filed. A petition shall not be dismissed on the basis of a later judicial or administrative determination that the individual's custody was unlawful, if the unlawful custody was the result of a good faith mistake of fact or law. This paragraph shall apply to any petition filed on or after January 1, 1996.

(b) The person shall be screened by the Department of Corrections and Rehabilitation and the Board of Parole Hearings based on whether the person has committed a sexually violent predatory offense and on a review of the person's social, criminal, and institutional history. This screening shall be conducted in accordance with a structured screening instrument developed and updated by the State Department of Mental Health in consultation with the Department of Corrections and Rehabilitation. If as a result of this screening it is determined that the person is likely to be a sexually violent predator, the Department of Corrections and Rehabilitation shall refer the person to the State Department of Mental Health for a full evaluation of whether the person meets the criteria in Section 6600.

(c) The State Department of Mental Health shall evaluate the person in accordance with a standardized assessment protocol, developed and updated by the State Department of Mental Health, to determine whether the person is a sexually violent predator as defined in this article. The standardized assessment protocol shall require assessment of diagnosable mental disorders, as well as various factors known to be associated with the risk of reoffense among sex offenders. Risk factors to be considered shall include criminal and psychosexual history, type, degree, and duration of sexual deviance, and severity of mental disorder.

(d) Pursuant to subdivision (c), the person shall be evaluated by two practicing psychiatrists or psychologists, or one practicing psychiatrist and one practicing psychologist, designated by the Director of Mental Health. If both evaluators concur that the person has a diagnosed mental disorder so that he or she is likely to engage in acts of sexual violence without appropriate treatment and custody, the Director of Mental Health shall forward a request for a petition for commitment under Section 6602 to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment.

(e) If one of the professionals performing the evaluation pursuant to subdivision (d) does not concur that the person meets the criteria specified in subdivision (d), but the other professional concludes that the person

meets those criteria, the Director of Mental Health shall arrange for further examination of the person by two independent professionals selected in accordance with subdivision (g).

(f) If an examination by independent professionals pursuant to subdivision (e) is conducted, a petition to request commitment under this article shall only be filed if both independent professionals who evaluate the person pursuant to subdivision (e) concur that the person meets the criteria for commitment specified in subdivision (d). The professionals selected to evaluate the person pursuant to subdivision (g) shall inform the person that the purpose of their examination is not treatment but to determine if the person meets certain criteria to be involuntarily committed pursuant to this article. It is not required that the person appreciate or understand that information.

(g) Any independent professional who is designated by the Secretary of the Department of Corrections and Rehabilitation or the Director of Mental Health for purposes of this section shall not be a state government employee, shall have at least five years of experience in the diagnosis and treatment of mental disorders, and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. The requirements set forth in this section also shall apply to any professionals appointed by the court to evaluate the person for purposes of any other proceedings under this article.

(h) If the State Department of Mental Health determines that the person is a sexually violent predator as defined in this article, the Director of Mental Health shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment in the superior court.

(i) If the county's designated counsel concurs with the recommendation, a petition for commitment shall be filed in the superior court of the county in which the person was convicted of the offense for which he or she was committed to the jurisdiction of the Department of Corrections and Rehabilitation. The petition shall be filed, and the proceedings shall be handled, by either the district attorney or the county counsel of that county. The county board of supervisors shall designate either the district attorney or the county counsel to assume responsibility for proceedings under this article.

(j) The time limits set forth in this section shall not apply during the first year that this article is operative.

(k) If the person is otherwise subject to parole, a finding or placement made pursuant to this article shall toll the term of parole pursuant to

Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code.

(*l*) Pursuant to subdivision (d), the attorney designated by the county pursuant to subdivision (i) shall notify the State Department of Mental Health of its decision regarding the filing of a petition for commitment within 15 days of making that decision.

(m) This section shall become operative on the date that the director executes a declaration, which shall be provided to the fiscal and policy committees of the Legislature, including the Chairperson of the Joint Legislative Budget Committee, and the Department of Finance, specifying that sufficient qualified state employees have been hired to conduct the evaluations required pursuant to subdivision (d), or January 1, 2011, whichever occurs first.

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:

To ensure the protection of California's residents by authorizing the State Department of Mental Health to obtain the assistance of experienced mental health professionals through contracts, as well as civil service, to perform sexually violent predator evaluations in a timely manner, and to avoid the release of prisoners who might otherwise be subject to civil commitment as sexually violent predators, it is necessary that this act take immediate effect.

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## CHAPTER 602

An act to amend Section 56.36 of the Civil Code, and to add Division 109 (commencing with Section 130200) to, the Health and Safety Code, relating to health.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 56.36 of the Civil Code is amended to read:

56.36. (a) Any violation of the provisions of this part that results in economic loss or personal injury to a patient is punishable as a misdemeanor.

(b) In addition to any other remedies available at law, any individual may bring an action against any person or entity who has negligently

released confidential information or records concerning him or her in violation of this part, for either or both of the following:

(1) Nominal damages of one thousand dollars ($1,000). In order to recover under this paragraph, it shall not be necessary that the plaintiff suffered or was threatened with actual damages.

(2) The amount of actual damages, if any, sustained by the patient.

(c) (1) In addition, any person or entity that negligently discloses medical information in violation of the provisions of this part shall also be liable, irrespective of the amount of damages suffered by the patient as a result of that violation, for an administrative fine or civil penalty not to exceed two thousand five hundred dollars ($2,500) per violation.

(2) (A) Any person or entity, other than a licensed health care professional, who knowingly and willfully obtains, discloses, or uses medical information in violation of this part shall be liable for an administrative fine or civil penalty not to exceed twenty-five thousand dollars ($25,000) per violation.

(B) Any licensed health care professional, who knowingly and willfully obtains, discloses, or uses medical information in violation of this part shall be liable on a first violation, for an administrative fine or civil penalty not to exceed two thousand five hundred dollars ($2,500) per violation, or on a second violation for an administrative fine or civil penalty not to exceed ten thousand dollars ($10,000) per violation, or on a third and subsequent violation for an administrative fine or civil penalty not to exceed twenty-five thousand dollars ($25,000) per violation. Nothing in this subdivision shall be construed to limit the liability of a health care service plan, a contractor, or a provider of health care that is not a licensed health care professional for any violation of this part.

(3) (A) Any person or entity, other than a licensed health care professional, who knowingly or willfully obtains or uses medical information in violation of this part for the purpose of financial gain shall be liable for an administrative fine or civil penalty not to exceed two hundred fifty thousand dollars ($250,000) per violation and shall also be subject to disgorgement of any proceeds or other consideration obtained as a result of the violation.

(B) Any licensed health care professional, who knowingly and willfully obtains, discloses, or uses medical information in violation of this part for financial gain shall be liable on a first violation, for an administrative fine or civil penalty not to exceed five thousand dollars ($5,000) per violation, or on a second violation for an administrative fine or civil penalty not to exceed twenty-five thousand dollars ($25,000) per violation, or on a third and subsequent violation for an administrative fine or civil penalty not to exceed two hundred fifty thousand dollars

($250,000) per violation and shall also be subject to disgorgement of any proceeds or other consideration obtained as a result of the violation. Nothing in this subdivision shall be construed to limit the liability of a health care service plan, a contractor, or a provider of health care that is not a licensed health care professional for any violation of this part.

(4) Nothing in this subdivision shall be construed as authorizing an administrative fine or civil penalty under both paragraphs (2) and (3) for the same violation.

(5) Any person or entity who is not permitted to receive medical information pursuant to this part and who knowingly and willfully obtains, discloses, or uses medical information without written authorization from the patient shall be liable for a civil penalty not to exceed two hundred fifty thousand dollars ($250,000) per violation.

(d) In assessing the amount of an administrative fine or civil penalty pursuant to subdivision (c), the Office of Health Information Integrity, licensing agency, or certifying board or 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:

(1) Whether the defendant has made a reasonable, good faith attempt to comply with this part.

(2) The nature and seriousness of the misconduct.

(3) The harm to the patient, enrollee, or subscriber.

(4) The number of violations.

(5) The persistence of the misconduct.

(6) The length of time over which the misconduct occurred.

(7) The willfulness of the defendant's misconduct.

(8) The defendant's assets, liabilities, and net worth.

(e) (1) The civil penalty pursuant to subdivision (c) shall be assessed and recovered in a civil action brought in the name of the people of the State of California in any court of competent jurisdiction by any of the following:

(A) The Attorney General.

(B) Any district attorney.

(C) Any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance.

(D) Any city attorney of a city.

(E) Any city attorney of a city and county having a population in excess of 750,000, with the consent of the district attorney.

(F) A city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city and county.

(G) The Director of the Office of Health Information Integrity may recommend that any person described in subparagraphs (A) to (F), inclusive, bring a civil action under this section.

(2) 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 paragraph (3), 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.

(3) 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.

(4) Nothing in this section shall be construed as authorizing both an administrative fine and civil penalty for the same violation.

(5) Imposition of a fine or penalty provided for in this section shall not preclude imposition of any other sanctions or remedies authorized by law.

(6) Administrative fines or penalties issued pursuant to Section 1280.15 of the Health and Safety Code shall offset any other administrative fine or civil penalty imposed under this section for the same violation.

(f) For purposes of this section, "knowing" and "willful" shall have the same meanings as in Section 7 of the Penal Code.

(g) No person who discloses protected medical information in accordance with the provisions of this part shall be subject to the penalty provisions of this part.

(h) Paragraph (6) of subdivision (e) shall only become operative if Senate Bill 541 of the 2007–08 Regular Session is enacted and becomes effective on or before January 1, 2009.

SEC. 2. Division 109 (commencing with Section 130200) is added to the Health and Safety Code, to read:

## DIVISION 109. OFFICE OF HEALTH INFORMATION INTEGRITY

130200. There is hereby established within the California Health and Human Services Agency the Office of Health Information Integrity to ensure the enforcement of state law mandating the confidentiality of medical information and to impose administrative fines for the

unauthorized use of medical information. The Office of Health Information Integrity shall be administered by a director who shall be appointed by the Secretary of California Health and Human Services.

130201. For purposes of this division, the following definitions apply:

(a) "Director" means the Director of the Office of Health Information Integrity.

(b) "Medical information" means the term as defined in subdivision (g) of Section 56.05 of the Civil Code.

(c) "Office" means the Office of Health Information Integrity.

(d) "Provider of health care" means the term as defined in subdivision (j) of Section 56.05 and Section 56.06 of the Civil Code.

(e) "Unauthorized access" means the inappropriate review or viewing of patient medical information without a direct need for diagnosis, treatment, or other lawful use as permitted by the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) or by other statutes or regulations governing the lawful access, use, or disclosure of medical information.

130202. (a) (1) Upon receipt of a referral from the State Department of Public Health, the office may assess an administrative fine against any person or any provider of health care, whether licensed or unlicensed, for any violation of this division in an amount as provided in Section 56.36 of the Civil Code. Proceedings against any person or entity for a violation of this section shall be held in accordance with administrative adjudication provisions of 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.

(2) Paragraph (1) shall not apply to a clinic, health facility, agency, or hospice licensed pursuant to Section 1204, 1250, 1725, or 1745 if Senate Bill 541 of the 2007–08 Regular Session is enacted and becomes effective on or before January 1, 2009.

(3) Nothing in paragraph (1) shall be construed as authorizing the office to assess the administrative penalties described in Section 1280.15 of the Health and Safety Code.

(b) The office shall adopt, amend, or repeal, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, such rules and regulations as may be reasonable and proper to carry out the purposes and intent of this division, and to enable the authority to exercise the powers and perform the duties conferred upon it by this division not inconsistent with any other provision of law.

(c) Paragraph (3) of subdivision (a) shall only become operative if Senate Bill 541 of the 2007–08 Regular Session is enacted and becomes effective on or before January 1, 2009.

130203. (a) Every provider of health care shall establish and implement appropriate administrative, technical, and physical safeguards to protect the privacy of a patient's medical information. Every provider of health care shall reasonably safeguard confidential medical information from any unauthorized access or unlawful access, use, or disclosure.

(b) In exercising its duties pursuant to this division, the office shall consider the provider's capability, complexity, size, and history of compliance with this section and other related state and federal statutes and regulations, the extent to which the provider detected violations and took steps to immediately correct and prevent past violations from reoccurring, and factors beyond the provider's immediate control that restricted the facility's ability to comply with this section.

130204. The Internal Health Information Integrity Quality Improvement Account is hereby created in the State Treasury. All administrative fines assessed by the office pursuant to Section 56.36 of the Civil Code shall be deposited in the Internal Health Information Integrity Quality Improvement Account. Notwithstanding Section 16305.7 of the Government Code, all interest earned on the moneys deposited in the account shall be retained in the account. Upon appropriation by the Legislature, money in the account shall be used for the purpose of supporting quality improvement activities in the office.

130205. Notwithstanding any other provision of law, the director may send a recommendation for further investigation of, or discipline for, a potential violation of this division to the licensee's relevant licensing authority. The recommendation shall include all documentary evidence collected by the director in evaluating whether or not to make that recommendation. The recommendation and accompanying evidence shall be deemed in the nature of an investigative communication and be protected by Section 6254 of the Government Code. The licensing authority of the provider of health care shall review all evidence submitted by the director and may take action for further investigation or discipline of the licensee.

SEC. 3. Any costs created pursuant to this act associated with the implementation and operation of the Office of Health Information Integrity or the implementation of Division 109 (commencing with Section 130200) of the Health and Safety Code shall be funded through non-General Fund sources.

# CHAPTER 603

An act to amend Sections 1317.1, 1371.4, and 1386 of, and to repeal and add Section 1262.8 of, the Health and Safety Code, relating to health care.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 1262.8 of the Health and Safety Code is repealed.

SEC. 2. Section 1262.8 is added to the Health and Safety Code, to read:

1262.8. (a) A noncontracting hospital shall not bill a patient who is an enrollee of a health care service plan for poststabilization care, except for applicable copayments, coinsurance, and deductibles, unless one of the following conditions are met:

(1) The patient or the patient's spouse or legal guardian refuses to consent, pursuant to subdivision (f), for the patient to be transferred to the contracting hospital as requested and arranged for by the patient's health care service plan.

(2) The hospital is unable to obtain the name and contact information of the patient's health care service plan as provided in subdivision (c).

(b) If a patient with an emergency medical condition, as defined by Section 1317.1, is covered by a health care service plan that requires prior authorization for poststabilization care, a noncontracting hospital, except as provided in subdivision (n), shall, prior to providing poststabilization care, do all of the following once the emergency medical condition has been stabilized, as defined by Section 1317.1:

(1) Seek to obtain the name and contact information of the patient's health care service plan. The hospital shall document its attempt to ascertain this information in the patient's medical record, which shall include requesting the patient's health care service plan member card or asking the patient, or a family member or other person accompanying the patient, if he or she can identify the patient's health care service plan, or any other means known to the hospital for accurately identifying the patient's health care service plan.

(2) Contact the patient's health care service plan, or the health plan's contracting medical provider, for authorization to provide poststabilization care, if identification of the plan was obtained pursuant to paragraph (1).

(A) The hospital shall make the contact described in this subparagraph by either following the instructions on the patient's health care service plan member card or using the contact information provided by the patient's health care service plan pursuant to subdivision (j) or (k).

(B) A representative of the hospital shall not be required to make more than one telephone call to the health care service plan, or its contracting medical provider, provided that in all cases the health care service plan, or its contracting medical provider, shall be able to reach a representative of the hospital upon returning the call, should the plan, or its contracting medical provider, need to call back. The representative of the hospital who makes the telephone call may be, but is not required to be, a physician and surgeon.

(3) Upon request of the patient's health care service plan, or the health plan's contracting medical provider, provide to the plan, or its contracting medical provider, the treating physician and surgeon's diagnosis and any other relevant information reasonably necessary for the health care service plan or the plan's contracting medical provider to make a decision to authorize poststabilization care or to assume management of the patient's care by prompt transfer.

(c) A noncontracting hospital that is not able to obtain the name and contact information of the patient's health care service plan pursuant to subdivision (b) is not subject to the requirements of this section.

(d) (1) A health care service plan, or its contracting medical provider, that is contacted by a noncontracting hospital pursuant to paragraph (2) of subdivision (b), shall, within 30 minutes from the time the noncontracting hospital makes the initial contact, do either of the following:

(A) Authorize poststabilization care.

(B) Inform the noncontracting hospital that it will arrange for the prompt transfer of the enrollee to another hospital.

(2) If the health care service plan, or its contracting medical provider, does not notify the noncontracting hospital of its decision pursuant to paragraph (1) within 30 minutes, the poststabilization care shall be deemed authorized, and the health care service plan, or its contracting medical provider, shall pay charges for the care, in accordance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2) and any regulation adopted thereunder.

(3) If the health care service plan, or its contracting medical provider, notified the noncontracting hospital that it would assume management of the patient's care by prompt transfer, but either the health care service plan or its contracting medical provider fails to transfer the patient within a reasonable time, the poststabilization care shall be deemed authorized,

and the health care service plan, or its contracting medical provider, shall pay charges, in accordance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and any regulation adopted thereunder, for the care until the enrollee is transferred.

(4) If the health care service plan, or its contracting medical provider, provides authorization to the noncontracting hospital for specified poststabilization care and services, the health care service plan, or its contracting medical provider, shall be responsible to pay for that authorized care.

(e) If a health care service plan, or its contracting medical provider, decides to assume management of the patient's care by prompt transfer, the health care service plan, or its contracting medical provider, shall do all of the following:

(1) Arrange and pay the reasonable charges associated with the transfer of the patient.

(2) Pay for all of the immediately required medically necessary care rendered to the patient prior to the transfer in order to maintain the patient's clinical stability.

(3) Be responsible for making all arrangements for the patient's transfer, including, but not limited to, finding a contracted facility available for the transfer of the patient.

(f) (1) If the patient, or the patient's spouse or legal guardian refuses to consent to the patient's transfer under subdivision (e), the noncontracting hospital shall promptly provide a written notice to the patient or the patient's spouse or legal guardian indicating that the patient will be financially responsible for any further poststabilization care provided by the hospital.

(2) For patients whose primary language is one of the Medi-Cal threshold languages, the notice shall be delivered to them in their primary language.

(3) The Department of Managed Health Care shall translate the notice required by this subdivision in all Medi-Cal threshold languages and make the translations available to the hospitals subject to this section.

(4) The written notice provided pursuant to this subdivision shall include the following statement:

THIS NOTICE MUST BE PROVIDED TO YOU UNDER CALIFORNIA LAW

"You have received emergency care at a hospital that is not a part of your health plan's provider network. Under state law, emergency care must be paid by your health plan no matter where you get that care. The

doctor who is caring for you has decided that you may be safely moved to another hospital for the additional care you need. Because you no longer need emergency care, your health plan has not authorized further care at this hospital. Your health plan has arranged for you to be moved to a hospital that is in your health plan's provider network.

If you agree to be moved, your health plan will pay for your care at that hospital. You will only have to pay for your deductible, copayments, or coinsurance for care. You will not have to pay for your deductible, copayments, or coinsurance for transportation costs to another hospital that is covered by your health plan.

IF YOU CHOOSE TO STAY AT THIS HOSPITAL FOR YOUR ADDITIONAL CARE, YOU WILL HAVE TO PAY THE FULL COST OF CARE NOW THAT YOU NO LONGER NEED EMERGENCY CARE. This cost may include the cost of the doctor or doctors, the hospital, and any laboratory, radiology, or other services that you receive.

If you do not think you can be safely moved, talk to the doctor about your concerns. If you would like additional help, you may contact:

Your health plan member services department. Look on your health plan member card for that phone number. You can file a grievance with your plan.

The HMO Helpline at 888-HMO-2219. The HMO Helpline is available 24 hours a day, 7 days a week. The HMO Helpline can work with your health plan to address your concerns, but you may still have to pay the full cost of care at this hospital if you stay."

(5) The hospital shall give one copy of the written notice required by this subdivision to the patient, or the patient's spouse or legal guardian, for signature and may retain a copy in the patient's medical record.

(6) The hospital shall ensure prompt delivery of the notice to the patient or his or her spouse or legal guardian. The hospital shall obtain signed acceptance of the written notice required by this subdivision, and signed acceptance of any other documents the hospital requires for any further poststabilization care, from the patient or the patient's spouse or legal guardian, and shall provide the health care service plan, or its contracting medical provider, with confirmation of the patient's, or his or her spouse or legal guardian's, receipt of the written notice.

(7) If the noncontracting hospital fails to meet the requirements of this subdivision, the hospital shall not bill the patient or the patient's health care service plan, or its contracting medical provider, for poststabilization care provided to the patient.

(8) If the patient, or the patient's spouse or legal guardian, refuses to sign the notice, the noncontracting hospital shall document in the patient's medical record that the notice was provided and signature was refused.

Upon the patient's refusal to sign, the patient shall assume financial responsibility for any further poststabilization care provided by the hospital.

(9) The Department of Managed Health Care may, by regulation, modify the wording of the notice required under this subdivision for clarity, readability, and accuracy of the information provided.

(10) The Department of Managed Health Care may, in conjunction with consumer groups, health care service plans, and hospitals, modify the wording of the notice to include language regarding Medicare beneficiaries, if appropriate under Medicare rules. The initial modification shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340, et. seq.) of Part 1 of Division 3 of Title 2 of the Government Code).

(g) If poststabilization care has been authorized by the health care service plan, the noncontracting hospital shall request the patient's medical record from the patient's health care service plan or its contracting medical provider.

(h) The health care service plan, or its contracting medical provider, shall, upon conferring with the noncontracting hospital, transmit any appropriate portion of the patient's medical record, if the records are in the plan's possession, via facsimile transmission or electronic mail, whichever method is requested by the noncontracting hospital's representative or the noncontracting physician and surgeon. The health care service plan, or its contracting medical provider, shall transmit the patient's medical record in a manner that complies with all legal requirements to protect the patient's privacy.

(i) A health care service plan, or its contracting medical provider, that requires prior authorization for poststabilization care shall provide 24-hour access for patients and providers, including noncontracting hospitals, to obtain timely authorization for medically necessary poststabilization care.

(j) A health care service plan shall provide all noncontracting hospitals in the state with specific contact information needed to make the contact required by this section. The contact information provided to hospitals shall be updated as necessary, but no less than once a year.

(k) In addition to meeting the requirements of subdivision (j), a health care service plan shall provide the contact information described in subdivision (j) to the Department of Managed Health Care. The contact information provided pursuant to this subdivision shall be updated as necessary, but no less than once a year. The receiving department shall post this contact information on its Internet Web site no later than January 1 of each calendar year.

(*l*) This section shall only apply to a noncontracting hospital.

(m) For purposes of this section, the following definitions shall apply:

(1) "Health care service plan" means a health care service plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 that covers hospital, medical, or surgical expenses.

(2) "Noncontracting hospital" means a general acute care hospital, as defined in subdivision (a) of Section 1250 or an acute psychiatric hospital, as defined in subdivision (b) of Section 1250, that does not have a written contract with the patient's health care service plan to provide health care services to the patient.

(3) "Poststabilization care" means medically necessary care provided after an emergency medical condition has been stabilized, as defined by subdivision (j) of Section 1317.1.

(4) "Contracting medical provider" means a medical group, independent practice association, or any other similar organization that, pursuant to a signed written contract, has agreed to accept responsibility for provision or reimbursement of a noncontracting hospital for emergency and poststabilization services provided to a health plan's enrollees.

(n) Subdivisions (b) to (h), inclusive, shall not apply to minor treatment procedures, if all of the following apply:

(1) The procedure is provided in the treatment area of the emergency department.

(2) The procedure concludes the treatment of the presenting emergency medical condition of a patient and is related to that condition, even though the treatment may not resolve the underlying medical condition.

(3) The procedure is performed according to accepted standards of practice.

(4) The procedure would result in the direct discharge or release of the patient from the emergency department following this care.

(o) Nothing in this section is intended to prevent a health care service plan or its contracting medical provider from assuming management of the patient's care at any time after the initial provision of poststabilization care by the noncontracting hospital before the patient has been discharged. Upon the request of the health care service plan or its contracting medical provider, the noncontracting hospital shall provide the health care service plan or its contracting medical provider with any information specified in paragraph (3) of subdivision (b).

(p) Nothing in this section shall authorize a provider of health care services to bill a Medi-Cal beneficiary enrolled in a Medi-Cal managed care plan or otherwise alter the provisions of subdivision (a) of Section 14019.3 of the Welfare and Institutions Code.

SEC. 3. Section 1317.1 of the Health and Safety Code, as amended by Section 1 of Chapter 544 of the Statutes of 1999, is amended to read:

1317.1. Unless the context otherwise requires, the following definitions shall control the construction of this article and Section 1371.4:

(a) (1) "Emergency services and care" means medical screening, examination, and evaluation by a physician, or, to the extent permitted by applicable law, by other appropriate personnel under the supervision of a physician, to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment, and surgery by a physician necessary to relieve or eliminate the emergency medical condition, within the capability of the facility.

(2) (A) "Emergency services and care" also means an additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by applicable law and within the scope of their licensure and clinical privileges, to determine if a psychiatric emergency medical condition exists, and the care and treatment necessary to relieve or eliminate the psychiatric emergency medical condition, within the capability of the facility.

(B) For the purposes of Section 1371.4, emergency services and care as defined in this paragraph shall not apply to services provided under managed care contracts with the Medi-Cal program to the extent that those services are excluded from coverage under the contract.

(C) This paragraph does not expand, restrict, or otherwise affect, the scope of licensure or clinical privileges for clinical psychologists or other medical personnel.

(b) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

(1) Placing the patient's health in serious jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction of any bodily organ or part.

(c) "Active labor" means a labor at a time at which either of the following would occur:

(1) There is inadequate time to effect safe transfer to another hospital prior to delivery.

(2) A transfer may pose a threat to the health and safety of the patient or the unborn child.

(d) "Hospital" means all hospitals with an emergency department licensed by the state department.

(e) "State department" means the State Department of Public Health.

(f) "Medical hazard" means a material deterioration in medical condition in, or jeopardy to, a patient's medical condition or expected chances for recovery.

(g) "Board" means the Medical Board of California.

(h) "Within the capability of the facility" means those capabilities which the hospital is required to have as a condition of its emergency medical services permit and services specified on Services Inventory Form 7041 filed by the hospital with the Office of Statewide Health Planning and Development.

(i) "Consultation" means the rendering of an opinion, advice, or prescribing treatment by telephone and, when determined to be medically necessary jointly by the emergency and specialty physicians, includes review of the patient's medical record, examination, and treatment of the patient in person by a specialty physician who is qualified to give an opinion or render the necessary treatment in order to stabilize the patient.

(j) A patient is "stabilized" or "stabilization" has occurred when, in the opinion of the treating provider, the patient's medical condition is such that, within reasonable medical probability, no material deterioration of the patient's condition is likely to result from, or occur during, the release or transfer of the patient as provided for in Section 1317.2, Section 1317.2a, or other pertinent statute.

SEC. 3.5. Section 1317.1 of the Health and Safety Code, as amended by Section 1 of Chapter 544 of the Statutes of 1999, is amended to read:

1317.1. Unless the context otherwise requires, the following definitions shall control the construction of this article and Section 1371.4:

(a) (1) "Emergency services and care" means medical screening, examination, and evaluation by a physician, or, to the extent permitted by applicable law, by other appropriate personnel under the supervision of a physician, to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment, and surgery by a physician necessary to relieve or eliminate the emergency medical condition, within the capability of the facility.

(2) "Emergency services and care" also means an additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by applicable law and within the scope of their licensure and clinical privileges, to determine if a psychiatric emergency medical condition exists, and the care and treatment necessary to relieve or eliminate the psychiatric emergency medical condition, within the capability of the facility.

(A) The care and treatment necessary to relieve or eliminate a psychiatric emergency medical condition may include admission or transfer to a psychiatric unit within a general acute care hospital, as defined in subdivision (a) of Section 1250, or to an acute psychiatric

hospital, as defined in subdivision (b) of Section 1250, pursuant to subdivision (k).

(B) For the purposes of Section 1371.4, emergency services and care, as defined in this paragraph, shall not apply to services provided under managed care contracts with the Medi-Cal program to the extent that those services are excluded from coverage under the contract.

(3) "Psychiatric emergency medical condition" means a mental disorder that manifests itself by acute symptoms of sufficient severity as to render the patient as either of the following:

(A) An immediate danger to himself or herself or to others.

(B) Immediately unable to provide for, or utilize, food, shelter, or clothing due to the mental disorder.

(4) This subdivision does not expand, restrict, or otherwise affect, the scope of licensure or clinical privileges for clinical psychologists or other medical personnel.

(b) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

(1) Placing the patient's health in serious jeopardy.

(2) Serious impairment to bodily functions.

(3) Serious dysfunction of any bodily organ or part.

(c) "Active labor" means a labor at a time at which either of the following would occur:

(1) There is inadequate time to effect safe transfer to another hospital prior to delivery.

(2) A transfer may pose a threat to the health and safety of the patient or the unborn child.

(d) "Hospital" means all hospitals with an emergency department licensed by the state department.

(e) "State department" means the State Department of Public Health.

(f) "Medical hazard" means a material deterioration in medical condition in, or jeopardy to, a patient's medical condition or expected chances for recovery.

(g) "Board" means the Medical Board of California.

(h) "Within the capability of the facility" means those capabilities which the hospital is required to have as a condition of its emergency medical services permit and services specified on Services Inventory Form 7041 filed by the hospital with the Office of Statewide Health Planning and Development.

(i) "Consultation" means the rendering of an opinion, advice, or prescribing treatment by telephone and, when determined to be medically necessary jointly by the emergency and specialty physicians, includes

review of the patient's medical record, examination, and treatment of the patient in person by a specialty physician who is qualified to give an opinion or render the necessary treatment in order to stabilize the patient.

(j) A patient is "stabilized" or "stabilization" has occurred when, in the opinion of the treating provider, the patient's medical condition is such that, within reasonable medical probability, no material deterioration of the patient's condition is likely to result from, or occur during, the release or transfer of the patient as provided for in Section 1317.2, Section 1317.2a, or other pertinent statute.

(k) (1) Notwithstanding subdivision (j), a patient may be transferred for admission to a psychiatric unit within a general acute care hospital, as defined in subdivision (a) of Section 1250, or an acute psychiatric hospital, as defined in subdivision (b) of Section 1250, for care and treatment that is solely necessary to relieve or eliminate a psychiatric emergency medical condition, as defined in paragraph (3) of subdivision (a), provided that, in the opinion of the treating provider, the patient's psychiatric emergency medical condition is such that, within reasonable medical probability, no material deterioration of the patient's psychiatric emergency medical condition is likely to result from, or occur during, a transfer of the patient. A provider shall notify the patient's health care service plan, or the health plan's contracting medical provider of the need for the transfer if identification of the plan is obtained pursuant to subparagraph (A) of paragraph (2).

(2) A hospital that transfers a patient pursuant to paragraph (1) shall do both of the following:

(A) Seek to obtain the name and contact information of the patient's health care service plan. The hospital shall document its attempt to ascertain this information in the patient's medical record. The hospital's attempt to ascertain the information shall include requesting the patient's health care service plan member card, asking the patient, the patient's family member, or other person accompanying the patient if he or she can identify the patient's health care service plan, or using other means known to the hospital to accurately identify the patient's health care service plan.

(B) Notify the patient's health care service plan or the health plan's contracting medical provider of the transfer, provided that the identification of the plan was obtained pursuant to subparagraph (A). The hospital shall provide the plan or its contracting medical provider with the name of the patient, the patient's member identification number, if known, the location and contact information, including a telephone number, for the location where the patient will be admitted, and the preliminary diagnosis.

(3) (A) A hospital shall make the notification described in subparagraph (B) of paragraph (2) by either following the instructions on the patient's health care service plan member card or by using the contact information provided by the patient's health care service plan. A health care service plan shall provide all noncontracting hospitals in the state to which one of its members would be transferred pursuant to subparagraph (A) of paragraph (2) of subdivision (a) with specific contact information needed to make the contact required by this section. The contact information provided to hospitals shall be updated as necessary, but no less than once a year.

(B) A hospital making the transfer pursuant to paragraph (1) shall not be required to make more than one telephone call to the health care service plan, or its contracting medical provider, provided that in all cases the health care service plan, or its contracting medical provider, shall be able to reach a representative of the provider upon returning the call, should the plan, or its contracting medical provider, need to call back. The representative of the hospital who makes the telephone call may be, but is not required to be, a physician and surgeon.

(4) If a transfer made pursuant to paragraph (1) is made to a facility that does not have a contract with the patient's health care service plan or health insurer, the plan or insurer may subsequently require and make provision for the transfer of the patient receiving services pursuant to this subdivision and subdivision (a) from the noncontracting facility to a general acute care hospital, as defined in subdivision (a) of Section 1250, or an acute psychiatric hospital, as defined in subdivision (b) of Section 1250, that has a contract with the plan or its delegated payer, provided that in the opinion of the treating provider the patient's psychiatric emergency medical condition is such that, within reasonable medical probability, no material deterioration of the patient's psychiatric emergency medical condition is likely to result from, or occur during, the transfer of the patient.

(5) Upon admission, the hospital to which the patient was transferred shall notify the health care service plan of the transfer, provided that the facility has the name and contact information of the patient's health care service plan. The facility shall not be required to make more than one telephone call to the health care service plan, or its contracting medical provider, provided that in all cases the health care service plan, or its contracting medical provider, shall be able to reach a representative of the facility upon returning the call, should the plan, or its contracting medical provider, need to call back. The representative of the facility who makes the telephone call may be, but is not required to be, a physician and surgeon.

(6) Nothing in this subdivision shall be construed to require providers to seek authorization to provide emergency services and care, as defined in paragraph (2) of subdivision (a), to a patient who has a psychiatric emergency medical condition, as defined in paragraph (3) of subdivision (a), that is not otherwise required by law.

SEC. 4. Section 1371.4 of the Health and Safety Code is amended to read:

1371.4. (a) A health care service plan that covers hospital, medical, or surgical expenses, or its contracting medical providers, shall provide 24-hour access for enrollees and providers, including, but not limited to, noncontracting hospitals, to obtain timely authorization for medically necessary care, for circumstances where the enrollee has received emergency services and care is stabilized, but the treating provider believes that the enrollee may not be discharged safely. A physician and surgeon shall be available for consultation and for resolving disputed requests for authorizations. A health care service plan that does not require prior authorization as a prerequisite for payment for necessary medical care following stabilization of an emergency medical condition or active labor need not satisfy the requirements of this subdivision.

(b) A health care service plan, or its contracting medical providers, shall reimburse providers for emergency services and care provided to its enrollees, until the care results in stabilization of the enrollee, except as provided in subdivision (c). As long as federal or state law requires that emergency services and care be provided without first questioning the patient's ability to pay, a health care service plan shall not require a provider to obtain authorization prior to the provision of emergency services and care necessary to stabilize the enrollee's emergency medical condition.

(c) Payment for emergency services and care may be denied only if the health care service plan, or its contracting medical providers, reasonably determines that the emergency services and care were never performed; provided that a health care service plan, or its contracting medical providers, may deny reimbursement to a provider for a medical screening examination in cases when the plan enrollee did not require emergency services and care and the enrollee reasonably should have known that an emergency did not exist. A health care service plan may require prior authorization as a prerequisite for payment for necessary medical care following stabilization of an emergency medical condition.

(d) If there is a disagreement between the health care service plan and the provider regarding the need for necessary medical care, following stabilization of the enrollee, the plan shall assume responsibility for the care of the patient either by having medical personnel contracting with the plan personally take over the care of the patient within a reasonable

amount of time after the disagreement, or by having another general acute care hospital under contract with the plan agree to accept the transfer of the patient as provided in Section 1317.2, Section 1317.2a, or other pertinent statute. However, this requirement shall not apply to necessary medical care provided in hospitals outside the service area of the health care service plan. If the health care service plan fails to satisfy the requirements of this subdivision, further necessary care shall be deemed to have been authorized by the plan. Payment for this care may not be denied.

(e) A health care service plan may delegate the responsibilities enumerated in this section to the plan's contracting medical providers.

(f) Subdivisions (b), (c), (d), (g), and (h) shall not apply with respect to a nonprofit health care service plan that has 3,500,000 enrollees and maintains a prior authorization system that includes the availability by telephone within 30 minutes of a practicing emergency department physician.

(g) The Department of Managed Health Care shall adopt by July 1, 1995, on an emergency basis, regulations governing instances when an enrollee requires medical care following stabilization of an emergency medical condition, including appropriate timeframes for a health care service plan to respond to requests for treatment authorization.

(h) The Department of Managed Health Care shall adopt, by July 1, 1999, on an emergency basis, regulations governing instances when an enrollee in the opinion of the treating provider requires necessary medical care following stabilization of an emergency medical condition, including appropriate timeframes for a health care service plan to respond to a request for treatment authorization from a treating provider who has a contract with a plan.

(i) The definitions set forth in Section 1317.1 shall control the construction of this section.

(j) (1) A health care service plan that is contacted by a hospital pursuant to Section 1262.8 shall, within 30 minutes of the time the hospital makes the initial telephone call requesting information, either authorize poststabilization care or inform the hospital that it will arrange for the prompt transfer of the enrollee to another hospital.

(2) A health care service plan that is contacted by a hospital pursuant to Section 1262.8 shall reimburse the hospital for poststabilization care rendered to the enrollee if any of the following occur:

(A) The health care service plan authorizes the hospital to provide poststabilization care.

(B) The health care service plan does not respond to the hospital's initial contact or does not make a decision regarding whether to authorize

poststabilization care or to promptly transfer the enrollee within the timeframe set forth in paragraph (1).

(C) There is an unreasonable delay in the transfer of the enrollee, and the noncontracting physician and surgeon determines that the enrollee requires poststabilization care.

(3) A health care service plan shall not require a hospital representative or a noncontracting physician and surgeon to make more than one telephone call pursuant to Section 1262.8 to the number provided in advance by the health care service plan. The representative of the hospital that makes the telephone call may be, but is not required to be, a physician and surgeon.

(4) An enrollee who is billed by a hospital in violation of Section 1262.8 may report receipt of the bill to the health care service plan and the department. The department shall forward that report to the State Department of Public Health.

(5) For purposes of this section, "poststabilization care" means medically necessary care provided after an emergency medical condition has been stabilized.

SEC. 5. Section 1386 of the Health and Safety Code is amended to read:

1386. (a) The director may, after appropriate notice and opportunity for a hearing, by order suspend or revoke any license issued under this chapter to a health care service plan or assess administrative penalties if the director determines that the licensee has committed any of the acts or omissions constituting grounds for disciplinary action.

(b) The following acts or omissions constitute grounds for disciplinary action by the director:

(1) The plan is operating at variance with the basic organizational documents as filed pursuant to Section 1351 or 1352, or with its published plan, or in any manner contrary to that described in, and reasonably inferred from, the plan as contained in its application for licensure and annual report, or any modification thereof, unless amendments allowing the variation have been submitted to, and approved by, the director.

(2) The plan has issued, or permits others to use, evidence of coverage or uses a schedule of charges for health care services that do not comply with those published in the latest evidence of coverage found unobjectionable by the director.

(3) The plan does not provide basic health care services to its enrollees and subscribers as set forth in the evidence of coverage. This subdivision shall not apply to specialized health care service plan contracts.

(4) The plan is no longer able to meet the standards set forth in Article 5 (commencing with Section 1367).

(5) The continued operation of the plan will constitute a substantial risk to its subscribers and enrollees.

(6) The plan has violated or attempted to violate, or conspired to violate, directly or indirectly, or assisted in or abetted a violation or conspiracy to violate any provision of this chapter, any rule or regulation adopted by the director pursuant to this chapter, or any order issued by the director pursuant to this chapter.

(7) The plan has engaged in any conduct that constitutes fraud or dishonest dealing or unfair competition, as defined by Section 17200 of the Business and Professions Code.

(8) The plan has permitted, or aided or abetted any violation by an employee or contractor who is a holder of any certificate, license, permit, registration, or exemption issued pursuant to the Business and Professions Code or this code that would constitute grounds for discipline against the certificate, license, permit, registration, or exemption.

(9) The plan has aided or abetted or permitted the commission of any illegal act.

(10) The engagement of a person as an officer, director, employee, associate, or provider of the plan contrary to the provisions of an order issued by the director pursuant to subdivision (c) of this section or subdivision (d) of Section 1388.

(11) The engagement of a person as a solicitor or supervisor of solicitation contrary to the provisions of an order issued by the director pursuant to Section 1388.

(12) The plan, its management company, or any other affiliate of the plan, or any controlling person, officer, director, or other person occupying a principal management or supervisory position in the plan, management company, or affiliate, has been convicted of or pleaded nolo contendere to a crime, or committed any act involving dishonesty, fraud, or deceit, which crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with this chapter. The director may revoke or deny a license hereunder irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(13) The plan violates Section 510, 2056, or 2056.1 of the Business and Professions Code or Section 1375.7.

(14) The plan has been subject to a final disciplinary action taken by this state, another state, an agency of the federal government, or another country for any act or omission that would constitute a violation of this chapter.

(15) The plan violates the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code).

(16) The plan violates Section 806 of the Military and Veterans Code.

(17) The plan violates Section 1262.8.

(c) (1) The director may prohibit any person from serving as an officer, director, employee, associate, or provider of any plan or solicitor firm, or of any management company of any plan, or as a solicitor, if either of the following applies:

(A) The prohibition is in the public interest and the person has committed, caused, participated in, or had knowledge of a violation of this chapter by a plan, management company, or solicitor firm.

(B) The person was an officer, director, employee, associate, or provider of a plan or of a management company or solicitor firm of any plan whose license has been suspended or revoked pursuant to this section and the person had knowledge of, or participated in, any of the prohibited acts for which the license was suspended or revoked.

(2) A proceeding for the issuance of an order under this subdivision may be included with a proceeding against a plan under this section or may constitute a separate proceeding, subject in either case to subdivision (d).

(d) A proceeding under this section shall be subject to appropriate notice to, and the opportunity for a hearing with regard to, the person affected in accordance with subdivision (a) of Section 1397.

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

SEC. 7. Section 3.5 of this bill incorporates amendments to Section 1317.1 of the Health and Safety Code proposed by both this bill and AB 2861. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 1317.1 of the Health and Safety Code, and (3) this bill is enacted after AB 2861, in which case Section 3 of this bill shall not become operative.

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## CHAPTER 604

An act to add Sections 1389.7 and 1389.8 to the Health and Safety Code, and to add Sections 10119.2 and 10119.3 to the Insurance Code, relating to health care coverage.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. Section 1389.7 is added to the Health and Safety Code, to read:

1389.7. (a) Every health care service plan that offers, issues, or renews individual plan contracts shall offer to any individual, who was covered under an individual plan contract that was rescinded, a new individual plan contract, without medical underwriting, that provides equal benefits. A health care service plan may also permit an individual, who was covered under an individual plan contract that was rescinded, to remain covered under that individual plan contract, with a revised premium rate that reflects the number of persons remaining on the plan contract.

(b) "Without medical underwriting" means that the health care service plan shall not decline to offer coverage to, or deny enrollment of, the individual or impose any preexisting condition exclusion on the individual who is issued a new individual plan contract or remains covered under an individual plan contract pursuant to this section.

(c) If a new individual plan contract is issued, the plan may revise the premium rate to reflect only the number of persons covered on the new individual plan contract.

(d) Notwithstanding subdivision (a) and (b), if an individual was subject to a preexisting condition provision or a waiting or an affiliation period under the individual plan contract that was rescinded, the health care service plan may apply the same preexisting condition provision or waiting or affiliation period in the new individual plan contract. The time period in the new individual plan contract for the preexisting condition provision or waiting or affiliation period shall not be longer than the one in the individual plan contract that was rescinded and the health care service plan shall credit any time that the individual was covered under the rescinded individual plan contract.

(e) The plan shall notify in writing all enrollees of the right to coverage under an individual plan contract pursuant to this section, at a minimum, when the plan rescinds the individual plan contract. The notice shall adequately inform enrollees of the right to coverage provided under this section.

(f) The plan shall provide 60 days for enrollees to accept the offered new individual plan contract and this contract shall be effective as of the effective date of the original plan contract and there shall be no lapse in coverage.

(g) This section shall not apply to any individual whose information in the application for coverage and related communications led to the rescission.

SEC. 2. Section 1389.8 is added to the Health and Safety Code, to read:

1389.8. (a) Notwithstanding any other provision of law, an agent, broker, solicitor, solicitor firm, or representative who assists an applicant in submitting an application to a health care service plan has the duty to assist the applicant in providing answers to health questions accurately and completely.

(b) An agent, broker, solicitor, solicitor firm, or representative who assists an applicant in submitting an application to a health care service plan shall attest on the written application to both of the following:

(1) That to the best of his or her knowledge, the information on the application is complete and accurate.

(2) That he or she explained to the applicant, in easy-to-understand language, the risk to the applicant of providing inaccurate information and that the applicant understood the explanation.

(c) If, in an attestation required by subdivision (b), a declarant willfully states as true any material fact he or she knows to be false, that person shall, in addition to any applicable penalties or remedies available under current law, be subject to a civil penalty of up to ten thousand dollars ($10,000). Any public prosecutor may bring a civil action to impose that civil penalty. These penalties shall be paid to the Managed Care Fund.

(d) A health care service plan application shall include a statement advising declarants of the civil penalty authorized under this section.

SEC. 3. Section 10119.2 is added to the Insurance Code, to read:

10119.2. (a) Every health insurer that offers, issues, or renews health insurance under an individual health benefit plan, as defined in subdivision (a) of Section 10198.6, shall offer to any individual, who was covered under an individual health benefit plan that was rescinded, a new individual health benefit plan without medical underwriting that provides equal benefits. A health insurer may also permit an individual, who was covered under an individual health benefit plan that was rescinded, to remain covered under that individual health benefit plan, with a revised premium rate that reflects the number of persons remaining on the health benefit plan.

(b) "Without medical underwriting" means that the health insurer shall not decline to offer coverage to, or deny enrollment of, the individual or impose any preexisting condition exclusion on the individual who is issued a new individual health benefit plan or remains covered under an individual health benefit plan pursuant to this section.

(c) If a new individual health benefit plan is issued, the insurer may revise the premium rate to reflect only the number of persons covered under the new individual health benefit plan.

(d) Notwithstanding subdivision (a) and (b), if an individual was subject to a preexisting condition provision or a waiting or affiliation period under the individual health benefit plan that was rescinded, the health insurer may apply the same preexisting condition provision or waiting or affiliation period in the new individual health benefit plan. The time period in the new individual health benefit plan for the preexisting condition provision or waiting or affiliation period shall not be longer than the one in the individual health benefit plan that was rescinded and the health insurer shall credit any time that the individual was covered under the rescinded individual health benefit plan.

(e) The insurer shall notify in writing all insureds of the right to coverage under an individual health benefit plan pursuant to this section, at a minimum, when the insurer rescinds the individual health benefit plan. The notice shall adequately inform insureds of the right to coverage provided under this section.

(f) The insurer shall provide 60 days for insureds to accept the offered new individual health benefit plan and this plan shall be effective as of the effective date of the original individual health benefit plan and there shall be no lapse in coverage.

(g) This section shall not apply to any individual whose information in the application for coverage and related communications led to the rescission.

SEC. 4. Section 10119.3 is added to the Insurance Code, to read:

10119.3. (a) Notwithstanding any other provision of law, an agent or broker who assists an applicant in submitting an application to a health insurer has the duty to assist the applicant in providing answers to health questions accurately and completely.

(b) An agent or broker who assists an applicant in submitting an application to a health insurer shall attest on the written application to both of the following:

(1) That to the best of his or her knowledge, the information on the application is complete and accurate.

(2) That he or she explained to the applicant, in easy-to-understand language, the risk to the applicant of providing inaccurate information and that the applicant understood the explanation.

(c) If, in an attestation required by subdivision (b), a declarant willfully states as true any material fact he or she knows to be false, that person shall, in addition to any applicable penalties or remedies available under current law, be subject to a civil penalty of up to ten thousand dollars

($10,000). Any public prosecutor may bring a civil action to impose that civil penalty. These penalties shall be paid to the Insurance Fund.

(d) A health insurance application shall include a statement advising declarants of the civil penalty authorized under this section.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 605

An act to amend Sections 1280.1 and 1280.3 of, and to add Section 1280.15 to, the Health and Safety Code, relating to health facilities.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 1280.1 of the Health and Safety Code is amended to read:

1280.1. (a) Subject to subdivision (d), prior to the effective date of regulations adopted to implement Section 1280.3, if a licensee of a health facility licensed under subdivision (a), (b), or (f) of Section 1250 receives a notice of deficiency constituting an immediate jeopardy to the health or safety of a patient and is required to submit a plan of correction, the department may assess the licensee an administrative penalty in an amount not to exceed twenty-five thousand dollars ($25,000) per violation.

(b) If the licensee disputes a determination by the department regarding the alleged deficiency or the alleged failure to correct a deficiency, or regarding the reasonableness of the proposed deadline for correction or the amount of the penalty, the licensee may, within 10 days, request a hearing pursuant to Section 131071. Penalties shall be paid when appeals have been exhausted and the department's position has been upheld.

(c) For purposes of this section "immediate jeopardy" means a situation in which the licensee's noncompliance with one or more

requirements of licensure has caused, or is likely to cause, serious injury or death to the patient.

(d) This section shall apply only to incidents occurring on or after January 1, 2007. With respect to incidents occurring on or after January 1, 2009, the amount of the administrative penalties assessed under subdivision (a) shall be up to one hundred thousand dollars ($100,000) per violation. With respect to incidents occurring on or after January 1, 2009, the amount of the administrative penalties assessed under subdivision (a) shall be up to fifty thousand dollars ($50,000) for the first administrative penalty, up to seventy-five thousand dollars ($75,000) for the second subsequent administrative penalty, and up to one hundred thousand dollars ($100,000) for the third and every subsequent violation. An administrative penalty issued after three years from the date of the last issued immediate jeopardy violation shall be considered a first administrative penalty so long as the facility has not received additional immediate jeopardy violations and is found by the department to be in substantial compliance with all state and federal licensing laws and regulations. The department shall have full discretion to consider all factors when determining the amount of an administrative penalty pursuant to this section.

(e) No new regulations are required or authorized for implementation of this section.

(f) This section shall become inoperative on the effective date of regulations promulgated by the department pursuant to Section 1280.3.

(g) In enforcing this section, the department shall take into consideration the special circumstances of small and rural hospitals, as defined in Section 124840, in order to protect access to quality care in those hospitals.

SEC. 2. Section 1280.15 is added to the Health and Safety Code, to read:

1280.15. (a) A clinic, health facility, home health agency, or hospice licensed pursuant to Section 1204, 1250, 1725, or 1745 shall prevent unlawful or unauthorized access to, and use or disclosure of, patients' medical information, as defined in subdivision (g) of Section 56.05 of the Civil Code and consistent with Section 130203. The department, after investigation, may assess an administrative penalty for a violation of this section of up to twenty-five thousand dollars ($25,000) per patient whose medical information was unlawfully or without authorization accessed, used, or disclosed, and up to seventeen thousand five hundred dollars ($17,500) per subsequent occurrence of unlawful or unauthorized access, use, or disclosure of that patients' medical information. For purposes of the investigation, the department shall consider the clinic's, health facility's, agency's, or hospice's history of compliance with this

section and other related state and federal statutes and regulations, the extent to which the facility detected violations and took preventative action to immediately correct and prevent past violations from recurring, and factors outside its control that restricted the facility's ability to comply with this section. The department shall have full discretion to consider all factors when determining the amount of an administrative penalty pursuant to this section.

(b) (1) A clinic, health facility, agency, or hospice to which subdivision (a) applies shall report any unlawful or unauthorized access to, or use or disclosure of, a patient's medical information to the department no later than five days after the unlawful or unauthorized access, use, or disclosure has been detected by the clinic, health facility, agency, or hospice.

(2) A clinic, health facility, agency, or hospice shall also report any unlawful or unauthorized access to, or use or disclosure of, a patient's medical information to the affected patient or the patient's representative at the last known address, no later than five days after the unlawful or unauthorized access, use, or disclosure has been detected by the clinic, health facility, agency, or hospice.

(c) If a clinic, health facility, agency, or hospice to which subdivision (a) applies violates subdivision (b), the department may assess the licensee a penalty in the amount of one hundred dollars ($100) for each day that the unlawful or unauthorized access, use, or disclosure is not reported, following the initial five-day period specified in subdivision (b). However, the total combined penalty assessed by the department under subdivision (a) and this subdivision shall not exceed two hundred fifty thousand dollars ($250,000) per reported event.

(d) In enforcing subdivisions (a) and (c), the department shall take into consideration the special circumstances of small and rural hospitals, as defined in Section 124840, and primary care clinics, as defined in subdivision (a) of Section 1204, in order to protect access to quality care in those hospitals and clinics. When assessing a penalty on a skilled nursing facility or other facility subject to Section 1423, 1424, 1424.1, or 1424.5, the department shall issue only the higher of either a penalty for the violation of this section or a penalty for violation of Section 1423, 1424, 1424.1, or 1424.5, not both.

(e) All penalties collected by the department pursuant to this section, Sections 1280.1, 1280.3, and 1280.4, shall be deposited into the Internal Departmental Quality Improvement Account, which is hereby created within the Special Deposit Fund under Section 16370 of the Government Code. Upon appropriation by the Legislature, moneys in the account shall be expended for internal quality improvement activities in the Licensing and Certification Program.

(f) If the licensee disputes a determination by the department regarding a failure to prevent or failure to timely report unlawful or unauthorized access to, or use or disclosure of, patients' medical information, or the imposition of a penalty under this section, the licensee may, within 10 days of receipt of the penalty assessment, request a hearing pursuant to Section 131071. Penalties shall be paid when appeals have been exhausted and the penalty has been upheld.

(g) In lieu of disputing the determination of the department regarding a failure to prevent or failure to timely report unlawful or unauthorized access to, or use or disclosure of, patients' medical information, transmit to the department 75 percent of the total amount of the administrative penalty, for each violation, within 30 business days of receipt of the administrative penalty.

(h) Notwithstanding any other provision of law, the department may refer violations of this section to the office of Health Information Integrity for enforcement pursuant to Section 130303, except that if Assembly Bill 211 of the 2007–08 Regular Session is not enacted, the department may refer violations to the Office of HIPAA Implementation.

(i) For purposes of this section, the following definitions shall apply:

(1) "Reported event" means all breaches included in any single report that is made pursuant to subdivision (b), regardless of the number of breach events contained in the report.

(2) "Unauthorized" means the inappropriate access, review, or viewing of patient medical information without a direct need for medical diagnosis, treatment, or other lawful use as permitted by the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) or any other statute or regulation governing the lawful access, use, or disclosure of medical information.

SEC. 3. Section 1280.3 of the Health and Safety Code is amended to read:

1280.3. (a) Commencing on the effective date of the regulations adopted pursuant to this section, the director may assess an administrative penalty against a licensee of a health facility licensed under subdivision (a), (b), or (f) of Section 1250 for a deficiency constituting an immediate jeopardy violation as determined by the department up to a maximum of seventy-five thousand dollars ($75,000) for the first administrative penalty, up to one hundred thousand dollars ($100,000) for the second subsequent administrative penalty, and up to one hundred twenty-five thousand dollars ($125,000) for the third and every subsequent violation. An administrative penalty issued after three years from the date of the last issued immediate jeopardy violation shall be considered a first administrative penalty so long as the facility has not received additional

immediate jeopardy violations and is found by the department to be in substantial compliance with all state and federal licensing laws and regulations. The department shall have full discretion to consider all factors when determining the amount of an administrative penalty pursuant to this section.

(b) Except as provided in subdivision (c), for a violation of this chapter or the rules and regulations promulgated thereunder that does not constitute a violation of subdivision (a), the department may assess an administrative penalty in an amount of up to twenty-five thousand dollars ($25,000) per violation. This subdivision shall also apply to violation of regulations set forth in Article 3 (commencing with Section 127400) of Chapter 2 of Part 2 of Division 107 or the rules and regulations promulgated thereunder.

The department shall promulgate regulations establishing the criteria to assess an administrative penalty against a health facility licensed pursuant to subdivisions (a), (b), or (f) of Section 1250. The criteria shall include, but need not be limited to, the following:

(1) The patient's physical and mental condition.

(2) The probability and severity of the risk that the violation presents to the patient.

(3) The actual financial harm to patients, if any.

(4) The nature, scope, and severity of the violation.

(5) The facility's history of compliance with related state and federal statutes and regulations.

(6) Factors beyond the facility's control that restrict the facility's ability to comply with this chapter or the rules and regulations promulgated thereunder.

(7) The demonstrated willfulness of the violation.

(8) The extent to which the facility detected the violation and took steps to immediately correct the violation and prevent the violation from recurring.

(c) The department shall not assess an administrative penalty for minor violations.

(d) The regulations shall not change the definition of immediate jeopardy as established in this section.

(e) The regulations shall apply only to incidents occurring on or after the effective date of the regulations.

(f) If the licensee disputes a determination by the department regarding the alleged deficiency or alleged failure to correct a deficiency, or regarding the reasonableness of the proposed deadline for correction or the amount of the penalty, the licensee may, within 10 working days, request a hearing pursuant to Section 131071. Penalties shall be paid

when all appeals have been exhausted and the department's position has been upheld.

(g) For purposes of this section, "immediate jeopardy" means a situation in which the licensee's noncompliance with one or more requirements of licensure has caused, or is likely to cause, serious injury or death to the patient.

(h) In enforcing subdivision (a) the department shall take into consideration the special circumstances of small and rural hospitals, as defined in Section 124840, in order to protect access to quality care in those hospitals.

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.

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## CHAPTER 606

An act to add Sections 12693.55 and 12698.26 to the Insurance Code, relating to health care coverage.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The Healthy Families Program and the Access for Infants and Mothers Program provide access to health care for the state's chronically underserved and uninsured children and prenatal, well child, and labor and delivery services for pregnant women who might otherwise have difficulty obtaining vital and basic health care services.

(b) In addition to receiving reimbursement from the state through contract managed care plans for services provided to enrollees of these programs, some health care providers seek additional compensation by inappropriately billing enrollees of the programs directly for additional payments.

(c) Enrollees of these programs with limited economic means should not be subjected to aggressive billing practices from overbilling providers who accept reimbursement from one of the programs and then seek an additional double payment by billing unsuspecting enrollees for services previously compensated by the state's taxpayers.

(d) Enrollees of these programs should not be obligated to pay excessive and improper double billings.

(e) Enrollees of these programs, including many with language barriers and those who are low income, should not be subjected to aggressive collection tactics, threats to their credit, and other improper and coercive billing practices designed to intimidate them into making excessive payments they are not obligated to make.

(f) The practice of balance billing Medicare and Medi-Cal enrollees is explicitly prohibited under existing federal and state law.

SEC. 2. Section 12693.55 is added to the Insurance Code, to read:

12693.55. (a) A health care provider who is furnished documentation of a person's enrollment in the program shall not seek reimbursement nor attempt to obtain payment for any covered services provided to that person other than from the participating health plan covering that person.

(b) The provisions of subdivision (a) do not apply to any copayments required for the covered services provided to the person under his or her participating health plan.

(c) For purposes of this section, "health care provider" means any professional person, organization, health facility, or other person or institution licensed by the state to deliver or furnish health care services.

SEC. 3. Section 12698.26 is added to the Insurance Code, to read:

12698.26. (a) A health care provider who is furnished documentation of a subscriber's enrollment in the program shall not seek reimbursement nor attempt to obtain payment for any covered services provided to that subscriber other than from the participating health plan covering the subscriber.

(b) The provisions of subdivision (a) do not apply to any copayments required for the covered services provided to the subscriber under his or her participating health plan.

(c) For purposes of this section, "health care provider" means any professional person, organization, health facility, or other person or institution licensed by the state to deliver or furnish health care services.

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## CHAPTER 607

An act to amend Sections 1356, 1367.01, 1367.03, 1368, 1368.04, 1374.9, 1374.34, 1393.6, and 128555 of, and to add Section 1341.45 to, the Health and Safety Code, and to add Section 12739.05 to the Insurance Code, relating to health care, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. Section 1341.45 is added to the Health and Safety Code, to read:

1341.45. (a) There is hereby created in the State Treasury the Managed Care Administrative Fines and Penalties Fund.

(b) The fines and administrative penalties collected pursuant to this chapter, on and after the operative date of this section, shall be deposited into the Managed Care Administrative Fines and Penalties Fund.

(c) The fines and administrative penalties deposited into the Managed Care Administrative Fines and Penalties Fund shall be transferred by the department, beginning September 1, 2009, and annually thereafter, as follows:

(1) The first one million dollars ($1,000,000) shall be transferred to the Medically Underserved Account for Physicians within the Health Professions Education Fund and shall, upon appropriation by the Legislature, be used for the purposes of the Steven M. Thompson Physician Corps Loan Repayment Program, as specified in Article 5 (commencing with Section 128550) or Chapter 5 of Part 3 of Division 107 and, notwithstanding Section 128555, shall not be used to provide funding for the Physician Volunteer Program.

(2) Any amount over the first one million dollars ($1,000,000), including accrued interest, in the fund shall be transferred to the Major Risk Medical Insurance Fund created pursuant to Section 12739 of the Insurance Code and shall, upon appropriation by the Legislature, be used for the Major Risk Medical Insurance Program for the purposes specified in Section 12739.1 of the Insurance Code.

(d) Notwithstanding subdivision (b) of Section 1356 and Section 1356.1, the fines and administrative penalties authorized pursuant to this chapter shall not be used to reduce the assessments imposed on health care service plans pursuant to Section 1356.

SEC. 2. Section 1356 of the Health and Safety Code is amended to read:

1356. (a) Each plan applying for licensure under this chapter shall reimburse the director for the actual cost of processing the application, including overhead, up to an amount not to exceed twenty-five thousand dollars ($25,000). The cost shall be billed not more frequently than monthly and shall be remitted by the applicant to the director within 30 days of the date of billing. The director shall not issue a license to an

applicant prior to receiving payment in full from that applicant for all amounts charged pursuant to this subdivision.

(b) (1) In addition to other fees and reimbursements required to be paid under this chapter, each licensed plan shall pay to the director an amount as estimated by the director for the ensuing fiscal year, as a reimbursement of its share of all costs and expenses, including, but not limited to, costs and expenses associated with routine financial examinations, grievances, and complaints including maintaining a toll-free telephone number for consumer grievances and complaints, investigation and enforcement, medical surveys and reports, and overhead reasonably incurred in the administration of this chapter and not otherwise recovered by the director under this chapter or from the Managed Care Fund. The amount may be paid in two equal installments. The first installment shall be paid on or before August 1 of each year, and the second installment shall be paid on or before December 15 of each year.

(2) The amount paid by each plan shall be ten thousand dollars ($10,000) plus an amount up to, but not exceeding, an amount computed in accordance with paragraph (3).

(3) (A) In addition to the amount specified in paragraph (2), all plans, except specialized plans, shall pay 65 percent of the total amount of the department's costs and expenses for the ensuing fiscal year as estimated by the director. The amount per plan shall be calculated on a per enrollee basis as specified in paragraph (4).

(B) In addition to the amount specified in paragraph (2), all specialized plans shall pay 35 percent of the total amount of the department's costs and expenses for the ensuing fiscal year as estimated by the director. The amount per plan shall be calculated on a per enrollee basis as specified in paragraph (4).

(4) The amount paid by each plan shall be for each enrollee enrolled in its plan in this state as of the preceding March 31, and shall be fixed by the director by notice to all licensed plans on or before June 15 of each year. A plan that is unable to report the number of enrollees enrolled in the plan because it does not collect that data, shall provide the director with an estimate of the number of enrollees enrolled in the plan and the method used for determining the estimate. The director may, upon giving written notice to the plan, revise the estimate if the director determines that the method used for determining the estimate was not reasonable.

(5) In determining the amount assessed, the director shall consider all appropriations from the Managed Care Fund for the support of this chapter and all reimbursements provided for in this chapter.

(c) Each licensed plan shall also pay two thousand dollars ($2,000), plus an amount up to, but not exceeding, forty-eight hundredths of one cent ($0.0048), for each enrollee for the purpose of reimbursing its share

of all costs and expenses, including overhead, reasonably anticipated to be incurred by the department in administering Sections 1394.7 and 1394.8 during the current fiscal year. The amount charged shall be remitted within 30 days of the date of billing.

(d) In no case shall the reimbursement, payment, or other fee authorized by this section exceed the cost, including overhead, reasonably incurred in the administration of this chapter.

(e) For the purpose of calculating the assessment under this section, an enrollee who is enrolled in one plan and who receives health care services under arrangements made by another plan or plans, whether pursuant to a contract, agreement, or otherwise, shall be considered to be enrolled in each of the plans.

(f) On and after January 1, 2009, no refunds or reductions of the amounts assessed shall be allowed if any miscalculated assessment is based on a plan's overestimate of enrollment.

SEC. 3. Section 1367.01 of the Health and Safety Code is amended to read:

1367.01. (a) A health care service plan and any entity with which it contracts for services that include utilization review or utilization management functions, that prospectively, retrospectively, or concurrently reviews and approves, modifies, delays, or denies, based in whole or in part on medical necessity, requests by providers prior to, retrospectively, or concurrent with the provision of health care services to enrollees, or that delegates these functions to medical groups or independent practice associations or to other contracting providers, shall comply with this section.

(b) A health care service plan that is subject to this section shall have written policies and procedures establishing the process by which the plan prospectively, retrospectively, or concurrently reviews and approves, modifies, delays, or denies, based in whole or in part on medical necessity, requests by providers of health care services for plan enrollees. These policies and procedures shall ensure that decisions based on the medical necessity of proposed health care services are consistent with criteria or guidelines that are supported by clinical principles and processes. These criteria and guidelines shall be developed pursuant to Section 1363.5. These policies and procedures, and a description of the process by which the plan reviews and approves, modifies, delays, or denies requests by providers prior to, retrospectively, or concurrent with the provision of health care services to enrollees, shall be filed with the director for review and approval, and shall be disclosed by the plan to providers and enrollees upon request, and by the plan to the public upon request.

(c) A health care service plan subject to this section, except a plan that meets the requirements of Section 1351.2, shall employ or designate a medical director who holds an unrestricted license to practice medicine in this state issued pursuant to Section 2050 of the Business and Professions Code or pursuant to the Osteopathic Act, or, if the plan is a specialized health care service plan, a clinical director with California licensure in a clinical area appropriate to the type of care provided by the specialized health care service plan. The medical director or clinical director shall ensure that the process by which the plan reviews and approves, modifies, or denies, based in whole or in part on medical necessity, requests by providers prior to, retrospectively, or concurrent with the provision of health care services to enrollees, complies with the requirements of this section.

(d) If health plan personnel, or individuals under contract to the plan to review requests by providers, approve the provider's request, pursuant to subdivision (b), the decision shall be communicated to the provider pursuant to subdivision (h).

(e) No individual, other than a licensed physician or a licensed health care professional who is competent to evaluate the specific clinical issues involved in the health care services requested by the provider, may deny or modify requests for authorization of health care services for an enrollee for reasons of medical necessity. The decision of the physician or other health care professional shall be communicated to the provider and the enrollee pursuant to subdivision (h).

(f) The criteria or guidelines used by the health care service plan to determine whether to approve, modify, or deny requests by providers prior to, retrospectively, or concurrent with, the provision of health care services to enrollees shall be consistent with clinical principles and processes. These criteria and guidelines shall be developed pursuant to the requirements of Section 1363.5.

(g) If the health care service plan requests medical information from providers in order to determine whether to approve, modify, or deny requests for authorization, the plan shall request only the information reasonably necessary to make the determination.

(h) In determining whether to approve, modify, or deny requests by providers prior to, retrospectively, or concurrent with the provision of health care services to enrollees, based in whole or in part on medical necessity, a health care service plan subject to this section shall meet the following requirements:

(1) Decisions to approve, modify, or deny, based on medical necessity, requests by providers prior to, or concurrent with the provision of health care services to enrollees that do not meet the requirements for the 72-hour review required by paragraph (2), shall be made in a timely

fashion appropriate for the nature of the enrollee's condition, not to exceed five business days from the plan's receipt of the information reasonably necessary and requested by the plan to make the determination. In cases where the review is retrospective, the decision shall be communicated to the individual who received services, or to the individual's designee, within 30 days of the receipt of information that is reasonably necessary to make this determination, and shall be communicated to the provider in a manner that is consistent with current law. For purposes of this section, retrospective reviews shall be for care rendered on or after January 1, 2000.

(2) When the enrollee's condition is such that the enrollee faces an imminent and serious threat to his or her health, including, but not limited to, the potential loss of life, limb, or other major bodily function, or the normal timeframe for the decisionmaking process, as described in paragraph (1), would be detrimental to the enrollee's life or health or could jeopardize the enrollee's ability to regain maximum function, decisions to approve, modify, or deny requests by providers prior to, or concurrent with, the provision of health care services to enrollees, shall be made in a timely fashion appropriate for the nature of the enrollee's condition, not to exceed 72 hours after the plan's receipt of the information reasonably necessary and requested by the plan to make the determination. Nothing in this section shall be construed to alter the requirements of subdivision (b) of Section 1371.4. Notwithstanding Section 1371.4, the requirements of this division shall be applicable to all health plans and other entities conducting utilization review or utilization management.

(3) Decisions to approve, modify, or deny requests by providers for authorization prior to, or concurrent with, the provision of health care services to enrollees shall be communicated to the requesting provider within 24 hours of the decision. Except for concurrent review decisions pertaining to care that is underway, which shall be communicated to the enrollee's treating provider within 24 hours, decisions resulting in denial, delay, or modification of all or part of the requested health care service shall be communicated to the enrollee in writing within two business days of the decision. In the case of concurrent review, care shall not be discontinued until the enrollee's treating provider has been notified of the plan's decision and a care plan has been agreed upon by the treating provider that is appropriate for the medical needs of that patient.

(4) Communications regarding decisions to approve requests by providers prior to, retrospectively, or concurrent with the provision of health care services to enrollees shall specify the specific health care service approved. Responses regarding decisions to deny, delay, or modify health care services requested by providers prior to,

retrospectively, or concurrent with the provision of health care services to enrollees shall be communicated to the enrollee in writing, and to providers initially by telephone or facsimile, except with regard to decisions rendered retrospectively, and then in writing, and shall include a clear and concise explanation of the reasons for the plan's decision, a description of the criteria or guidelines used, and the clinical reasons for the decisions regarding medical necessity. Any written communication to a physician or other health care provider of a denial, delay, or modification of a request shall include the name and telephone number of the health care professional responsible for the denial, delay, or modification. The telephone number provided shall be a direct number or an extension, to allow the physician or health care provider easily to contact the professional responsible for the denial, delay, or modification. Responses shall also include information as to how the enrollee may file a grievance with the plan pursuant to Section 1368, and in the case of Medi-Cal enrollees, shall explain how to request an administrative hearing and aid paid pending under Sections 51014.1 and 51014.2 of Title 22 of the California Code of Regulations.

(5) If the health care service plan cannot make a decision to approve, modify, or deny the request for authorization within the timeframes specified in paragraph (1) or (2) because the plan is not in receipt of all of the information reasonably necessary and requested, or because the plan requires consultation by an expert reviewer, or because the plan has asked that an additional examination or test be performed upon the enrollee, provided the examination or test is reasonable and consistent with good medical practice, the plan shall, immediately upon the expiration of the timeframe specified in paragraph (1) or (2) or as soon as the plan becomes aware that it will not meet the timeframe, whichever occurs first, notify the provider and the enrollee, in writing, that the plan cannot make a decision to approve, modify, or deny the request for authorization within the required timeframe, and specify the information requested but not received, or the expert reviewer to be consulted, or the additional examinations or tests required. The plan shall also notify the provider and enrollee of the anticipated date on which a decision may be rendered. Upon receipt of all information reasonably necessary and requested by the plan, the plan shall approve, modify, or deny the request for authorization within the timeframes specified in paragraph (1) or (2), whichever applies.

(6) If the director determines that a health care service plan has failed to meet any of the timeframes in this section, or has failed to meet any other requirement of this section, the director may assess, by order, administrative penalties for each failure. A proceeding for the issuance of an order assessing administrative penalties shall be subject to

appropriate notice to, and an opportunity for a hearing with regard to, the person affected, in accordance with subdivision (a) of Section 1397. The administrative penalties shall not be deemed an exclusive remedy for the director. These penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45.

(i) A health care service plan subject to this section shall maintain telephone access for providers to request authorization for health care services.

(j) A health care service plan subject to this section that reviews requests by providers prior to, retrospectively, or concurrent with, the provision of health care services to enrollees shall establish, as part of the quality assurance program required by Section 1370, a process by which the plan's compliance with this section is assessed and evaluated. The process shall include provisions for evaluation of complaints, assessment of trends, implementation of actions to correct identified problems, mechanisms to communicate actions and results to the appropriate health plan employees and contracting providers, and provisions for evaluation of any corrective action plan and measurements of performance.

(k) The director shall review a health care service plan's compliance with this section as part of its periodic onsite medical survey of each plan undertaken pursuant to Section 1380, and shall include a discussion of compliance with this section as part of its report issued pursuant to that section.

(*l*) This section shall not apply to decisions made for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of religion as set forth in subdivision (a) of Section 1270.

(m) Nothing in this section shall cause a health care service plan to be defined as a health care provider for purposes of any provision of law, including, but not limited to, Section 6146 of the Business and Professions Code, Sections 3333.1 and 3333.2 of the Civil Code, and Sections 340.5, 364, 425.13, 667.7, and 1295 of the Code of Civil Procedure.

SEC. 4. Section 1367.03 of the Health and Safety Code is amended to read:

1367.03. (a) Not later than January 1, 2004, the department shall develop and adopt regulations to ensure that enrollees have access to needed health care services in a timely manner. In developing these regulations, the department shall develop indicators of timeliness of access to care and, in so doing, shall consider the following as indicators of timeliness of access to care:

(1) Waiting times for appointments with physicians, including primary care and specialty physicians.

(2) Timeliness of care in an episode of illness, including the timeliness of referrals and obtaining other services, if needed.

(3) Waiting time to speak to a physician, registered nurse, or other qualified health professional acting within his or her scope of practice who is trained to screen or triage an enrollee who may need care.

(b) In developing these standards for timeliness of access, the department shall consider the following:

(1) Clinical appropriateness.

(2) The nature of the specialty.

(3) The urgency of care.

(4) The requirements of other provisions of law, including Section 1367.01 governing utilization review, that may affect timeliness of access.

(c) The department may adopt standards other than the time elapsed between the time an enrollee seeks health care and obtains care. If the department chooses a standard other than the time elapsed between the time an enrollee first seeks health care and obtains it, the department shall demonstrate why that standard is more appropriate. In developing these standards, the department shall consider the nature of the plan network.

(d) The department shall review and adopt standards, as needed, concerning the availability of primary care physicians, specialty physicians, hospital care, and other health care, so that consumers have timely access to care. In so doing, the department shall consider the nature of physician practices, including individual and group practices as well as the nature of the plan network. The department shall also consider various circumstances affecting the delivery of care, including urgent care, care provided on the same day, and requests for specific providers. If the department finds that health care service plans and health care providers have difficulty meeting these standards, the department may make recommendations to the Assembly Committee on Health and the Senate Committee on Insurance of the Legislature pursuant to subdivision (i).

(e) In developing standards under subdivision (a), the department shall consider requirements under federal law, requirements under other state programs, standards adopted by other states, nationally recognized accrediting organizations, and professional associations. The department shall further consider the needs of rural areas, specifically those in which health facilities are more than 30 miles apart and any requirements imposed by the State Department of Health Care Services on health care

service plans that contract with the State Department of Health Care Services to provide Medi-Cal managed care.

(f) (1) Contracts between health care service plans and health care providers shall assure compliance with the standards developed under this section. These contracts shall require reporting by health care providers to health care service plans and by health care service plans to the department to ensure compliance with the standards.

(2) Health care service plans shall report annually to the department on compliance with the standards in a manner specified by the department. The reported information shall allow consumers to compare the performance of plans and their contracting providers in complying with the standards, as well as changes in the compliance of plans with these standards.

(g) (1) When evaluating compliance with the standards, the department shall focus more upon patterns of noncompliance rather than isolated episodes of noncompliance.

(2) The director may investigate and take enforcement action against plans regarding noncompliance with the requirements of this section. Where substantial harm to an enrollee has occurred as a result of plan noncompliance, the director may, by order, assess administrative penalties subject to appropriate notice of, and the opportunity for, a hearing in accordance with Section 1397. The plan may provide to the director, and the director may consider, information regarding the plan's overall compliance with the requirements of this section. The administrative penalties shall not be deemed an exclusive remedy available to the director. These penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45. The director shall periodically evaluate grievances to determine if any audit, investigative, or enforcement actions should be undertaken by the department.

(3) The director may, after appropriate notice and opportunity for hearing in accordance with Section 1397, by order, assess administrative penalties if the director determines that a health care service plan has knowingly committed, or has performed with a frequency that indicates a general business practice, either of the following:

(A) Repeated failure to act promptly and reasonably to assure timely access to care consistent with this chapter.

(B) Repeated failure to act promptly and reasonably to require contracting providers to assure timely access that the plan is required to perform under this chapter and that have been delegated by the plan to the contracting provider when the obligation of the plan to the enrollee or subscriber is reasonably clear.

(C) The administrative penalties available to the director pursuant to this section are not exclusive, and may be sought and employed in any combination with civil, criminal, and other administrative remedies deemed warranted by the director to enforce this chapter.

(4) The administrative penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45.

(h) The department shall work with the patient advocate to assure that the quality of care report card incorporates information provided pursuant to subdivision (f) regarding the degree to which health care service plans and health care providers comply with the requirements for timely access to care.

(i) The department shall report to the Assembly Committee on Health and the Senate Committee on Insurance of the Legislature on March 1, 2003, and on March 1, 2004, regarding the progress toward the implementation of this section.

(j) Every three years, the department shall review information regarding compliance with the standards developed under this section and shall make recommendations for changes that further protect enrollees.

SEC. 5. Section 1368 of the Health and Safety Code is amended to read:

1368. (a) Every plan shall do all of the following:

(1) Establish and maintain a grievance system approved by the department under which enrollees may submit their grievances to the plan. Each system shall provide reasonable procedures in accordance with department regulations that shall ensure adequate consideration of enrollee grievances and rectification when appropriate.

(2) Inform its subscribers and enrollees upon enrollment in the plan and annually thereafter of the procedure for processing and resolving grievances. The information shall include the location and telephone number where grievances may be submitted.

(3) Provide forms for grievances to be given to subscribers and enrollees who wish to register written grievances. The forms used by plans licensed pursuant to Section 1353 shall be approved by the director in advance as to format.

(4) (A) Provide for a written acknowledgment within five calendar days of the receipt of a grievance, except as noted in subparagraph (B). The acknowledgment shall advise the complainant of the following:

(i) That the grievance has been received.

(ii) The date of receipt.

(iii) The name of the plan representative and the telephone number and address of the plan representative who may be contacted about the grievance.

(B) Grievances received by telephone, by facsimile, by e-mail, or online through the plan's Internet Web site pursuant to Section 1368.015, that are not coverage disputes, disputed health care services involving medical necessity, or experimental or investigational treatment and that are resolved by the next business day following receipt are exempt from the requirements of subparagraph (A) and paragraph (5). The plan shall maintain a log of all these grievances. The log shall be periodically reviewed by the plan and shall include the following information for each complaint:

(i) The date of the call.

(ii) The name of the complainant.

(iii) The complainant's member identification number.

(iv) The nature of the grievance.

(v) The nature of the resolution.

(vi) The name of the plan representative who took the call and resolved the grievance.

(5) Provide subscribers and enrollees with written responses to grievances, with a clear and concise explanation of the reasons for the plan's response. For grievances involving the delay, denial, or modification of health care services, the plan response shall describe the criteria used and the clinical reasons for its decision, including all criteria and clinical reasons related to medical necessity. If a plan, or one of its contracting providers, issues a decision delaying, denying, or modifying health care services based in whole or in part on a finding that the proposed health care services are not a covered benefit under the contract that applies to the enrollee, the decision shall clearly specify the provisions in the contract that exclude that coverage.

(6) Keep in its files all copies of grievances, and the responses thereto, for a period of five years.

(b) (1) (A) After either completing the grievance process described in subdivision (a), or participating in the process for at least 30 days, a subscriber or enrollee may submit the grievance to the department for review. In any case determined by the department to be a case involving an imminent and serious threat to the health of the patient, including, but not limited to, severe pain, the potential loss of life, limb, or major bodily function, or in any other case where the department determines that an earlier review is warranted, a subscriber or enrollee shall not be required to complete the grievance process or to participate in the process for at least 30 days before submitting a grievance to the department for review.

(B) A grievance may be submitted to the department for review and resolution prior to any arbitration.

(C) Notwithstanding subparagraphs (A) and (B), the department may refer any grievance that does not pertain to compliance with this chapter to the State Department of Health Services, the California Department of Aging, the federal Health Care Financing Administration, or any other appropriate governmental entity for investigation and resolution.

(2) If the subscriber or enrollee is a minor, or is incompetent or incapacitated, the parent, guardian, conservator, relative, or other designee of the subscriber or enrollee, as appropriate, may submit the grievance to the department as the agent of the subscriber or enrollee. Further, a provider may join with, or otherwise assist, a subscriber or enrollee, or the agent, to submit the grievance to the department. In addition, following submission of the grievance to the department, the subscriber or enrollee, or the agent, may authorize the provider to assist, including advocating on behalf of the subscriber or enrollee. For purposes of this section, a "relative" includes the parent, stepparent, spouse, adult son or daughter, grandparent, brother, sister, uncle, or aunt of the subscriber or enrollee.

(3) The department shall review the written documents submitted with the subscriber's or the enrollee's request for review, or submitted by the agent on behalf of the subscriber or enrollee. The department may ask for additional information, and may hold an informal meeting with the involved parties, including providers who have joined in submitting the grievance or who are otherwise assisting or advocating on behalf of the subscriber or enrollee. If after reviewing the record, the department concludes that the grievance, in whole or in part, is eligible for review under the independent medical review system established pursuant to Article 5.55 (commencing with Section 1374.30), the department shall immediately notify the subscriber or enrollee, or agent, of that option and shall, if requested orally or in writing, assist the subscriber or enrollee in participating in the independent medical review system.

(4) If after reviewing the record of a grievance, the department concludes that a health care service eligible for coverage and payment under a health care service plan contract has been delayed, denied, or modified by a plan, or by one of its contracting providers, in whole or in part due to a determination that the service is not medically necessary, and that determination was not communicated to the enrollee in writing along with a notice of the enrollee's potential right to participate in the independent medical review system, as required by this chapter, the director shall, by order, assess administrative penalties. A proceeding for the issuance of an order assessing administrative penalties shall be subject to appropriate notice of, and the opportunity for, a hearing with

regard to the person affected in accordance with Section 1397. The administrative penalties shall not be deemed an exclusive remedy available to the director. These penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45.

(5) The department shall send a written notice of the final disposition of the grievance, and the reasons therefor, to the subscriber or enrollee, the agent, to any provider that has joined with or is otherwise assisting the subscriber or enrollee, and to the plan, within 30 calendar days of receipt of the request for review unless the director, in his or her discretion, determines that additional time is reasonably necessary to fully and fairly evaluate the relevant grievance. In any case not eligible for the independent medical review system established pursuant to Article 5.55 (commencing with Section 1374.30), the department's written notice shall include, at a minimum, the following:

(A) A summary of its findings and the reasons why the department found the plan to be, or not to be, in compliance with any applicable laws, regulations, or orders of the director.

(B) A discussion of the department's contact with any medical provider, or any other independent expert relied on by the department, along with a summary of the views and qualifications of that provider or expert.

(C) If the enrollee's grievance is sustained in whole or in part, information about any corrective action taken.

(6) In any department review of a grievance involving a disputed health care service, as defined in subdivision (b) of Section 1374.30, that is not eligible for the independent medical review system established pursuant to Article 5.55 (commencing with Section 1374.30), in which the department finds that the plan has delayed, denied, or modified health care services that are medically necessary, based on the specific medical circumstances of the enrollee, and those services are a covered benefit under the terms and conditions of the health care service plan contract, the department's written notice shall do either of the following:

(A) Order the plan to promptly offer and provide those health care services to the enrollee.

(B) Order the plan to promptly reimburse the enrollee for any reasonable costs associated with urgent care or emergency services, or other extraordinary and compelling health care services, when the department finds that the enrollee's decision to secure those services outside of the plan network was reasonable under the circumstances.

The department's order shall be binding on the plan.

(7) Distribution of the written notice shall not be deemed a waiver of any exemption or privilege under existing law, including, but not limited

to, Section 6254.5 of the Government Code, for any information in connection with and including the written notice, nor shall any person employed or in any way retained by the department be required to testify as to that information or notice.

(8) The director shall establish and maintain a system of aging of grievances that are pending and unresolved for 30 days or more that shall include a brief explanation of the reasons each grievance is pending and unresolved for 30 days or more.

(9) A subscriber or enrollee, or the agent acting on behalf of a subscriber or enrollee, may also request voluntary mediation with the plan prior to exercising the right to submit a grievance to the department. The use of mediation services shall not preclude the right to submit a grievance to the department upon completion of mediation. In order to initiate mediation, the subscriber or enrollee, or the agent acting on behalf of the subscriber or enrollee, and the plan shall voluntarily agree to mediation. Expenses for mediation shall be borne equally by both sides. The department shall have no administrative or enforcement responsibilities in connection with the voluntary mediation process authorized by this paragraph.

(c) The plan's grievance system shall include a system of aging of grievances that are pending and unresolved for 30 days or more. The plan shall provide a quarterly report to the director of grievances pending and unresolved for 30 or more days with separate categories of grievances for Medicare enrollees and Medi-Cal enrollees. The plan shall include with the report a brief explanation of the reasons each grievance is pending and unresolved for 30 days or more. The plan may include the following statement in the quarterly report that is made available to the public by the director:

"Under Medicare and Medi-Cal law, Medicare enrollees and Medi-Cal enrollees each have separate avenues of appeal that are not available to other enrollees. Therefore, grievances pending and unresolved may reflect enrollees pursuing their Medicare or Medi-Cal appeal rights."

If requested by a plan, the director shall include this statement in a written report made available to the public and prepared by the director that describes or compares grievances that are pending and unresolved with the plan for 30 days or more. Additionally, the director shall, if requested by a plan, append to that written report a brief explanation, provided in writing by the plan, of the reasons why grievances described in that written report are pending and unresolved for 30 days or more. The director shall not be required to include a statement or append a brief explanation to a written report that the director is required to prepare under this chapter, including Sections 1380 and 1397.5.

(d) Subject to subparagraph (C) of paragraph (1) of subdivision (b), the grievance or resolution procedures authorized by this section shall be in addition to any other procedures that may be available to any person, and failure to pursue, exhaust, or engage in the procedures described in this section shall not preclude the use of any other remedy provided by law.

(e) Nothing in this section shall be construed to allow the submission to the department of any provider grievance under this section. However, as part of a provider's duty to advocate for medically appropriate health care for his or her patients pursuant to Sections 510 and 2056 of the Business and Professions Code, nothing in this subdivision shall be construed to prohibit a provider from contacting and informing the department about any concerns he or she has regarding compliance with or enforcement of this chapter.

SEC. 6. Section 1368.04 of the Health and Safety Code is amended to read:

1368.04. (a) The director shall investigate and take enforcement action against plans regarding grievances reviewed and found by the department to involve noncompliance with the requirements of this chapter, including grievances that have been reviewed pursuant to the independent medical review system established pursuant to Article 5.55 (commencing with Section 1374.30). Where substantial harm to an enrollee has occurred as a result of plan noncompliance, the director shall, by order, assess administrative penalties subject to appropriate notice of, and the opportunity for, a hearing with regard to the person affected in accordance with Section 1397. The administrative penalties shall not be deemed an exclusive remedy available to the director. These penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45. The director shall periodically evaluate grievances to determine if any audit, investigative, or enforcement actions should be undertaken by the department.

(b) The director may, after appropriate notice and opportunity for hearing in accordance with Section 1397, by order, assess administrative penalties if the director determines that a health care service plan has knowingly committed, or has performed with a frequency that indicates a general business practice, either of the following:

(1) Repeated failure to act promptly and reasonably to investigate and resolve grievances in accordance with Section 1368.01.

(2) Repeated failure to act promptly and reasonably to resolve grievances when the obligation of the plan to the enrollee or subscriber is reasonably clear.

(c) The administrative penalties available to the director pursuant to this section are not exclusive, and may be sought and employed in any combination with civil, criminal, and other administrative remedies deemed warranted by the director to enforce this chapter.

(d) The administrative penalties authorized pursuant to this section shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45.

SEC. 7. Section 1374.9 of the Health and Safety Code is amended to read:

1374.9. For violations of Section 1374.7, the director may, after appropriate notice and opportunity for hearing, by order, levy administrative penalties as follows:

(a) Any health care service plan that violates Section 1374.7, or that violates any rule or order adopted or issued pursuant to this section, is liable for administrative penalties of not less than two thousand five hundred dollars ($2,500) for each first violation, and of not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000) for each second violation, and of not less than fifteen thousand dollars ($15,000) and not more than one hundred thousand dollars ($100,000) for each subsequent violation.

(b) The administrative penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45.

(c) The administrative penalties available to the director pursuant to this section are not exclusive, and may be sought and employed in any combination with civil, criminal, and other administrative remedies deemed advisable by the director to enforce the provisions of this chapter.

SEC. 8. Section 1374.34 of the Health and Safety Code is amended to read:

1374.34. (a) Upon receiving the decision adopted by the director pursuant to Section 1374.33 that a disputed health care service is medically necessary, the plan shall promptly implement the decision. In the case of reimbursement for services already rendered, the plan shall reimburse the provider or enrollee, whichever applies, within five working days. In the case of services not yet rendered, the plan shall authorize the services within five working days of receipt of the written decision from the director, or sooner if appropriate for the nature of the enrollee's medical condition, and shall inform the enrollee and provider of the authorization in accordance with the requirements of paragraph (3) of subdivision (h) of Section 1367.01.

(b) A plan shall not engage in any conduct that has the effect of prolonging the independent review process. The engaging in that conduct or the failure of the plan to promptly implement the decision is a violation

of this chapter and, in addition to any other fines, penalties, and other remedies available to the director under this chapter, the plan shall be subject to an administrative penalty of not less than five thousand dollars ($5,000) for each day that the decision is not implemented. The administrative penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45.

(c) The director shall require the plan to promptly reimburse the enrollee for any reasonable costs associated with those services when the director finds that the disputed health care services were a covered benefit under the terms and conditions of the health care service plan contract, and the services are found by the independent medical review organization to have been medically necessary pursuant to Section 1374.33, and either the enrollee's decision to secure the services outside of the plan provider network was reasonable under the emergency or urgent medical circumstances, or the health care service plan contract does not require or provide prior authorization before the health care services are provided to the enrollee.

(d) In addition to requiring plan compliance regarding subdivisions (a), (b), and (c) the director shall review individual cases submitted for independent medical review to determine whether any enforcement actions, including penalties, may be appropriate. In particular, where substantial harm, as defined in Section 3428 of the Civil Code, to an enrollee has already occurred because of the decision of a plan, or one of its contracting providers, to delay, deny, or modify covered health care services that an independent medical review determines to be medically necessary pursuant to Section 1374.33, the director shall impose penalties.

(e) Pursuant to Section 1368.04, the director shall perform an annual audit of independent medical review cases for the dual purposes of education and the opportunity to determine if any investigative or enforcement actions should be undertaken by the department, particularly if a plan repeatedly fails to act promptly and reasonably to resolve grievances associated with a delay, denial, or modification of medically necessary health care services when the obligation of the plan to provide those health care services to enrollees or subscribers is reasonably clear.

SEC. 9. Section 1393.6 of the Health and Safety Code is amended to read:

1393.6. For violations of Article 3.1 (commencing with Section 1357) and Article 3.15 (commencing with Section 1357.50), the director may, after appropriate notice and opportunity for hearing, by order levy administrative penalties as follows:

(a) Any person, solicitor, or solicitor firm, other than a health care service plan, who willfully violates any provision of this chapter, or who willfully violates any rule or order adopted or issued pursuant to this chapter, is liable for administrative penalties of not less than two hundred fifty dollars ($250) for each first violation, and of not less than one thousand dollars ($1,000) and not more than two thousand five hundred dollars ($2,500) for each subsequent violation.

(b) Any health care service plan that willfully violates any provision of this chapter, or that willfully violates any rule or order adopted or issued pursuant to this chapter, is liable for administrative penalties of not less than two thousand five hundred dollars ($2,500) for each first violation, and of not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000) for each second violation, and of not less than fifteen thousand dollars ($15,000) and not more than one hundred thousand dollars ($100,000) for each subsequent violation.

(c) The administrative penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45.

(d) The administrative penalties available to the director pursuant to this section are not exclusive, and may be sought and employed in any combination with civil, criminal, and other administrative remedies deemed advisable by the director to enforce the provisions of this chapter.

SEC. 10. Section 128555 of the Health and Safety Code is amended to read:

128555. (a) The Medically Underserved Account for Physicians is hereby established within the Health Professions Education Fund. The primary purpose of this account is to provide funding for the ongoing operations of the Steven M. Thompson Physician Corps Loan Repayment Program provided for under this article. This account also may be used to provide funding for the Physician Volunteer Program provided for under this article.

(b) All moneys in the Medically Underserved Account contained within the Contingent Fund of the Medical Board of California shall be transferred to the Medically Underserved Account for Physicians on July 1, 2006.

(c) Funds in the account shall be used to repay loans as follows per agreements made with physicians:

(1) Funds paid out for loan repayment may have a funding match from foundations or other private sources.

(2) Loan repayments may not exceed one hundred five thousand dollars ($105,000) per individual licensed physician.

(3) Loan repayments may not exceed the amount of the educational loans incurred by the physician participant.

(d) Notwithstanding Section 11105 of the Government Code, effective January 1, 2006, the foundation may seek and receive matching funds from foundations and private sources to be placed in the account. "Matching funds" shall not be construed to be limited to a dollar-for-dollar match of funds.

(e) Funds placed in the account for purposes of this article, including funds received pursuant to subdivision (d), are, notwithstanding Section 13340 of the Government Code, continuously appropriated for the repayment of loans. This subdivision shall not apply to funds placed in the account pursuant to Section 1341.45.

(f) The account shall also be used to pay for the cost of administering the program and for any other purpose authorized by this article. The costs for administration of the program may be up to 5 percent of the total state appropriation for the program and shall be subject to review and approval annually through the state budget process. This limitation shall only apply to the state appropriation for the program.

(g) The office and the foundation shall manage the account established by this section prudently in accordance with the other provisions of law.

SEC. 11. Section 12739.05 is added to the Insurance Code, to read:

12739.05. Notwithstanding Section 12739, funds placed in the Major Risk Medical Insurance Fund pursuant to Section 1341.45 of the Health and Safety Code shall not be continuously appropriated.

SEC. 12. On the effective date of this act, the Department of Managed Health Care shall make the following one-time transfers of fine and administrative penalty moneys from the Managed Care Fund in the following amounts:

(a) One million dollars ($1,000,000) to the Medically Underserved Account for Physicians within the Health Professions Education Fund to be used for the purposes of the Steven M. Thompson Physician Corps Loan Repayment Program, as specified in Article 5 (commencing with Section 128550) of Chapter 5 of Part 3 of Division 107 of the Health and Safety Code and, notwithstanding Section 128555 of the Health and Safety Code, shall not be used to provide funding for the Physician Volunteer Program.

(b) Ten million dollars ($10,000,000) to the Major Risk Medical Insurance Fund created pursuant to Section 12739 of the Insurance Code to be used for the Major Risk Medical Insurance Program for the purposes specified in Section 12739.1 of the Insurance Code.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make available, at the earliest possible time, funds to address the state's pressing need for available health care coverage for individuals who are otherwise uninsurable and to eliminate the current waiting list for the Major Risk Medical Insurance Program, to help carry out the powers of the Department of Managed Health Care to protect and promote the interests of the public and carry out the intent of the Legislature to promote the delivery and the quality of health and medical care to the public, and for the uninsured who may be prompted to enroll sooner in health care service plans arranging coverage for the Major Risk Medical Insurance Program, it is necessary that this act take effect immediately.

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## CHAPTER 608

An act to add and repeal Section 12994.5 of the Water Code, relating to the Sacramento-San Joaquin Delta.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. This act shall be known, and may be cited, as the Sacramento-San Joaquin Delta Emergency Preparedness Act of 2008.

SEC. 2. The Legislature intends that a local government entity should not forfeit existing powers or resources, but should work cooperatively with the Office of Emergency Services, the Delta Protection Commission, and the Department of Water Resources, to coordinate state and local emergency responses in the Sacramento-San Joaquin Delta.

SEC. 3. Section 12994.5 is added to the Water Code, to read:

12994.5. (a) The Office of Emergency Services shall establish the Sacramento-San Joaquin Delta Multi-Hazard Coordination Task Force, upon funding being made available to the Office of Emergency Services for that purpose.

(b) The task force shall be led by the Office of Emergency Services, and shall include the Delta Protection Commission, the department, and a single representative from each of the five Delta counties.

(c) The task force shall do all of the following:

(1) Make recommendations to the Office of Emergency Services relating to the creation of an interagency unified command system organizational framework, in accordance with the guidelines of the

National Incident Management System and the Standardized Emergency Management System.

(2) Coordinate the development of a draft emergency preparedness and response strategy for the Delta region, for submission to the Director of the Office of Emergency Services. Where possible, the strategy shall utilize existing interagency plans and planning processes of the involved jurisdictions and agencies that are members of the Delta Protection Commission.

(3) Develop and conduct an all-hazard emergency response exercise in the Delta, designed to test regional coordination protocols already in place.

(d) The task force shall submit a report with its strategy and recommendations to the Legislature and the Governor prior to January 1, 2011, and shall cease to exist on or before January 1, 2011.

(e) 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.

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## CHAPTER 609

An act to amend Section 6103.4 of the Government Code, and to amend Sections 13476, 13477.5, and 13478 of, and to add Sections 13193.9 and 13477.6 to, the Water Code, relating to water quality.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 6103.4 of the Government Code is amended to read:

6103.4. Section 6103 does not apply to any fee or charge for official services required by Section 100860 of the Health and Safety Code, or Part 5 (commencing with Section 4999) of Division 2, or Division 7 (commencing with Section 13000), of the Water Code.

SEC. 2. Section 13193.9 is added to the Water Code, to read:

13193.9. (a) The state board, to the extent permitted by law, shall take all of the following actions for the purpose of allocating funds on behalf of a wastewater collection, treatment, or disposal project, if the recipient of financial assistance is a small, disadvantaged community:

(1) If the state board determines that an advance is needed for the project to proceed in an efficient manner, allocate to the recipient up to

25 percent of the financial assistance amount, not exceeding one million dollars ($1,000,000), in advance of actual expenditures. The recipient shall repay to the state board any funds advanced pursuant to this section, including any interest earned on the advance funds, if the funds are unused upon expiration of the funding agreement or if the funds are not expended in accordance with the financial assistance agreement.

(2) Establish a payment process pursuant to which the recipient of financial assistance receives funds within 30 days of the date on which the state board receives a project payment request unless the state board, within that 30-day period, determines that the project payment would not be in accordance with the terms of the program guidelines.

(3) Utilize wire transfers or other appropriate payment procedures to expedite project payments.

(b) The amount of financial assistance received by a recipient, including any funds advanced pursuant to paragraph (1) of subdivision (a), shall not exceed the total amount of the financial assistance that the state board agrees to provide for a project. If financial assistance is advanced to a recipient pursuant to paragraph (1) of subdivision (a), the state board shall reduce subsequent disbursements of financial assistance by the amount advanced.

(c) For the purposes of this section, "small disadvantaged community" means a municipality with a population of 20,000 persons or less, or a reasonably isolated and divisible segment of a larger municipality encompassing 20,000 persons or less, with an annual median household income that is less than 80 percent of the statewide annual median household income.

SEC. 3. Section 13476 of the Water Code is amended to read:

13476. Unless the context otherwise requires, the following definitions govern the construction of this chapter:

(a) "Administration fund" means the State Water Pollution Control Revolving Fund Administration Fund.

(b) "Board" means the State Water Resources Control Board.

(c) "Federal Clean Water Act" or "federal act" means the Clean Water Act (33 U.S.C. Sec. 1251 et seq.) and acts amendatory thereof or supplemental thereto.

(d) "Financial assistance" means assistance authorized under Section 13480. Financial assistance includes loans, refinancing, installment sales agreements, purchase of debt, and loan guarantees for municipal revolving funds, but excludes grants.

(e) "Fund" means the State Water Pollution Control Revolving Fund.

(f) "Grant fund" means the State Water Pollution Control Revolving Fund Small Community Grant Fund.

(g) "Matching funds" means money that equals that percentage of federal contributions required by the federal act to be matched with state funds.

(h) "Municipality" has the same meaning and construction as in the federal act and also includes all state, interstate, and intermunicipal agencies.

(i) "Publicly owned" means owned by a municipality.

SEC. 4. Section 13477.5 of the Water Code is amended to read:

13477.5. (a) The State Water Pollution Control Revolving Fund Administration Fund is hereby created in the State Treasury.

(b) The following moneys shall be deposited in the administration fund:

(1) Moneys transferred to the administration fund to pay the costs incurred by the board in connection with the administration of this chapter.

(2) The amounts collected for financial assistance services pursuant to subdivision (c).

(3) Notwithstanding Section 16475 of the Government Code, any interest earned upon the moneys deposited in the administration fund.

(c) (1) For any financial assistance made pursuant to Section 13480, the board may assess an annual charge for financial assistance services with regard to the financial assistance, not to exceed 1 percent of the financial assistance balance computed according to the true interest cost method.

(2) Any amounts collected under this subdivision shall be deposited in the administration fund.

(3) The financial assistance service rate authorized by this subdivision may be applied at any time during the term of the financial assistance, and once applied, shall remain unchanged for the duration of the financial assistance and shall not increase the financial assistance repayment amount as set forth in the terms and conditions imposed pursuant to this chapter.

(d) Moneys in the administration fund, upon appropriation by the Legislature to the board, may be expended for payment of the reasonable costs of administering the fund.

(e) The board shall set the total amount of revenue collected each year through the charges authorized by subdivision (c) at an amount that is as equal as practicable to the revenue levels set forth in the annual Budget Act for this activity. At least once each fiscal year, the board shall adjust the financial assistance service rate imposed pursuant to subdivision (c) to conform with the revenue levels set forth in the annual Budget Act.

SEC. 5. Section 13477.6 is added to the Water Code, to read:

13477.6. (a) The State Water Pollution Control Revolving Fund Small Community Grant Fund is hereby created in the State Treasury.

(b) The following moneys shall be deposited in the grant fund:

(1) Moneys transferred to the grant fund pursuant to subdivision (c).

(2) Notwithstanding Section 16475 of the Government Code, any interest earned upon the moneys deposited in the grant fund.

(c) (1) For any financing made pursuant to Section 13480, the board may assess an annual charge to be deposited in the grant fund in lieu of interest that would otherwise be charged.

(2) Any amounts collected under this subdivision shall be deposited in the grant fund, not more than fifty million dollars ($50,000,000) shall be deposited in the grant fund.

(3) The charge authorized by this subdivision may be applied at any time during the term of the financing, and once applied, shall remain unchanged until 2014, at which point it shall terminate and be replaced by an identical interest rate. The charge shall not increase the financing repayment amount as set forth in the terms and conditions imposed pursuant to this chapter.

(d) (1) Moneys in the grant fund, upon appropriation by the Legislature to the board, may be expended, in accordance with this chapter, for grants for projects described in subdivision (a) of Section 13480 that serve small communities as defined in subdivision (a) of Section 30925 of the Public Resources Code.

(2) For the purpose of approving grants, the board shall give priority to projects that serve severely disadvantaged communities.

SEC. 6. Section 13478 of the Water Code is amended to read:

13478. The board may undertake any of the following:

(a) Enter into agreements with the federal government for federal contributions to the fund.

(b) Accept federal contributions to the fund.

(c) Enter into an agreement with, and accept matching funds from, a municipality. A municipality that seeks to enter into an agreement with the board and provide matching funds pursuant to this subdivision shall provide to the board evidence of the availability of those funds in the form of a written resolution adopted by the governing body of the municipality before it requests a preliminary financial assistance commitment.

(d) Use moneys in the fund for the purposes permitted by the federal act.

(e) Provide for the deposit of matching funds and any other available and necessary moneys into the fund.

(f) Make requests on behalf of the state for deposit into the fund of available federal moneys under the federal act and determine on behalf

of the state appropriate maintenance of progress toward compliance with the enforceable deadlines, goals, and requirements of the federal act.

(g) Determine on behalf of the state that publicly owned treatment works that receive financial assistance from the fund will meet the requirements of, and otherwise be treated as required by, the federal act.

(h) Provide for appropriate audit, accounting, and fiscal management services, plans, and reports relative to the fund.

(i) Take additional incidental action as appropriate for the adequate administration and operation of the fund.

(j) Charge municipalities that elect to provide matching funds a fee to cover the actual cost of obtaining the federal funds pursuant to Section 603(d)(7) of the federal act (33 U.S.C. Sec. 1383(d)(7)) and processing the financial assistance application. The fee shall be waived by the board if sufficient funds to cover those costs are available from other sources.

(k) Use money returned to the fund under clause (ii) of subparagraph (D) of paragraph (1) of subdivision (b) of Section 13480, and any other source of matching funds, if not prohibited by statute, as matching funds for the federal administrative allowance under Section 603(d)(7) of the federal act (33 U.S.C. Sec. 1383(d)(7)).

(*l*) Expend money repaid by financial assistance recipients for financial assistance service under clauses (i) and (ii) of subparagraph (D) of paragraph (1) of subdivision (b) of Section 13480 to pay administrative costs incurred by the board under this chapter.

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## CHAPTER 610

An act to add Chapter 3.4 (commencing with Section 370) to Division 1 of the Water Code, relating to water rates.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Chapter 3.4 (commencing with Section 370) is added to Division 1 of the Water Code, to read:

### Chapter 3.4. Allocation-Based Conservation Water Pricing

370. The Legislature hereby finds and declares all of the following:

(a) The use of allocation-based conservation water pricing by public entities that sell and distribute water is one effective means by which

waste or unreasonable use of water can be prevented and water can be saved in the interest of the people and for the public welfare, within the contemplation of Section 2 of Article X of the California Constitution.

(b) It is in the best interest of the people of California to encourage public entities to voluntarily use allocation-based conservation water pricing, tailored to local needs and conditions, as a means of increasing efficient uses of water, and further discouraging wasteful or unreasonable use of water under both normal and dry-year hydrologic conditions.

(c) The Legislature intends that allocation-based conservation water pricing is an alternative method that can be used by public entities to encourage water users to conserve water, increase efficient uses of water, and further discourage waste of water. The Legislature does not intend to limit the discretion of public entities to evaluate and select among different methods for conserving water or to create a presumption that the election to not use a particular method is a waste or unreasonable use of water by the public entity.

(d) Nothing in this chapter is intended to limit, or dictate, the design of rate structures that public entities may use to promote conservation by water users.

(e) Nothing in this chapter directs, or otherwise compels, a public entity to use allocation-based conservation water pricing.

371. For purposes of this chapter, the following terms have the following meanings:

(a) "Allocation-based conservation water pricing" means a retail water rate structure that meets all of the criteria in Section 372.

(b) "Basic charge" means a volumetric unit charge for the cost of water service other than any fixed costs that are recovered through meter charges or other fixed charges other than incremental costs that are recovered through conservation charges. A basic charge may include the cost of generally applicable conservation measures assumed in establishing basic use allocations.

(c) "Conservation charge" means a volumetric unit charge for incremental costs.

(d) "Incremental costs" means the costs of water service, including capital costs, that the public entity incurs directly, or by contract, as a result of the use of water in excess of the basic use allocation or to implement water conservation or demand management measures employed to increase efficient uses of water, and further discourage the wasteful or unreasonable use of water, and may include any of the following:

(1) Conservation best management practices, conservation education, irrigation controls and other conservation devices, and other demand management measures.

(2) Water system retrofitting, dual plumbing and facilities for production, distribution, and all uses of recycled water and other alternative water supplies.

(3) Projects and programs for prevention, control, or treatment of the runoff of water from irrigation and other outdoor water uses. Incremental costs shall not include the costs of stormwater management systems and programs.

(4) Securing dry-year water supply arrangements.

(5) Procuring water supplies to satisfy increments of water use in excess of the basic use allocations for the customers of the public entity, including supply or capacity contracts for water supply rights or entitlements and related energy costs for water delivery.

(e) "Public entity" means a city, whether general law or chartered, county, city and county, special district, agency, authority, any other municipal public corporation or district, or any other political subdivision of the state that provides retail water service and that is an urban water supplier, as defined in Section 10617.

372. (a) A public entity may employ allocation-based conservation water pricing that meets all of the following criteria:

(1) Billing is based on metered water use.

(2) A basic use allocation is established for each customer account that provides a reasonable amount of water for the customer's needs and property characteristics. Factors used to determine the basic use allocation may include, but are not limited to, the number of occupants, the type or classification of use, the size of lot or irrigated area, and the local climate data for the billing period. Nothing in this chapter prohibits a customer of the public entity from challenging whether the basic use allocation established for that customer's account is reasonable under the circumstances. Nothing in this chapter is intended to permit public entities to limit the use of property through the establishment of a basic use allocation.

(3) A basic charge is imposed for all water used within the customer's basic use allocation, except that at the option of the public entity, a lower rate may be applied to any portion of the basic use allocation that the public entity has determined to represent superior or more than reasonable conservation efforts.

(4) A conservation charge shall be imposed on all increments of water use in excess of the basic use allocation. The increments may be fixed or may be determined on a percentage or any other basis, without limitation on the number of increments, or any requirement that the increments or conservation charges be sized, or ascend uniformly, or in a specified relationship. The volumetric prices for the lowest through the highest priced increments shall be established in an ascending

relationship that is economically structured to encourage conservation and reduce the inefficient use of water, consistent with Section 2 of Article X of the California Constitution.

(b) (1) Except as specified in subdivision (a), the design of an allocation-based conservation pricing rate structure shall be determined in the discretion of the public entity.

(2) The public entity may impose meter charges or other fixed charges to recover fixed costs of water service in addition to the allocation-based conservation pricing rate structure.

(c) A public entity may use one or more allocation-based conservation water pricing structures for any class of municipal or other service that the public entity provides.

373. (a) Revenues derived from allocation-based conservation water pricing shall not exceed the reasonable cost of water service including basic costs and incremental costs. This chapter does not limit the sources of funding for incremental costs to charges for water use.

(b) Revenues derived from allocation-based conservation water pricing shall not exceed the proportional cost of service attributable to the customer's parcel, as determined by giving consideration to all of the following:

(1) Customer classes established in consideration of service characteristics, demand patterns, and other factors.

(2) Basic use allocations.

(3) Meter size.

(4) Metered volume of water consumed.

(5) The public entity's discretionary allocation of incremental costs between and among the increments of water use subject to conservation charges, as permitted by paragraph (4) of subdivision (a) of Section 372 to meet the requirement of that section.

(c) In establishing the schedule of charges and metered volumes for the increments of water use subject to conservation charges, the public entity may also consider both of the following:

(1) Customer overuse characteristics, including ratios between overuse volumes and basic use allocations, variations in demand and consumption patterns, or other characteristics of overuse experienced by the public entity.

(2) The extent to which the pricing structure of the increments will be effective in minimizing or eliminating the need for other measures to curtail potential overuse.

374. (a) Allocation-based conservation water pricing under this chapter may be used on an ongoing basis and shall not require any finding of emergency or other water shortage conditions.

(b) The authority granted in this chapter is in addition to any other authority that a public entity has to use rate structure design to foster the conservation of water.

(c) The imposition and revision of rates and charges by a public entity under this chapter shall be subject to the procedures otherwise required by law for the public entity's water rates.

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## CHAPTER 611

An act to add Section 53756 to the Government Code, relating to local government.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 53756 is added to the Government Code, to read:

53756. An agency providing water, sewer, or refuse collection service may adopt a schedule of fees or charges authorizing automatic adjustments that pass through increases in wholesale charges for water or adjustments for inflation, if it complies with all of the following:

(a) It adopts the schedule of fees or charges for a property-related service for a period not to exceed five years pursuant to Section 53755.

(b) The schedule of fees or charges may include a schedule of adjustments, including a clearly defined formula for adjusting for inflation. Any inflation adjustment to a fee or charge for a property-related service shall not exceed the cost of providing that service.

(c) The schedule of fees or charges for an agency that purchases wholesale water from a public agency may provide for automatic adjustments that pass through the adopted increases or decreases in the wholesale charges for water established by the other agency.

(d) Notice of any adjustment pursuant to the schedule shall be given pursuant to subdivision (a) of Section 53755, not less than 30 days before the effective date of the adjustment.

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## CHAPTER 612

An act relating to transportation.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The State of California needs to ensure efficient and environmentally responsible movement of rail passengers and goods for all Californians. Currently, the Public Utilities Commission, the Business, Transportation and Housing Agency, the Department of Transportation, the California High-Speed Rail Authority, the California Transportation Commission, and local government entities all have responsibility for different aspects of the system for overseeing and regulating railroad activities in California.

(2) For optimum efficiency in state government and for health, safety, and mobility benefits for California's residents, California should strive for the best coordination of the state's rail planning, funding, operation, and system safety functions.

(b) To that end, the California Research Bureau, in consultation with the Business, Transportation and Housing Agency, the Department of Transportation, the California Transportation Commission, the Public Utilities Commission, the California High Speed Rail Authority, and the Office of the Legislative Analyst, shall do all of the following:

(1) Analyze and make recommendations for improving the state's rail functions.

(2) Make recommendations for improving oversight, regulation, and efficiency of those state agencies necessary to improve passenger and freight rail mobility in California.

(3) Estimate any costs associated with the implementation of its recommendations.

(c) Issues to be analyzed pursuant to subdivision (b) shall include, but not be limited to, all of the following:

(1) How to improve the efficiency, performance, and stability of rail activities funded in part or in whole with state funds.

(2) The benefits and liabilities of establishing one accountable state commission or department responsible for the oversight, regulation, identification, and prioritization of rail transportation and safety programs and projects, including, but not limited to, rail grade crossings and separations, rail equipment procurement and passenger service, the provision of traditional passenger rail and high-speed rail service, and rail safety regulation and oversight.

(3) Issues the Legislature should consider if legislation is introduced to consolidate any, or all, of the functions, responsibilities, or activities of the five state agencies with jurisdiction over rail-related matters into one or more state agencies, commissions, or departments.

(d) In preparing analysis and making recommendations pursuant to this act, the California Research Bureau shall take into account and apply all authorities, requirements, and restrictions under the California State Constitution, federal law, and state law. No later than May 1, 2009, the California Research Bureau shall report its findings pursuant to this act to the Senate Committee on Transportation and Housing, the Assembly Committee on Transportation, and the Joint Legislative Budget Committee.

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## CHAPTER 613

An act to add Chapter 2.5 (commencing with Section 2196) to Division 2 of the Elections Code, relating to voters.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Chapter 2.5 (commencing with Section 2196) is added to Division 2 of the Elections Code, to read:

### CHAPTER 2.5. ONLINE VOTER REGISTRATION

2196. (a) (1) Notwithstanding any other provision of law, a person who is qualified to register to vote and who has a valid California driver's license or state identification card may submit an affidavit of voter registration electronically on the Internet Web site of the Secretary of State. This chapter shall become operative when the Secretary of State certifies that the state has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et seq.).

(2) An affidavit submitted pursuant to this section is effective upon receipt of the affidavit by the Secretary of State if the affidavit is received on or before the 15th day prior to an election to be held in the precinct of the person submitting the affidavit.

(3) The affiant shall affirmatively attest to the truth of the information provided in the affidavit.

(4) For voter registration purposes, the applicant shall affirmatively assent to the use of his or her signature from his or her driver's license or state identification card.

(5) For each electronic affidavit, the Secretary of State shall obtain an electronic copy of the applicant's signature from his or her driver's license or state identification card directly from the Department of Motor Vehicles.

(6) The Secretary of State shall require a person who submits an affidavit pursuant to this section to submit all of the following:

(A) The number from his or her California driver's license or state identification card.

(B) His or her date of birth.

(C) The last four digits of his or her social security number.

(D) Any other information the Secretary of State deems necessary to establish the identity of the affiant.

(7) Upon submission of an affidavit pursuant to this section, the electronic voter registration system shall provide for immediate verification of both of the following:

(A) That the applicant has a California driver's license or state identification card and that the number for that driver's license or identification card provided by the applicant matches the number for that person's driver's license or identification card that is on file with the Department of Motor Vehicles.

(B) That the date of birth provided by the applicant matches the date of birth for that person that is on file with the Department of Motor Vehicles.

(8) The Secretary of State shall employ security measures to ensure the accuracy and integrity of voter registration affidavits submitted electronically pursuant to this section.

(b) The Department of Motor Vehicles shall utilize the electronic voter registration system required by this section to comply with its duties and responsibilities as a voter registration agency pursuant to the federal National Voter Registration Act of 1993 (42 U.S.C. Sec. 1973gg et seq.).

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## CHAPTER 614

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 September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. This act shall be known and may be cited as the Second Validating Act of 2008.

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.
Watermaster districts.
Winegrape 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 any law, 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 615

An act to add Chapter 2.3 (commencing with Section 35521) to Part 5 of Division 13 of the Water Code, relating to the Hot Spring Valley Water District.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Chapter 2.3 (commencing with Section 35521) is added to Part 5 of Division 13 of the Water Code, to read:

## Chapter 2.3. Provisions Pertaining Only to the Hot Spring Valley Water District

35521. (a) Notwithstanding any other provision of law, the Hot Spring Valley Irrigation District in the County of Modoc is dissolved, and the Hot Spring Valley Water District is hereby formed in that county.

(b) The Hot Spring Valley Water District is declared to be, and shall be deemed, a water district as if the district had been formed pursuant to this division. The exterior boundary of the Hot Spring Valley Water District shall be the exterior boundary of the former Hot Spring Valley Irrigation District.

(c) The Hot Spring Valley Water District succeeds to, and is vested with, all of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the former Hot Spring Valley Irrigation District.

(d) The status, position, and rights of any officer or employee of the former Hot Spring Valley Irrigation District shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Hot Spring Valley Water District.

(e) The Hot Spring Valley Water District shall have ownership, possession, and control of all of the books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgments, land, and other assets and property, real or personal, owned or leased by, connected with the administration of, or held for the benefit or use, of the former Hot Spring Valley Irrigation District.

(f) The unexpended balance of any funds available for use by the former Hot Spring Valley Irrigation District shall be available for use by the Hot Spring Valley Water District.

(g) No payment for the use, or right of use, of any property, real or personal, acquired or constructed by the former Hot Spring Valley Irrigation District shall be required by reason of the succession pursuant to this act; nor shall any payment for the Hot Spring Valley Water District's acquisition of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction be required by reason of that succession.

(h) All ordinances, rules, and regulations adopted by the former Hot Spring Valley Irrigation District in effect immediately preceding January 1, 2009, shall remain in effect and shall be fully enforceable unless readopted, amended, or repealed by the Hot Spring Valley Water District, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the former Hot Spring Valley Irrigation District shall mean the Hot Spring Valley Water District.

(i) Any action by or against the former Hot Spring Valley Irrigation District shall not abate, but shall continue in the name of the Hot Spring Valley Water District, and the Hot Spring Valley Water District shall be substituted for the former Hot Spring Valley Irrigation District by the court in which the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(j) No contract, lease, license, permit, entitlement, bond, or any other agreement to which the former Hot Spring Valley Irrigation District is a party shall be void or voidable by reason of this act, but shall continue in effect, with the Hot Spring Valley Water District assuming all of the rights, obligations, liabilities, and duties of the former Hot Spring Valley Irrigation District. Bonds issued by the former Hot Spring Valley Irrigation District shall become the indebtedness of the Hot Spring Valley Water District. Any continuing obligations or responsibilities of the former Hot Spring Valley Irrigation District for managing and maintaining bond issuances shall be transferred to the Hot Spring Valley Water District without impairment to any security contained in the bond instrument.

(k) (1) Notwithstanding Section 35003, each voter of the Hot Spring Valley Water District, as defined by Section 34027, shall be entitled to cast only one vote, regardless of the value, acreage, or number of parcels of the voter's land within the district.

(2) Voting in the Hot Spring Valley Water District shall be by electoral divisions in accordance with Article 2 (commencing with Section 35025) of Chapter 1 of Part 4. The Hot Spring Valley Water District shall be divided into the same electoral divisions, with the same division boundaries, as those established within the former Hot Spring Valley Irrigation District. Members of the former Hot Spring Valley Irrigation District Board of Directors who are serving on January 1, 2009, may

continue to serve the balance of their current terms of office, representing the same electoral divisions, as members of the Board of Directors of the Hot Spring Valley Water District.

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 circumstances of the Hot Spring Valley Irrigation District in the County of Modoc. The facts constituting the special circumstances are:

The Hot Spring Valley Irrigation District has few registered voters who are both eligible and willing to hold office as members of the district's board of directors. Rather than create a new special exception to the Irrigation District Law and permit landowners to vote and hold office on an irrigation district's board of directors, the Legislature prefers to convert the Hot Spring Valley Irrigation District into a California water district which is governed pursuant to a principal act that allows landowners to vote and hold office. Rather than require local officials, residents, and landowners to spend several months implementing the statutory procedures necessary for the concurrent dissolution of an irrigation district and the formation of a California water district, the Legislature prefers to order this reorganization directly.

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.

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## CHAPTER 616

An act to amend Sections 25299.24, 25299.54, 25299.57, and 25299.81 of, and to add Section 25299.50.2 to, the Health and Safety Code, relating to petroleum underground storage tanks.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 25299.24 of the Health and Safety Code is amended to read:

25299.24. "Tank," "underground storage tank," "underground tank system," and "tank system" have the same meaning as defined in Chapter 6.7 (commencing with Section 25280), except as follows:

(a) These terms mean only those tanks that contain only petroleum or, consistent with the federal act, a mixture of petroleum with de minimis quantities of other regulated substances.

(b) These terms include all of the following components that are connected either directly or indirectly to the tank:

(1) Spill containment structures that are substantially or totally beneath the surface of the ground.

(2) Those portions of vent lines, vapor recovery lines, and fill pipes that are beneath the surface of the ground.

SEC. 2. Section 25299.50.2 is added to the Health and Safety Code, to read:

25299.50.2. (a) The Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund is hereby established in the State Treasury.

(b) The sum of ten million dollars ($10,000,000) is hereby transferred, for each of the 2008–09, 2009–10, and 2010–11 fiscal years, from the Underground Storage Tank Cleanup Fund to the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund, for expenditure upon appropriation by the Legislature, for the costs of response actions to remediate the harm caused by a petroleum contamination, including contamination caused by a refined product of petroleum or a petroleum derivative, at a site that meets all of the following conditions:

(1) The site meets the conditions described in paragraph (2) of subdivision (a) of Section 25395.20.

(2) The petroleum contamination is the principal source of contamination at the site.

(3) The source of the petroleum contamination is, or was, an underground storage tank.

(4) A financially responsible party has not been identified to pay for remediation at the site.

(c) Any funds in the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund that are not expended in the 2009–10, 2010–11, or 2011–12 fiscal years shall remain in the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund until they are encumbered.

(d) Notwithstanding Section 16304.1 of the Government Code, a disbursement in liquidation of an encumbrance may be made before or during the four years following the last day the appropriation is available for encumbrance.

(e) A recipient of a grant that was awarded pursuant to former Section 25299.50.2, as that section read on December 31, 2007, and whose encumbrance under the grant was not liquidated within the time period prescribed in Section 16304.1 of the Government Code, may receive the undisbursed balance of the encumbrance from the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund consistent with the terms of the grant until June 30, 2011.

SEC. 3. Section 25299.54 of the Health and Safety Code is amended to read:

25299.54. (a) Except as provided in subdivisions (b), (c), (d), (e), (g), and (h), an owner or operator, required to perform corrective action pursuant to Section 25296.10, or an owner or operator who, as of January 1, 1988, is required to perform corrective action, who has initiated this action in accordance with Division 7 (commencing with Section 13000) of the Water Code, who is undertaking corrective action in compliance with waste discharge requirements or other orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code, or Chapter 6.7 (commencing with Section 25280), may apply to the board for satisfaction of a claim filed pursuant to this article.

(b) A person who has failed to comply with Article 3 (commencing with Section 25299.30) is ineligible to file a claim pursuant to this section.

(c) An owner or operator of an underground storage tank containing petroleum is ineligible to file a claim pursuant to this section if the person meets both of the following conditions:

(1) The person knew, before January 1, 1988, of the unauthorized release of petroleum which is the subject of the claim.

(2) The person did not initiate, on or before June 30, 1988, any corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code concerning the release, or the person did not, on or before June 30, 1988, initiate corrective action in accordance with Chapter 6.7 (commencing with Section 25280) or the person did not initiate action on or before June 30, 1988, to come into compliance with waste discharge requirements or other orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code concerning the release.

(d) An owner or operator who violates Section 25296.10 or a corrective action order, directive, notification, or approval order issued pursuant to this chapter, Chapter 6.7 (commencing with Section 25280) of this code, or Division 7 (commencing with Section 13000) of the Water Code, is liable for a corrective action cost that results from the owner's or operator's violation and is ineligible to file a claim pursuant to this section.

(e) Notwithstanding this chapter, a person who owns a tank located underground that is used to store petroleum may apply to the board for satisfaction of a claim, and the board may pay the claim pursuant to Section 25299.57 without making the finding specified in paragraph (3) of subdivision (d) of Section 25299.57 if all of the following apply:

(1) The tank meets one of the following requirements:

(A) The tank is located at the residence of a person on property used exclusively for residential purposes at the time of discovery of the unauthorized release of petroleum.

(B) The tank owner demonstrates that the tank is located on property that, on and after January 1, 1985, is not used for agricultural purposes, the tank is of a type specified in subparagraph (B) of paragraph (1) of subdivision (y) of Section 25281, and the petroleum in the tank is used solely for the purposes specified in subparagraph (B) of paragraph (1) of subdivision (y) of Section 25281 on and after January 1, 1985.

(2) The tank is not a tank described in subparagraph (A) of paragraph (1) of subdivision (y) of Section 25281 and the tank is not used on or after January 1, 1985, for the purposes specified in that subparagraph.

(3) The claimant has complied with Section 25299.31 and the permit requirements of Chapter 6.7 (commencing with Section 25280), or the claimant is not subject to the requirements of those provisions.

(f) Whenever the board has authorized the prepayment of a claim pursuant to Section 25299.57, and the amount of money available in the fund is insufficient to pay the claim, the owner or operator shall remain obligated to undertake the corrective action in accordance with Section 25296.10.

(g) The board shall not reimburse a claimant for any eligible costs for which the claimant has been, or will be, compensated by another person. This subdivision does not affect reimbursement of a claimant from the fund under either of the following circumstances:

(1) The claimant has a written contract, other than an insurance contract, with another person that requires the claimant to reimburse the person for payments the person has provided the claimant pending receipt of reimbursement from the fund.

(2) An insurer has made payments on behalf of the claimant pursuant to an insurance contract and either of the following applies:

(A) The insurance contract explicitly coordinates insurance benefits with the fund and requires the claimant to do both of the following:

(i) Maintain the claimant's eligibility for reimbursement of costs pursuant to this chapter by complying with all applicable eligibility requirements.

(ii) Reimburse the insurer for costs paid by the insurer pending reimbursement of those costs by the fund.

(B) The claimant received a letter of commitment prior to June 30, 1999, for the occurrence and the claimant is required to reimburse the insurer for any costs paid by the insurer pending reimbursement of those costs by the fund.

(h) (1) Except as provided in paragraph (2), a person who purchases or otherwise acquires real property on which an underground storage tank or tank specified in subdivision (e) is situated shall not be reimbursed by the board for a cost attributable to an occurrence that commenced prior to the acquisition of the real property if both of the following conditions apply:

(A) The purchaser or acquirer knew, or in the exercise of reasonable diligence would have discovered, that an underground storage tank or tank specified in subdivision (e) was located on the real property being acquired.

(B) A person who owned the site or owned or operated an underground storage tank or tank specified in subdivision (e) at the site during or after the occurrence and prior to acquisition by the purchaser or acquirer would not have been eligible for reimbursement from the fund.

(2) Notwithstanding paragraph (1), if the claim is filed on or after January 1, 2003, the board may reimburse the eligible costs claimed by a person who purchases or otherwise acquires real property on which an underground storage tank or tank specified in subdivision (e) is situated, if all of the following conditions apply:

(A) The claimant is the owner or operator of the underground storage tank or tank specified in subdivision (e) that had an occurrence that commenced prior to the owner's acquisition of the real property.

(B) The claimant satisfies all eligibility requirements, other than those specified in paragraph (1).

(C) The claimant is not an affiliate of a person whose act or omission caused or would cause ineligibility for the fund.

(3) If the board reimburses a claim pursuant to paragraph (2), a person specified in subparagraph (B) of paragraph (1), other than a person who is ineligible for reimbursement from the fund solely because the property was acquired from another person who was ineligible for reimbursement from the fund, shall be liable for the amount paid from the fund. The Attorney General, upon request of the board, shall bring a civil action to recover the liability imposed under this paragraph. All money recovered by the Attorney General under this paragraph shall be deposited in the fund.

(4) The liability established pursuant to paragraph (3) does not limit or supersede liability under any other provision of state or federal law, including common law.

(5) For purposes of this subdivision, the following definitions shall apply:

(A) "Affiliate" means a person who has one or more of the following relationships with another person:

(i) Familial relationship.

(ii) Fiduciary relationship.

(iii) A relationship of direct or indirect control or shared interests.

(B) Affiliates include, but are not limited to, any of the following:

(i) Parent corporation and subsidiary.

(ii) Subsidiaries that are owned by the same parent corporation.

(iii) Business entities involved in a reorganization, as defined in Section 181 of the Corporations Code.

(iv) Corporate officer and corporation.

(v) Shareholder that owns a controlling block of voting stock and the corporation.

(vi) Partner and the partnership.

(vii) Member and a limited liability company.

(viii) Franchiser and franchisee.

(ix) Settlor, trustee, and beneficiary of a trust.

(x) Debtor and bankruptcy trustee or debtor-in-possession.

(xi) Principal and agent.

(C) "Familial relationship" means relationships between family members, including, and limited to, a husband, wife, child, stepchild, parent, grandparent, grandchild, brother, sister, stepbrother, stepsister, stepmother, stepfather, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, and, if related by blood, uncle, aunt, niece, or nephew.

(D) "Purchases or otherwise acquires real property" means the acquisition of fee title ownership or the acquisition of the lessee's interest in a ground lease of real property on which one or more underground storage tanks are located if the lease has an initial original term, including unilateral extension or renewal rights, of not less than 35 years.

(i) The Legislature finds and declares that the changes made to subparagraph (A) of paragraph (1) of subdivision (e) by Chapter 1290 of the Statutes of 1992 are declaratory of existing law.

(j) The Legislature finds and declares that the amendment of subdivisions (a) and (g) by Chapter 328 of the Statutes of 1999 is declaratory of existing law.

SEC. 4. Section 25299.57 of the Health and Safety Code is amended to read:

25299.57. (a) If the board makes the determination specified in subdivision (d), the board may only pay for the costs of a corrective action that exceed the level of financial responsibility required to be

obtained pursuant to Section 25299.32, but not more than one million five hundred thousand dollars ($1,500,000) for each occurrence. In the case of an owner or operator who, as of January 1, 1988, was required to perform corrective action, who initiated that corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), and who is undertaking the corrective action in compliance with waste discharge requirements or other orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), the owner or operator may apply to the board for satisfaction of a claim filed pursuant to this article. The board shall notify claimants applying for satisfaction of claims from the fund of eligibility for reimbursement in a prompt and timely manner and that a letter of credit or commitment that will obligate funds for reimbursement shall follow the notice of eligibility as soon thereafter as possible.

(b) (1) For claims eligible for reimbursement pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the actual cost of corrective action to the board, which shall either approve or disapprove the costs incurred as reasonable and necessary. At least 15 days before the board proposes to disapprove the reimbursement of corrective action costs that have been incurred on the grounds that the costs were unreasonable or unnecessary, the board shall issue a notice advising the claimant and the lead agency of the proposed disallowance, to allow review and comment.

(2) The board shall not reject any actual costs of corrective action in a claim solely on the basis that the invoices submitted fail to sufficiently detail the actual costs incurred, if all of the following apply:

(A) Auxiliary documentation is provided that documents to the board's satisfaction that the invoice is for necessary corrective action work.

(B) The costs of corrective action work in the claim are reasonably commensurate with similar corrective action work performed during the same time period covered by the invoice for which reimbursement is sought.

(C) The invoices include a brief description of the work performed, the date that the work was performed, the vendor, and the amount.

(c) (1) For claims eligible for prepayment pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the estimated cost of the corrective action to the board, which shall approve or disapprove the reasonableness of the cost estimate.

(2) If the claim is for reimbursement of costs incurred pursuant to a performance-based contract, Article 6.5 (commencing with Section 25299.64) shall apply to that claim.

(d) Except as provided in subdivision (j), a claim specified in subdivision (a) may be paid if the board makes all of the following findings:

(1) There has been an unauthorized release of petroleum into the environment from an underground storage tank.

(2) The claimant is required to undertake or contract for corrective action pursuant to Section 25296.10, or, as of January 1, 1988, the claimant has initiated corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code.

(3) The claimant has complied with Section 25299.31.

(4) (A) Except as provided in subparagraphs (B), (C), and (F), the claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280). A claimant shall obtain a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim when the claimant becomes subject to subdivision (a) of Section 25284 or when the applicable local agency begins issuing permits pursuant to subdivision (a) of Section 25284, whichever occurs later.

(B) A claimant who acquires real property on which an underground storage tank is situated and, despite the exercise of reasonable diligence, was unaware of the existence of the underground storage tank when the real property was acquired, has obtained a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim within a reasonable period, not to exceed one year, from when the claimant should have become aware of the existence of the underground storage tank, or when the applicable local agency began issuing permits pursuant to Section 25284, whichever occurs later.

(C) All claimants who file their claim on or after January 1, 2008, and who do not obtain a permit required by subdivision (a) of Section 25284 in accordance with subparagraph (A) or (B) may seek a waiver of the requirement to obtain a permit. The board shall waive the provisions of subparagraphs (A) and (B) as a condition for payment from the fund if the board finds all of the following:

(i) The claimant was unaware of the permit requirement, and upon becoming aware of the permit requirement, the claimant complies with either subdivision (a) of Section 25284 or Section 25298 and the regulations adopted to implement those sections within a reasonable period, not to exceed one year, from when the claimant became aware of the permit requirement.

(ii) Prior to submittal of the application to the fund, the claimant has complied with Section 25299.31 and has obtained and paid for all permits currently required by this paragraph.

(iii) Prior to submittal of the application to the fund, the claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 25299.40) of this code and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(D) (i) A claimant exempted pursuant to subparagraph (C) and who has complied, on or before December 22, 1998, either with subdivision (a) of Section 25284 or Section 25298 and the regulations adopted to implement those sections, shall obtain a level of financial responsibility twice as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but not less than ten thousand dollars ($10,000). All other claimants exempted pursuant to subparagraph (C) shall obtain a level of financial responsibility that is four times as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but not less than twenty thousand dollars ($20,000).

(ii) The board may waive the requirements of clause (i) if the claimant can demonstrate that the conditions specified in clauses (i) to (iii), inclusive, of subparagraph (C) were satisfied prior to the causing of any contamination. That demonstration may be made through a certification issued by the permitting agency based on a site evaluation and tank tests at the time of permit application or in any other manner acceptable to the board.

(E) All claimants who file a claim before January 1, 2008, and who are not eligible for a waiver of the permit requirements pursuant to applicable statutes or regulations in effect on the date of the filing of the claim may resubmit a new claim pursuant to subparagraph (C) on or after January 1, 2008. The board shall rank all claims resubmitted pursuant to subparagraph (C) lower than all claims filed before January 1, 2008, within their respective priority classes specified in subdivision (b) of Section 25299.52.

(F) The board shall waive the provisions of subparagraph (A) as a condition for payment from the fund for a claimant who filed his or her claim on or after January 1, 2008, and before July 1, 2009, but is not eligible for a waiver of the permit requirement pursuant to the regulations adopted by the board in effect on the date of the filing of the claim, and who did not obtain or apply for a permit required by subdivision (a) of Section 25284, if the board finds all of the following:

(i) The claim is filed pursuant to paragraph (2) of subdivision (h) of Section 25299.54 and the claim otherwise satisfies the eligibility requirements of that paragraph.

(ii) The claimant became the owner or de facto owner of an underground storage tank prior to December 22, 1998.

(iii) The claimant did not, and does not, operate the underground storage tank.

(iv) Within three years after becoming the owner or de facto owner of the underground storage tank but not after December 22, 1998, the claimant caused the underground storage tank to be removed and closed in accordance with applicable law, and commenced no later than December 22, 1998, to perform corrective action pursuant to Section 25296.10 of this code or pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(G) The board shall rank all claims submitted pursuant to subparagraph (F) in their respective priority classes specified in subdivision (b) of Section 25299.52 in the order in which the claims are received by the board, but subsequent to any claim filed on a previous date in each of those priority classes.

(H) For purposes of clauses (ii) and (iv) of subparagraph (F), "de facto owner of an underground storage tank" means a person who purchases or otherwise acquires real property, as defined in subparagraph (D) of paragraph (5) of subdivision (h) of Section 25299.54, and has actual possession of, and control over, an underground storage tank that has been abandoned by its previous owner.

(5) The board has approved either the costs incurred for the corrective action pursuant to subdivision (b) or the estimated costs for corrective action pursuant to subdivision (c).

(6) The claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 29299.40) and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(e) The board shall provide the claimant, whose cost estimate has been approved, a letter of commitment authorizing payment of the costs from the fund.

(f) The claimant may submit a request for partial payment to cover the costs of corrective action performed in stages, as approved by the board.

(g) (1) A claimant who submits a claim for payment to the board shall submit multiple bids for prospective costs as prescribed in regulations adopted by the board pursuant to Section 25299.77.

(2) A claimant who submits a claim to the board for the payment of professional engineering and geologic work shall submit multiple proposals and fee estimates, as required by the regulations adopted by the board pursuant to Section 25299.77. The claimant's selection of the

provider of these services is not required to be based on the lowest estimated fee, if the fee estimate conforms with the range of acceptable costs established by the board.

(3) A claimant who submits a claim for payment to the board for remediation construction contracting work shall submit multiple bids, as required in the regulations adopted by the board pursuant to Section 25299.77.

(4) Paragraphs (1), (2), and (3) do not apply to a tank owned or operated by a public agency if the prospective costs are for private professional services within the meaning of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code and those services are procured in accordance with the requirements of that chapter.

(h) The board shall provide, upon the request of a claimant, assistance to the claimant in the selection of contractors retained by the claimant to conduct reimbursable work related to corrective actions. The board shall develop a summary of expected costs for common corrective actions. This summary of expected costs may be used by claimants as a guide in the selection and supervision of consultants and contractors.

(i) The board shall pay, within 60 days from the date of receipt of an invoice of expenditures, all costs specified in the work plan developed pursuant to Section 25296.10, and all costs that are otherwise necessary to comply with an order issued by a local, state, or federal agency.

(j) (1) The board shall pay a claim of not more than three thousand dollars ($3,000) per occurrence for regulatory technical assistance to an owner or operator who is otherwise eligible for reimbursement under this chapter.

(2) For the purposes of this subdivision, regulatory technical assistance is limited to assistance from a person, other than the claimant, in the preparation and submission of a claim to the fund. Regulatory technical assistance does not include assistance in connection with proceedings under Section 25296.40, 25299.39.2, or 25299.56 or any action in court.

(k) (1) Notwithstanding any other provision of this section, the board shall pay a claim for the costs of corrective action to a person who owns property on which is located a release from a petroleum underground storage tank that has been the subject of a completed corrective action and for which additional corrective action is required because of additionally discovered contamination from the previous release, only if the person who carried out the earlier and completed corrective action was eligible for, and applied for, reimbursement pursuant to subdivision (b), and only to the extent that the amount of reimbursement for the earlier corrective action did not exceed the amount of reimbursement authorized by subdivision (a). Reimbursement to a claimant on a

reopened site shall occur when funds are available, and reimbursement commitment shall be made ahead of any new letters of commitment to be issued, as of the date of the reopening of the claim, if funding has occurred on the original claim, in which case funding shall occur at the time it would have occurred under the original claim.

(2) For purposes of this subdivision, a corrective action is completed when the local agency or regional board with jurisdiction over the site or the board issues a closure letter pursuant to subdivision (g) of Section 25296.10.

SEC. 5. Section 25299.81 of the Health and Safety Code is amended to read:

25299.81. (a) Except as provided in subdivisions (b) and (c), this chapter shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2016, deletes or extends that date.

(b) Notwithstanding subdivision (a), Article 1 (commencing with Section 25299.10), Article 2 (commencing with Section 25299.11), and Article 4 (commencing with Section 25299.36) shall not be repealed and shall remain in effect on January 1, 2016.

(c) The repeal of certain portions of this chapter does not terminate any of the following rights, obligations, or authorities, or any provision necessary to carry out these rights and obligations:

(1) The filing and payment of claims against the fund, including the costs specified in subdivisions (c), (e), and (h) of Section 25299.51, and claims for commingled plumes, as specified in Article 11 (commencing with Section 25299.90), until the moneys in the fund are exhausted. Upon exhaustion of the fund, any remaining claims shall be invalid.

(2) The repayment of loans, outstanding as of January 1, 2016, due and payable to the board.

(3) The recovery of moneys reimbursed to a claimant to which the claimant is not entitled, or the resolution of any cost recovery action.

(4) The collection of unpaid fees that are imposed pursuant to Article 5 (commencing with Section 25299.40), as that article read on December 31, 2015, or have become due before January 1, 2016, including any interest or penalties that accrue before, on, or after January 1, 2016, associated with those unpaid fees.

(5) (A) The filing of an application for funds from, and the making of payments from, the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund pursuant to Section 25299.50.2, any action for the recovery of moneys paid pursuant to Section 25299.50.2 to which the recipient is not entitled, and the resolution of that cost recovery action.

(B) Upon liquidation of funds in the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund, the obligation to make a payment from the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund is terminated.

(d) The board shall continuously post and update on its Internet Web site, but at a minimum, annually on or before September 30, information that describes the status of the fund and shall make recommendations, when appropriate, to improve the efficiency of the program.

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## CHAPTER 617

An act to amend Section 15432 of the Government Code, and to add Section 4688.6 to the Welfare and Institutions Code, relating to regional center housing, and making an appropriation therefor.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 15432 of the Government Code is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means the California Health Facilities Financing Authority Act.

(b) "Authority" means the California Health Facilities Financing Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion of a project financed under this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period not to exceed the later of one year or one year following completion of construction, as determined by the authority,

the cost of insurance during construction, the cost of funding or financing noncapital expenses, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, service contracts, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses of funding or financing, that are necessary or incident to determining the feasibility of constructing any project, or that are incident to the construction, acquisition, or financing of any project.

(d) "Health facility" means any facility, place, or building that is licensed, accredited, or certified and organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, or physical, mental, or developmental disability, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, and includes, but is not limited to, all of the following types:

(1) A general acute care hospital that is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital that is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility that is a health facility that provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility that is a health facility that provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility that is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides

inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental, or maternity.

(6) A clinic that is operated by a tax-exempt nonprofit corporation that is licensed pursuant to Section 1204 or 1204.1 of the Health and Safety Code or a clinic exempt from licensure pursuant to subdivision (b) or (c) of Section 1206 of the Health and Safety Code.

(7) An adult day health center that is a facility, as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, that provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

(8) Any facility owned or operated by a local jurisdiction for the provision of county health services.

(9) A multilevel facility is an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this paragraph, means a person 62 years of age or older.

(10) A child day care facility operated in conjunction with a health facility. A child day care facility is a facility, as defined in Section 1596.750 of the Health and Safety Code. For purposes of this paragraph, "child" means a minor from birth to 18 years of age.

(11) An intermediate care facility/developmentally disabled habilitative that is a health facility, as defined under subdivision (e) of Section 1250 of the Health and Safety Code.

(12) An intermediate care facility/developmentally disabled-nursing that is a health facility, as defined under subdivision (h) of Section 1250 of the Health and Safety Code.

(13) A community care facility that is a facility, as defined under subdivision (a) of Section 1502 of the Health and Safety Code, that provides care, habilitation, rehabilitation, or treatment services to developmentally disabled or mentally impaired persons.

(14) A nonprofit community care facility, as defined in subdivision (a) of Section 1502 of the Health and Safety Code, other than a facility that, as defined in that subdivision, is a residential facility for the elderly, a foster family agency, a foster family home, a full service adoption agency, or a noncustodial adoption agency.

(15) A nonprofit accredited community work activity program, as specified in subdivision (e) of Section 4851 and Section 4856 of the Welfare and Institutions Code.

(16) A community mental health center, as defined in paragraph (3) of subdivision (b) of Section 5667 of the Welfare and Institutions Code.

(17) A nonprofit speech and hearing center, as defined in Section 1201.5 of the Health and Safety Code.

(18) A blood bank, as defined in Section 1600.2 of the Health and Safety Code, licensed pursuant to Section 1602.5 of the Health and Safety Code, and exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

(19) A residential facility for persons with developmental disabilities, as defined in Sections 4688.5 and 4688.6 of the Welfare and Institutions Code, which includes, but is not limited to, a community care facility licensed pursuant to Section 1502 of the Health and Safety Code and a family teaching home as defined in Section 4689.1 of the Welfare and Institutions Code, but which does not include a residential facility for persons with special health care needs, as defined in Section 1567.50 of the Health and Safety Code.

"Health facility" includes a clinic that is described in subdivision (*l*) of Section 1206 of the Health and Safety Code.

"Health facility" includes the following facilities, if the facility is operated in conjunction with one or more of the facilities specified in paragraphs (1) to (19), inclusive, of this subdivision: a laboratory, laundry, or nurses or interns residence, housing for staff or employees and their families or patients or relatives of patients, a physicians' facility, an administration building, a research facility, a maintenance, storage, or utility facility, all structures or facilities related to any of the foregoing facilities or required or useful for the operation of a health facility and the necessary and usual attendant and related facilities and equipment, and parking and supportive service facilities or structures required or useful for the orderly conduct of the health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a city, city and county, or county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and that, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project or of working capital as provided in this part. "Participating health institution" also includes, for purposes of the California Health Facilities Revenue Bonds (UCSF-Stanford Health Care) 1998 Series A, the Regents of the University of California.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping, or funding, financing, or refinancing of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include reimbursement for the costs of construction, expansion, remodeling, renovation, furnishing, or equipping, or funding, financing,

or refinancing of a health facility or acquisition of a health facility. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

(g) "Revenue bond" means any bond, warrant, note, lease, or installment sale obligation that is evidenced by a certificate of participation or other evidence of indebtedness issued by the authority.

(h) "Working capital" means moneys to be used by, or on behalf of, a participating health institution to pay or prepay maintenance or operation expenses or any other costs that would be treated as an expense item, under generally accepted accounting principles, in connection with the ownership or operation of a health facility, including, but not limited to, reserves for maintenance or operation expenses, interest for not to exceed one year on any loan for working capital made pursuant to this part, and reserves for debt service with respect to, and any costs necessary or incidental to, that financing.

SEC. 2. Section 4688.6 is added to the Welfare and Institutions Code, to read:

4688.6. (a) Notwithstanding any other provision of law to the contrary, the department may receive and approve a proposal or proposals by any regional center to provide for, secure, or assure the full payment of a lease or leases on housing based on the availability for occupancy in each home. These proposals shall not include an adult residential facility for persons with special health care needs, as defined in Section 1567.50 of the Health and Safety Code. Proposals submitted by regional centers shall meet all of the following conditions:

(1) The acquired or developed real property is available for occupancy by individuals eligible for regional center services and is integrated with other housing in the community for people without disabilities.

(2) The regional center has submitted documents demonstrating the appropriate credentials and terms of the project and has approved the proposed nonprofit ownership entity, management entity, and developer or development entity for each project.

(3) The costs associated with the proposal are reasonable and maximize the receipt of federal Medicaid funding. The department shall only approve proposals that include a process for the regional center to review recent sales of comparable properties to ensure the purchase price is within the range of fair market value and, if significant renovations of a home will be undertaken after the home is purchased, competing bids for that renovation work to ensure that the cost of the work is reasonable. For purposes of this subdivision, "significant renovations" means renovations that exceed 5 percent of the purchase price of the home.

(4) The proposal includes a plan for a transfer at a time certain of the real property's ownership to a nonprofit entity to be approved by the regional center.

(5) The regional center has submitted, with the proposal, the nonrefundable developer fee established in subdivision (d).

(b) Prior to approving a regional center proposal pursuant to subdivision (a), the department may contract or consult with a public or private sector entity that has appropriate experience in structuring complex real estate financial transactions, but is not otherwise involved in any lending related to the project to review any of the following:

(1) The terms and conditions of the financing structure for acquisition or development of the real property.

(2) Any and all agreements that govern the real property's ownership, occupancy, maintenance, management, and operation, to ensure that the use of the property is maintained for the benefit of persons with developmental disabilities.

(c) The department may impose a limit on the number of proposals considered pursuant to subdivision (a). If a limit is imposed, the department shall notify the Association of Regional Center Agencies.

(d) (1) The department shall charge the developer of the housing described in the regional center proposal a reasonable, nonrefundable fee for each proposal submitted. The fee shall be for the purpose of reimbursing the department's costs associated with conducting the review and approval required by subdivision (b). The fee shall be set by the department within 30 days of the effective date of the act that added this section, and shall be adjusted annually, as necessary, to ensure the payment of the costs incurred by the department.

(2) Fees collected shall be deposited in the Developmental Disabilities Services Account established pursuant to Section 14672.9 of the Government Code and shall be used solely for the purpose of conducting the review and approval required by subdivision (b), upon appropriation by the Legislature. Interest and dividends on moneys collected pursuant to this section shall, notwithstanding Section 16305.7 of the Government Code, be retained in the account for purposes of this section. Moneys deposited in the Developmental Disabilities Services Account pursuant to this subdivision shall not be subject to the requirements of subdivision (i) of Section 14672.9 of the Government Code.

(3) Notwithstanding paragraph (2), for the 2008–09 fiscal year, the Director of Finance may approve an expenditure of up to seventy-five thousand dollars ($75,000) by the department from moneys deposited in the account for the purposes specified in subdivision (b). In the 2009–10 fiscal year and each fiscal year thereafter, moneys shall be available to the department upon appropriation by the Legislature.

(e) No sale, encumbrance, hypothecation, assignment, refinancing, pledge, conveyance, exchange, or transfer in any other form of the real property, or of any of its interest therein, shall occur without the prior written approval of the department and the regional center.

(f) Notice of the restrictions pursuant to this section shall be recorded against the acquired or developed real property subject to this section.

(g) At least 30 days prior to granting approval under subdivision (e), the department shall provide notice to the chairs and vice chairs of the fiscal committees of the Assembly and the Senate and the Director of Finance.

(h) The regional center shall not be eligible to acquire or develop real property for the purpose of residential housing.

(i) Unless otherwise authorized by law, a regional center shall not use purchase of service funds to implement this section.

(j) With the exception of funds authorized in paragraph (3) of subdivision (d), this section shall be implemented within the department's annual budget. This subdivision shall not preclude the receipt or use of federal, state non-General Fund, or private funds to implement this section.

(k) The department shall establish guidelines and procedures for the administration of this section.

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## CHAPTER 618

An act to amend Section 50675.1 of the Health and Safety Code, relating to housing.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 50675.1 of the Health and Safety Code is amended to read:

50675.1. (a) This chapter shall be known and may be cited as the Multifamily Housing Program.

(b) Assistance provided to a project pursuant to this chapter shall be provided in the form of a deferred payment loan to pay for the eligible costs of development as hereafter described.

(c) Except as provided in paragraph (3), on and after January 1, 2008, of the total assistance provided under this chapter, the percentage that is awarded for units restricted to senior citizens, as defined in paragraph

(1) of subdivision (b) of Section 51.3 of the Civil Code, shall be proportional to the percentage of lower income renter households in the state that are lower income elderly renter households, as reported by the federal Department of Housing and Urban Development on the basis of the most recent decennial census conducted by the United States Census Bureau.

(1) The department shall be deemed to have met its obligation under this subdivision if the assistance awarded is not less than 1 percent below the proportional share.

(2) This subdivision does not require the department to provide loans to projects that fail to meet minimum threshold requirements under subdivision (b) of Section 50675.7.

(3) Assistance for projects meeting the definitions in paragraphs (2) and (3) of subdivision (e) of Section 11139.3 of the Government Code and subdivisions (c) and (d) of Section 53260 shall be excluded from the total assistance calculation under this subdivision.

(4) The department shall determine the time period over which it will measure compliance with this section, but that period shall not be less than one year or two funding cycles, whichever period is longer.

(5) If, at the end of the time period determined by the department, the total amount of funding for which sponsors have submitted qualified applications is lower than the proportional share, the department may award the remaining funds to units that are not restricted to senior citizens.

(6) The department's annual report to the Legislature submitted under Section 50408 shall include a breakdown of funding awards between units restricted to senior citizens and units that are not age-restricted.

(d) This chapter shall be administered by the department and the department shall establish the terms upon which loans may be made consistent with the provisions of this chapter.

(e) Notwithstanding any other provision of law, the sponsor of a supportive housing development, as defined in subdivision (b) of Section 50675.14, may restrict occupancy to persons with veteran status, if all of the following conditions apply:

(1) The veterans shall possess significant barriers to social reintegration and employment that require specialized treatment and services that are due to a physical or mental disability, substance abuse, or the effects of long-term homelessness.

(2) The veterans are otherwise eligible to reside in an assisted unit.

(3) The sponsor also provides, or assists in providing, the specialized treatment and services.

(4) The development is located on property that is owned or leased by the United States Department of Veterans Affairs, or the California

Department of Veterans Affairs, and is leased to the sponsor for a term of not less than 55 years.

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## CHAPTER 619

An act to add Chapter 2.4 (commencing with Section 35523) to Part 5 of Division 13 of the Water Code, relating to the Vandalia Water District.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Chapter 2.4 (commencing with Section 35523) is added to Part 5 of Division 13 of the Water Code, to read:

### CHAPTER 2.4. PROVISIONS PERTAINING ONLY TO THE VANDALIA WATER DISTRICT

35523. (a) Notwithstanding any other provision of law, the Vandalia Irrigation District in the County of Tulare is dissolved, and the Vandalia Water District is hereby formed in that county.

(b) The Vandalia Water District is declared to be, and shall be deemed, a water district as if the district had been formed pursuant to this division. The exterior boundary of the Vandalia Water District shall be the exterior boundary of the former Vandalia Irrigation District.

(c) The Vandalia Water District succeeds to, and is vested with, all of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the former Vandalia Irrigation District.

(d) The status, position, and rights of any officer or employee of the former Vandalia Irrigation District are not affected by the transfer and shall be retained by the person as an officer or employee of the Vandalia Water District.

(e) The Vandalia Water District shall have ownership, possession, and control of all of the books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgments, land, and other assets and property, real or personal, owned or leased by, connected with the administration of, or held for the benefit or use of, the former Vandalia Irrigation District.

(f) The unexpended balance as of January 1, 2009, of any funds available for use by the former Vandalia Irrigation District shall be available for use by the Vandalia Water District.

(g) No payment for the use, or right of use, of any property, real or personal, acquired or constructed by the former Vandalia Irrigation District shall be required by reason of the succession pursuant to this act, nor shall any payment for the Vandalia Water District's acquisition of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction be required by reason of that succession.

(h) All ordinances, rules, and regulations adopted by the former Vandalia Irrigation District in effect immediately preceding January 1, 2009, shall remain in effect and shall be fully enforceable unless amended or repealed by the Vandalia Water District, or until they expire by their own terms. Any statute, law, rule, or regulation in force as of December 31, 2008, or that may hereafter be enacted or adopted with reference to the former Vandalia Irrigation District shall mean the Vandalia Water District.

(i) Any action by or against the former Vandalia Irrigation District shall not abate, but shall continue in the name of the Vandalia Water District, and the Vandalia Water District shall be substituted for the former Vandalia Irrigation District by the court in which the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(j) No contract, lease, license, permit, entitlement, bond, or any other agreement to which the former Vandalia Irrigation District is a party shall be void or voidable by reason of the enactment of this chapter, but shall continue in effect, with the Vandalia Water District assuming all of the rights, obligations, liabilities, and duties of the former Vandalia Irrigation District. Bonds issued by the former Vandalia Irrigation District shall become the indebtedness of the Vandalia Water District. Any continuing obligations or responsibilities of the former Vandalia Irrigation District for managing and maintaining bond issuances shall be transferred to the Vandalia Water District without impairment to any security contained in the bond instrument.

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 circumstances of the Vandalia Irrigation District in the County of Tulare. The facts constituting the special circumstances are:

The Vandalia Irrigation District has few registered voters who are both eligible and willing to hold office as members of the district's board of directors. Rather than create a new special exception to the Irrigation

District Law and permit landowners to vote and hold office on an irrigation district's board of directors, the Legislature prefers to convert the Vandalia Irrigation District into a California water district which is governed pursuant to a principal act that allows landowners to vote and hold office. Rather than require local officials, residents, and landowners to spend several months implementing the statutory procedures necessary for the concurrent dissolution of an irrigation district and the formation of a California water district, the Legislature prefers to implement this reorganization directly.

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.

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## CHAPTER 620

An act to amend Section 1936 of the Civil Code, and to amend Sections 170010, 170011, 170013, 170016, 170017, and 170018 of, and to add Sections 170035 and 170036 to, the Public Utilities Code, relating to airports.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

*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 a person or entity in the business of renting passenger vehicles to the public.

(2) "Renter" means any person in a 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 he or she is engaged in business activity with the renter, is a licensed driver, and satisfies the rental company's minimum age requirement, and (D)

a 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 either of the following purposes:

(i) To finance, design, and construct consolidated airport car rental facilities.

(ii) 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 shall 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 also shall 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 shall 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) Except as provided in subparagraph (D), 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.

(D) If a bond or other form of indebtedness is not used for financing, or the bond or other form of indebtedness used for financing has been paid, the Oakland International Airport may require the collection of a customer facility charge for a period of up to 10 years from the imposition of the charge for the purposes allowed by, and subject to the conditions imposed by, this section.

(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 (t) 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 shall 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 shall 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 shall 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) shall 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). An administrative charge shall not 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 shall not exceed the amount of the renter's liability under subdivision (c).

(2) A rental company shall 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 shall not assert or collect a 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 shall 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 shall 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 shall not recover from the renter or other authorized driver for an item described in subdivision (b) to the extent the rental company obtains recovery from another 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 another person.

(e) (1) Except as provided in subdivision (f), a damage waiver shall provide or, if not expressly stated in writing, shall be deemed to provide that the renter has no liability for a damage, loss, loss of use, or a cost or expense incident thereto.

(2) Except as provided in subdivision (f), every limitation, exception, or exclusion to a 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 the United States.

(3) An 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 that 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's 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 also shall 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 another term having similar meaning when offered for rental, or another vehicle having a manufacturer's suggested retail price of nineteen thousand dollars ($19,000) or less, the rate shall 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 shall not exceed fifteen dollars ($15).

For those rental vehicles older than the previous year's model-year, the rate shall not exceed nine dollars ($9).

(i) 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 shall not require the purchase of a damage waiver, optional insurance, or another optional good or service.

(2) A rental company shall not engage in any unfair, deceptive, or coercive conduct to induce a renter to purchase the damage waiver, optional insurance, or another 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 another 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 shall not seek to recover any portion of a claim arising out of damage to, or loss of, the rented vehicle by processing a credit card charge or causing a debit or block to be placed on the renter's credit card account.

(2) A rental company shall 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, a special district, or the San Diego County Regional Airport Authority formed pursuant to Division 17 (commencing with Section 170000) of the Public Utilities Code.

(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 transportation services and shall 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 the fees of which 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 another 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, that a renter must pay to hire or lease the vehicle for the period of time to which the rental rate applies. A rental company shall not charge in addition to the rental rate, taxes, a customer facility charge, if any, and a mileage charge, if any, any fee that is required to be paid by the renter as a condition of hiring or leasing the vehicle, including, but not limited to, required fuel or airport surcharges other than customer facility charges, nor a 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 shall not charge a 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 disclose clearly in that advertisement or quotation the terms of 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 disclose clearly the existence and amount of the customer facility charge. For 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 a 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 that he, she, or it is 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 shall not charge the renter an 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 shall not charge the renter an amount for the rental for the period after the renter notifies the rental company to pick up the vehicle.

(o) A rental company shall 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), 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 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 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) This subdivision does not prohibit 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 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) This subdivision does not prohibit 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 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) This subdivision does not prohibit 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 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) This subdivision does not prohibit 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 shall 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) A 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) An Internet Web site address, as well as a contact number or address, where the enrollee can learn of 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 the disclosures 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 170010 of the Public Utilities Code is amended to read:

170010. (a) The board of directors shall consist of nine members, appointed as follows:

(1) The Mayor of the City of San Diego shall appoint three persons, two of whom shall be subject to confirmation by the City Council of the City of San Diego. The persons appointed pursuant to this paragraph shall be residents of the City of San Diego and not less than one shall be an elected official of the City of San Diego. For purposes of this subdivision, an "elected official of the City of San Diego" means the Mayor and members of the City Council of the City of San Diego.

(2) The Chair of the Board of Supervisors of the County of San Diego shall appoint two persons, subject to confirmation by the Board of Supervisors of the County of San Diego. The persons appointed pursuant to this paragraph shall be residents of the County of San Diego and not less than one shall be a member of the Board of Supervisors of the County of San Diego.

(3) At a meeting of the city selection committee, the mayors of the east county cities shall appoint one person. The person appointed pursuant to this paragraph shall be a member of a city council of one of the east county cities or a resident of one of the east county cities.

(4) At a meeting of the city selection committee, the mayors of the north county coastal cities shall appoint one person. The person appointed pursuant to this paragraph shall be a member of a city council of one of the north county coastal cities or a resident of one of the north county coastal cities.

(5) At a meeting of the city selection committee, the mayors of the north county inland cities shall appoint one person. The person appointed pursuant to this paragraph shall be a member of a city council of one of the north county inland cities or a resident of one of the north county inland cities.

(6) At a meeting of the city selection committee, the mayors of the south county cities shall appoint one person. The person appointed

pursuant to this paragraph shall be a member of a city council of one of the south county cities or a resident of one of the south county cities.

(7) Meetings of a city selection committee are subject 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).

(b) The following persons shall be nonvoting, noncompensated, ex officio members of the board of directors, appointed by the Governor:

(1) The District Director of the Department of Transportation for the San Diego region.

(2) The Department of Finance representative on the State Lands Commission.

(c) The board of directors may provide for additional nonvoting, noncompensated members of the board of directors, including representatives of the United States Navy and the United States Marine Corps, each of whom may appoint an alternate to serve in his or her place.

(d) The Mayor of the City of San Diego shall appoint the chair of the authority board from among the members of the board of directors.

(e) To provide for an orderly transition, the appointments to the board of directors shall take effect as follows:

(1) The term of office for the board position appointed by the Mayor of the City of San Diego, whose term is set to expire on the first Monday in December 2008, is extended until January 31, 2009. This board position shall thereafter be filled pursuant to paragraph (1) of subdivision (a), and shall be the position that is not subject to confirmation by the City Council of the City of San Diego.

(2) The term of office for the board position appointed by the mayors of the north county inland cities is extended until January 31, 2009. This board position shall thereafter be filled pursuant to paragraph (5) of subdivision (a).

(3) The term of office for the board position appointed by the mayor of the most populous city as of the most recent decennial census, among the south county cities is extended until January 31, 2009. This board position shall thereafter be filled pursuant to paragraph (6) of subdivision (a).

(4) The term of office for the board position occupied by the Mayor of the City of San Diego, or a member of the city council designated by the mayor to be his or her alternate, shall expire on January 31, 2010. This board position shall thereafter be filled pursuant to paragraph (1) of subdivision (a).

(5) The term of office for the board position appointed by the mayors of the east county cities shall expire on January 31, 2010. This board

position shall thereafter be filled pursuant to paragraph (3) of subdivision (a).

(6) The term of office for the board position appointed by the Sheriff of the County of San Diego shall expire on January 31, 2010. This board position shall thereafter be filled pursuant to paragraph (2) of subdivision (a).

(7) The term of office for the board position appointed by the Mayor of the City of San Diego as a member of the executive committee is extended until January 31, 2011. This board position shall thereafter be filled pursuant to paragraph (1) of subdivision (a).

(8) The term of office for the board position appointed by the Governor is extended until June 30, 2011. This board position shall thereafter be filled pursuant to paragraph (2) of subdivision (a), with the expiration of the initial appointment for this board position expiring on the first Monday in February 2014.

(9) The term of office for the board position appointed by the mayors of the north county coastal cities is extended until January 31, 2011. This board position shall thereafter be filled pursuant to paragraph (4) of subdivision (a).

SEC. 3. Section 170011 of the Public Utilities Code is amended to read:

170011. (a) Except as provided in subdivision (b) and subdivision (e) of Section 170010, the term of office of a member of the board of directors appointed pursuant to subdivision (a) of Section 170010 is three years or until his or her successor qualifies and takes office whichever date occurs last. Members of the board of directors shall take office at noon on the first Monday in February following their appointment.

(b) If a member of the board of directors is appointed to be a member as a result of holding another public office and that person no longer holds that other public office, then that person shall no longer serve on the board of directors and a vacancy shall exist.

(c) Any vacancy in the office of a member of the board of directors shall be filled promptly pursuant to Section 1779 of the Government Code. Any person appointed to fill a vacant office shall serve the balance of the unexpired term. If a member of the board of directors serving a term extended pursuant to subdivision (e) of Section 170010 leaves office prior to the expiration of his or her term, the vacancy shall be filled for the balance of the unexpired term pursuant to subdivision (a) of Section 170010, except if a vacancy occurs for the Governor's appointment to the board of directors before June 30, 2011, the Governor shall make the appointment to fill the vacant office for the balance of the unexpired term.

SEC. 4. Section 170013 of the Public Utilities Code is amended to read:

170013. (a) The board of directors shall govern the authority.

(b) The board of directors shall establish policies for the operation of the authority. The board of directors shall provide for the implementation of those policies which are the responsibility of the authority's chief executive officer.

(c) All members of the board of directors shall exercise their independent judgment on behalf of the interests of the residents, property owners, and the public within San Diego County as a whole in furthering the purposes and intent of this division. The members of the board of directors shall represent the interests of the public as a whole and not solely the interests of the local officials who appointed them to the board of directors.

(d) The board of directors shall have a three-member executive committee. The members of the executive committee shall be the following:

(1) The chair of the authority's board of directors.

(2) A member of the board of directors appointed to the executive committee by board members appointed by the Chair of the Board of Supervisors of the County of San Diego.

(3) A member of the board of directors appointed to the executive committee by board members appointed by any of the city selection committees.

(e) The board of directors shall have a seven-member audit committee. The members of the audit committee shall consist of four members of the board of directors appointed by the board and the three public members appointed pursuant to Section 170018.

SEC. 5. Section 170016 of the Public Utilities Code is amended to read:

170016. (a) The board of directors may adopt and enforce rules and regulations for the administration, maintenance, operation, and use of its facilities and services.

(b) A person who violates a rule, regulation, or ordinance adopted by the board of directors is guilty of a misdemeanor punishable pursuant to Section 19 of the Penal Code, or an infraction under the circumstances set forth in paragraph (1) or (2) of subdivision (d) of Section 17 of the Penal Code.

(c) A rule, regulation, or ordinance of the authority may be enforced in an administrative action. A civil penalty may be imposed if the administrative action results in a finding that a violation has taken place.

(d) The authority may employ necessary personnel to enforce this section.

SEC. 6. Section 170017 of the Public Utilities Code is amended to read:

170017. (a) The board of directors may provide, by ordinance or resolution, that each of its members may receive compensation in an amount not to exceed two hundred dollars ($200) for each day of service. A member of the board of directors shall not receive compensation for more than eight days of service a month. A member of the board of directors shall not receive compensation for being present at more than one meeting, hearing, event, or training program on each day of service. A board member shall be present for at least half of the time set for the meeting, or for the duration of the meeting, whichever is less, in order to be eligible for compensation.

(b) By a two-thirds vote of the majority, the board of directors may, by ordinance or resolution, modify the amount of compensation provided pursuant to subdivision (a).

(c) The board of directors, by ordinance or resolution, may provide for the chair to receive an amount, not to exceed five hundred dollars ($500) a month, in addition to all other compensation provided pursuant to this section.

(d) The board of directors may provide, by ordinance or resolution, that its members may receive their actual and necessary traveling and incidental expenses incurred while on official business. Reimbursement of these expenses is subject to Article 2.3 (commencing with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, except that the provisions of this section shall prevail over the provisions of Section 53232.1 of the Government Code to the extent of any conflict.

(e) The members of the board of directors shall not receive, in compensation, any benefits permitted to be paid to members of legislative bodies pursuant to Chapter 2 (commencing with Section 53200) of Part 1 of Division 2 of Title 5 of the Government Code. This subdivision does not prohibit a member of the board of directors from electing to participate in a plan of health and welfare benefits if the costs of those benefits are paid by the board member and the authority incurs no expense other than those expenses associated with processing the application of the board member seeking the benefits.

(f) A member of the board of directors may waive any or all of the payments permitted by this section.

(g) For the purposes of this section, a "day of service" means any of the following:

(1) A meeting of the authority conducted pursuant 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).

(2) Representation of the authority at a public event, if the board of directors has previously approved the member's representation at a board of directors' meeting and the member delivers a written report to the board of directors regarding the member's representation at the next board of directors' meeting following the public event.

(3) Representation of the authority at a public meeting or a public hearing conducted by another public agency, if the board of directors has previously approved the member's representation at a board of directors' meeting and the member delivers a written report to the board of directors regarding the member's representation at the next board of directors' meeting following the public meeting or public hearing.

(4) Representation of the authority at a meeting of a public benefit nonprofit corporation on whose board the authority has membership, if the board of directors has previously approved the member's representation at a board of directors' meeting and the member delivers a written report to the board of directors regarding the member's representation at the next board of directors' meeting following the corporation's meeting.

(5) Participation in a training program on a topic that is directly related to the authority, if the board of directors has previously approved the member's participation at a board of directors' meeting, and the member delivers a written report to the board of directors regarding the member's participation at the next board of directors' meeting following the training program.

(6) Representation of the authority at an official meeting, if the board of directors has previously approved the member's representation at a meeting of the board of directors and the member delivers a written report to the board of directors regarding the member's representation at the next meeting of the board of directors following the official meeting.

SEC. 7. Section 170018 of the Public Utilities Code is amended to read:

170018. (a) On or before July 1, 2008, the board of directors shall expand the membership of the Audit Committee, a standing committee of the board of directors consisting of four board members, to include three members of the public who shall be voting members. The public members shall be appointed by the board of directors for three-year terms commencing July 1, 2008. To provide for staggered terms, the initial term of one of the public members shall be one year, the initial term of one of the public members shall be two years, and the initial term of one of the public members shall be three years.

(b) The board of directors shall select the three public members from among the following categories of persons, with no more than one appointee from each category at any one time:

(1) A professional with experience in the field of public finance and budgeting.

(2) An architect or civil engineer licensed to practice in this state.

(3) A professional with experience in the field of real estate or land economics.

(4) A person with experience in managing construction of large-scale public works projects.

(5) A person with public or private sector executive level decisionmaking experience.

(6) A person who resides within the airport influence area of the San Diego International Airport (Lindbergh Field).

(7) A person with experience in environmental justice as it pertains to land use.

(c) The board of directors may appoint other persons to serve as nonvoting, noncompensated, ex officio members on the Audit Committee.

(d) In appointing the public members of the Audit Committee, the board of directors shall provide for selection policies, appointment procedures, conflict-of-interest policies, length-of-term policies, and policies for providing compensation, if any.

(e) The Audit Committee shall serve as a guardian of the public trust, acting independently and charged with oversight responsibilities for reviewing the authority's internal controls, financial reporting obligations, operating efficiencies, ethical behavior, and regular attention to cashflows, capital expenditures, regulatory compliance, and operations.

(f) The Audit Committee shall meet a minimum of four times per year and shall, at a minimum, do all the following:

(1) Regularly review the authority's accounting, audit, and performance monitoring processes.

(2) At the time of contract renewal, recommend to the appropriate committee and the board of directors its nomination for an external auditor and the compensation of that auditor, and consider at least every three years, whether there should be a rotation of the audit firm or the lead audit partner to ensure continuing auditor independence.

(3) Advise the appropriate committee and the board of directors regarding the selection of the auditor.

(4) Be responsible for oversight and monitoring of internal and external audit functions, and monitoring performance of, and internal compliance with, authority policies and procedures.

(5) Be responsible for overseeing the annual audit by the external auditors and any internal audits.

(6) Make recommendations to the full board regarding paragraphs (1) to (5), inclusive.

(g) An affirmative vote by at least five members of the Audit Committee shall be required for approval of the annual internal and external audits, including performance monitoring, the auditor's annual audit plan for each fiscal year submitted to the board for approval, and actions recommending or approving debt financing for the authority.

SEC. 8. Section 170035 is added to the Public Utilities Code, to read:

170035. The authority is a local agency for purposes of the California Disaster Assistance Act (Chapter 7.5 (commencing with Section 8680) of Division 1 of Title 1 of the Government Code).

SEC. 9. Section 170036 is added to the Public Utilities Code, to read:

170036. The authority may act as a city police department, city, local government, or public agency for the purposes of Chapter 4 (commencing with Section 2080) of Title 6 of Part 4 of Division 3 of the Civil Code.

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## CHAPTER 621

An act to add Section 13515.35 to the Penal Code, relating to peace officers.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 13515.35 is added to the Penal Code, to read:

13515.35. (a) The commission shall, upon the next regularly scheduled review of a training module relating to persons with disabilities, create and make available on DVD and may distribute electronically a course on how to recognize and interact with persons with autistic spectrum disorders. This course shall be designed for, and made available to, peace officers who are first responders to emergency situations.

(b) The training course shall be developed by the commission in consultation with the Department of Developmental Services and appropriate community, local, or other state organizations and agencies that have expertise in the area of autism spectrum disorders. The commission shall make the course available to law enforcement agencies in California.

(c) In addition to the duties contained in subdivisions (a) and (b), the commission shall distribute, as necessary, a training bulletin via the

Internet to law enforcement agencies participating in the commission's program on the topic of autism spectrum disorders.

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## CHAPTER 622

An act to amend Section 40600 of, and to add Section 40600.5 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 40600 of the Health and Safety Code is amended to read:

40600. (a) The San Joaquin Valley Unified Air Pollution Control District formed by the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare pursuant to Chapter 3 (commencing with Section 40150), and consisting of the Counties of Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare, and that portion of the County of Kern that is within the San Joaquin Valley Air Basin, is a single integrated agency with all staff under one centralized management structure that is able to implement programs on a basinwide basis, and has all of the following:

(1) An individual air pollution control officer who is responsible for the issuance of all permits by the unified district.

(2) A single budget for the unified district with resources allocated based on the program needs of the San Joaquin Valley Air Basin.

(3) A uniform fee structure.

(4) Three hearing boards established pursuant to Section 40800. One hearing board shall serve the northern region, one shall serve the central region, and one shall serve the southern region. Identical policies governing the operation of each hearing board shall be established by the unified district board and shall be binding upon each hearing board.

(5) A citizen's advisory committee.

(b) Rules and regulations adopted by the San Joaquin Valley Unified Air Pollution Control District are binding on all counties within the unified district. The unified district shall enforce all permits issued by the unified district and all permits issued by the individual county districts prior to formation of the unified district. The unified district shall review, revise, adopt, and implement any air pollution control plans required within the San Joaquin Valley Air Basin by state and federal law.

(c) Notwithstanding any other provision of law, the San Joaquin Valley Unified Air Pollution Control District shall be governed by a district board composed of 15 voting members, appointed as follows:

(1) Eight members, one of whom shall be appointed by each of the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare. The board of supervisors of each of those counties shall, by majority vote, appoint one of its members to serve as a member of the district board.

(2) Five city council members appointed by the special city selection committee created pursuant to Section 40600.5. The special city selection committee shall not appoint more than one city council member representing a city located in the same county. Of the five city council members appointed pursuant to this paragraph, three shall be from a city having a population of less than 100,000, with one member selected from the northern region, one from the central region, and one from the southern region of the district. The other two city council members appointed pursuant to this paragraph shall be from a city having a population of 100,000 or more, with each member selected from different regions of the district.

(3) The terms of office for members appointed pursuant to paragraph (2) after April 1, 2007, shall be three years.

(4) Two public members appointed by the Governor, with the advice and consent of the Senate, as follows:

(A) One public member who is a physician, actively practicing within the district, whose daily practice or research specialty lies in the health effects of air pollution on vulnerable populations.

(B) One public member who has medical or scientific expertise in the health effects of air pollution.

(5) The terms of office for the members initially appointed pursuant to subparagraphs (A) and (B) of paragraph (4) shall be as follows:

(A) For the member appointed pursuant to subparagraph (A) of paragraph (4), the term shall be four years.

(B) For the member appointed pursuant to subparagraph (B) of paragraph (4), the term shall be two years.

(6) After the initial term of appointment, the terms of office for the members appointed pursuant to subparagraphs (A) and (B) of paragraph (4) shall be four years.

(d) Each member shall be appointed on the basis of his or her demonstrated interest and proven ability in the field of air pollution control and their understanding of the needs of the general public in connection with air pollution problems of the San Joaquin Valley Air Basin.

(e) Each member shall be appointed on the basis of his or her ability to attend substantially all meetings of the district board, to discharge all duties and responsibilities of a member of the district board on a regular basis, and to participate actively in the affairs of the district. A member shall not designate an alternate for any purpose or otherwise be represented by another person in his or her capacity as a member of the district board.

(f) All members shall be residents of the district.

(g) Any vacancy in the office of a member of the district board shall be filled promptly by the appointing authority.

(h) As used in this section, the following terms have the following meanings:

(1) "Central region" means the Counties of Fresno, Kings, and Madera.

(2) "Northern region" means the Counties of Merced, San Joaquin, and Stanislaus.

(3) "Southern region" means the Counties of Kern and Tulare.

SEC. 2. Section 40600.5 is added to the Health and Safety Code, to read:

40600.5. (a) The special city selection committee is hereby created to appoint city council members to the district board. The membership of the special city selection committee shall consist of one member from each city council in each city located within the territory of the unified district, selected by a majority of each city council. The members of the special city selection committee shall serve without receiving compensation from the unified district, but a member may be compensated by the city that he or she represents.

(b) If a member of the special city selection committee is unable to attend a meeting of the special city selection committee, he or she shall designate a member of that member's city council to attend and vote at the meeting in his or her place.

(c) A majority of the total membership of the special city selection committee shall constitute a quorum for the transaction of business. A majority vote of the total membership of the special city selection committee is required for the special city selection committee to take action.

(d) The special city selection committee shall appoint from among its members a chair, one or more vice chairs, and any other officers that it deems necessary. The chair shall preside over the meetings of the special city selection committee and the vice chair shall preside in the chair's absence.

(e) The special city selection committee may adopt rules for the conduct of its activities. These rules may include, but are not limited to,

the procedures for nominating and appointing city council members to the district board.

(f) The meetings of the special city selection committee are subject 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).

(g) The unified district's air pollution control officer shall act as the special city selection committee's permanent secretary and maintain the records of the actions of the special city selection committee. The minutes of the special city selection committee shall record the aye and no votes taken by its members for all motions and appointments.

(h) At least two weeks before the date of any meeting of the special city selection committee, the air pollution control officer shall give notice of the meeting to each city that is located within the territory of the unified district. The notice shall contain the time, date, and place of the meeting, along with a brief general description of the business to be transacted or discussed at the meeting. The air pollution control officer shall also give notice to any person who has filed a written request for notice. The air pollution control officer may give notice in any other manner that he or she deems necessary or desirable.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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## CHAPTER 623

An act to amend Sections 5640, 5641, 5642, 5643, 5644, 5645, 5646, 5647, 5648, 5649, 5650, and 5653 of, to amend the heading of Chapter 3.3 (commencing with Section 5640) of Division 5 of, to add Sections 5643.6 and 5652.5 to, and to repeal Section 5651 of, the Public Resources Code, relating to parks and recreation.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. It is the intent of the Legislature to make available to the Department of Parks and Recreation, upon appropriation, four hundred million dollars ($400,000,000) provided by subdivision (b) of

Section 75065 of the Public Resources Code that shall be used to award competitive grants to critically underserved communities pursuant to the Statewide Park Development and Community Revitalization Act of 2008 (Chapter 3.3 (commencing with Section 5640) of Division 5 of the Public Resources Code).

SEC. 2. The heading of Chapter 3.3 (commencing with Section 5640) of Division 5 of the Public Resources Code is amended to read:

CHAPTER 3.3. THE STATEWIDE PARK DEVELOPMENT AND COMMUNITY REVITALIZATION ACT OF 2008

SEC. 3. Section 5640 of the Public Resources Code is amended to read:

5640. This chapter shall be known, and may be cited, as the Statewide Park Development and Community Revitalization Act of 2008.

SEC. 4. Section 5641 of the Public Resources Code is amended to read:

5641. The Legislature hereby finds and declares as follows:

(a) The program created by this chapter will finance the acquisition and development of parks and recreation areas and facilities in the communities that are currently least served by park and recreation facilities by emphasizing the creation of park space and recreational opportunities and the expansion of park accessibility to underserved communities. These underserved communities are often the same areas that suffer most from high unemployment and destructive or unlawful conduct by youth.

(b) The program established by this chapter will encourage community participation in, and a greater sense of responsibility toward, new parks and recreation areas and facilities, which will help keep them clean and safe and which will enhance community pride and sustain neighborhood vitality.

(c) New parks and facilities will provide safe recreational opportunities for children, positive outlets, and secure sites for youth, while also meeting the special recreational and social needs of senior citizens and other population groups.

(d) California suffers from an acute shortage of parks throughout the state, particularly in poor communities.

(e) It is therefore the intent of the Legislature that the funds made available through the Statewide Park Development and Community Revitalization Act of 2008 be used to award competitive grants statewide to advance certain goals and policies, including, but not limited to, assisting in the acquisition of park space or the development of park and recreation opportunities to critically underserved communities. It is

further the intent of the Legislature that this be accomplished by delivering project funds to neighborhood and regional park projects in areas of highest need, while offering technical assistance to all applicants and potential applicants for grant preparation to encourage full participation in the grant program.

SEC. 5. Section 5642 of the Public Resources Code is amended to read:

5642. As used in this chapter, the following terms shall have the following meanings:

(a) "City" means a city or the City and County of San Francisco.

(b) "Critically underserved community" means a community that meets either of the following:

(1) Has less than three acres of usable parkland per 1,000 residents.

(2) Is a disadvantaged community, as defined by subdivision (g) of Section 75005, and can demonstrate to the department that the community has insufficient or no park space and recreation facilities.

(c) "District" means one of the following:

(1) A recreation and park district formed under Chapter 4 (commencing with Section 5780).

(2) A public utility district formed under Division 7 (commencing with Section 15501) of the Public Utilities Code in a nonurbanized area that employs a full-time park and recreation director and offers year-round park and recreation services on lands and facilities owned by that district.

(3) A memorial district formed under Chapter 1 (commencing with Section 1170) of Division 6 of the Military and Veterans Code that employs a full-time park and recreation director and offers year-round park and recreation services on lands and facilities owned by that district.

(4) The Malaga County Water District exercising powers authorized under Section 31133 of the Water Code.

(5) A community service district formed under Division 3 (commencing with Section 61000) of Title 6 of the Government Code in a nonurbanized area that is authorized to provide public recreation as specified in subdivision (e) of Section 61100 of the Government Code.

(6) A county service area or zone in the county service area, within the County of San Bernardino that is empowered to provide public park and recreation services pursuant to Chapter 2.2 (commencing with Section 25210.1) of Part 2 of Division 2 of Title 3 of the Government Code, that is actually providing public park and recreation services that was reorganized prior to January 1, 1987, from a park and recreation district to a county service area or zone.

(7) A regional park district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3.

(d) "Facilities" includes, but is not limited to, places for organized team sports, outdoor recreation, and informal turf play; nonmotorized recreational trails; permanent play structures; landscaping; community gardens; places for passive recreation, enjoyment of scenic open space, nature appreciation and study, and outdoor education; multipurpose structures designed to meet the special recreational, educational, vocational, and social needs of youth, senior citizens, and other population groups; recreation areas created by the redesign and retrofit of urban freeways; community swimcenters; regional recreational trails; and infrastructure and other improvements that support these facilities.

(e) Notwithstanding subdivision (k) of Section 75005, "nonprofit organization" means any nonprofit entity qualified to do business in California, qualified under Section 501(c)(3) of Title 26 of the United States Code, and that has among its primary purposes the preservation, protection, or enhancement of land or water resources in their natural, scenic, historical, agricultural, forested, or open-space condition or use, or the provision of conservation and environmental education and other recreational, vocational, and educational services to youth.

SEC. 6. Section 5643 of the Public Resources Code is amended to read:

5643. (a) The Department of Parks and Recreation shall establish a local assistance program to distribute grants to the most critically underserved communities across the state, on a competitive basis, to eligible cities, counties, joint powers authorities, districts, and nonprofit organizations for the acquisition or development, or both, of property for parks and recreation areas and facilities.

(b) The Department of Parks and Recreation shall encourage joint partnership projects, if available, between two or more agencies, including, but not limited to, school districts, nonprofit organizations, and local governmental agencies in order to enhance investment of public resources.

SEC. 7. Section 5643.6 is added to the Public Resources Code, to read:

5643.6. It is the intent of the Legislature that the local assistance program created by this chapter fund both neighborhood parks and regional parks and trails.

SEC. 8. Section 5644 of the Public Resources Code is amended to read:

5644. Eligible applicants for grants pursuant to this chapter are cities, counties, regional park districts, districts, joint powers authorities, and nonprofit organizations.

SEC. 9. 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 will create a new park where one currently does not exist, a new recreational facility, or new recreational opportunity.

(b) The applicant demonstrates to the satisfaction of the department that the project is located in a critically underserved community, or in the case of a regional park or trail, the project is within close proximity to one or more critically underserved communities.

(c) The proposed project is designed to provide efficient use of water and other natural resources, which may include, but is not limited to, projects that use climate-appropriate vegetation, reduce stormwater runoff, capture and store stormwater, minimize the use of pesticides and fertilizers, incorporate pervious surfaces into project design, or use construction methods that use recycled materials and minimize construction waste.

(d) The amount of the grant applied for, together with any matching contribution, will meet all the costs of acquiring or developing, or both, the new park or facilities, or new recreational opportunities, and when construction of the project is completed, the new park or facility will be fully usable by the residents of the critically underserved community.

(e) The project applicant or partnering entities will provide for public safety and recreational opportunities following project completion.

(f) Following project completion, the project's weekday and weekend operating hours will accommodate the needs of the community residents. Entrance or membership fees shall not significantly deter use by community residents. Pursuant to receiving these funds, fees cannot be limited to nonresidents of the community in which the park space or recreational opportunity is located.

SEC. 10. Section 5646 of the Public Resources Code is amended to read:

5646. In evaluating applications for grants that meet the requirements of Section 5645, the department shall assign higher priority to applications, for each of the following criteria satisfied:

(a) The project will acquire new parks, develop new parks, expand overused parks, or create a new recreational opportunity in a community that has demonstrated insufficient or no park space and recreation facilities. In evaluating the deficiency level of park and recreation facilities in a critically underserved community, the department shall consider the number of acres of usable parkland per 1,000 residents.

(b) The critically underserved community has a significant percent of persons living at or below the poverty level.

(c) The project will enhance workforce development and employment opportunities, utilize members of the California Conservation Corps or certified local conservation corps, if available, or accommodate outdoor learning opportunities for school pupils or at-risk youth in the service area.

(d) The project applicant has actively involved the public and community-based groups in the selection and planning of the project.

SEC. 11. Section 5647 of the Public Resources Code is amended to read:

5647. (a) The department shall adopt guidelines to amplify or clarify the criteria specified in this chapter, and may adopt additional criteria, to supplement those criteria, but the scope of the additional criteria shall be limited to providing additional guidance in selecting projects in areas that have the greatest deficiencies in parks and facilities.

(b) The department shall develop a procedural guide for the administration of this chapter and the guidance of applicants.

(c) The department shall solicit written comments and hold public hearings at convenient locations throughout the state on any guideline or procedural guide that is proposed to be adopted or developed pursuant to this section.

(d) The department shall offer technical assistance to all applicants and potential applicants for grant preparation in order to encourage full participation in the grant program.

(e) The department shall allow grantees to spend no more than 25 percent of the grant amount for project planning, design, compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)), and other incidental, but directly related, construction or acquisition costs.

(f) The department shall adopt the guidelines or develop the procedural guide on or before April 1, 2009.

(g) Any regulation or procedural guide adopted or developed pursuant to this section shall not be subject to the review or approval of the Office of Administrative Law or to any other requirement of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

SEC. 12. Section 5648 of the Public Resources Code is amended to read:

5648. (a) The local assistance program created by this chapter is intended to include grants for the acquisition or development, or both, of parcels of property of any size that will serve residents of a critically underserved community and otherwise meet the requirements of this chapter. The department shall not assign an application a lower priority

on the basis that the application proposes the acquisition of a city lot or other small parcel.

(b) A grant may be expended to acquire the fee title, a leasehold, or other interest in real property. If an application proposes to acquire less than fee title, the applicant shall demonstrate in the application, to the satisfaction of the department, that the proposed project will provide public benefits that are commensurate with the type and duration of the interest in real property to be acquired.

SEC. 13. Section 5649 of the Public Resources Code is amended to read:

5649. (a) An eligible nonprofit organization may apply for a grant on its own behalf or on behalf of an eligible city, county, or district pursuant to a contract with that city, county, or district to acquire and develop the park or recreation area. The application may include a copy of the contract and the resolution or other authorization for the contract. The contract shall specify arrangements for the long-term management and operation of the park or recreation area.

(b) An eligible applicant may apply for a grant to develop state-owned parklands if the applicant manages those lands under a contract with the state without state reimbursement for management costs.

SEC. 14. Section 5650 of the Public Resources Code is amended to read:

5650. (a) Every applicant for a grant pursuant to this chapter and the entity that will operate and maintain the property, if that entity is different than the applicant, shall agree to comply with all of the following requirements:

(1) To operate and maintain the property developed pursuant to this chapter so that it is usable by residents of the targeted critically underserved community. With the approval of the department, the grant recipient, or its successor in interest in the property, may transfer its property interest and the responsibility to operate and maintain the property, in accordance with the terms of the grant and any applicable law, to a public agency or nonprofit organization that is able to operate and maintain the property in perpetuity. Any attempt to make a transfer in violation of this subdivision is void.

(2) To use the property only for the purposes for which the grant was made and to make no other use or sale or other disposition of the property, except as authorized by specific act of the Legislature. If the use of the property is changed to a use that is not permitted by the terms of the grant, or if the property is sold or otherwise disposed of, the grant recipient shall reimburse the state an amount equal to the amount of the grant, the fair market value of the land and any improvements constructed with the grant, or the proceeds from the sale or other disposition,

whichever amount is greatest. If the property that is sold or otherwise disposed of is less than the entire interest in the property funded with the grant, the grant recipient shall reimburse the state an amount equal to either the proceeds from the sale or other disposition of the interest or the fair market value of the interest sold or otherwise disposed of, whichever amount is greater.

(b) In lieu of seeking reimbursement pursuant to paragraph (2) of subdivision (a), the department may impose restrictions on the use of public park property identical to the requirements for the preservation of public parks set forth in the Public Park Preservation Act of 1971 (Chapter 2.5 (commencing with Section 5400)) with respect to any property used, sold, or otherwise disposed of in a manner not permitted by the terms of the grant.

SEC. 15. Section 5651 of the Public Resources Code is repealed.

SEC. 16. Section 5652.5 is added to the Public Resources Code, to read:

5652.5. A grant recipient shall encumber grant moneys within three years of the date of the approval of the grant and grant moneys shall be liquidated within eight years from the date of appropriation.

SEC. 17. Section 5653 of the Public Resources Code is amended to read:

5653. Five business days after awarding a grant pursuant to this chapter, the department shall make information available on the department's Internet Web site regarding the status of the grant and other relevant information, including, but not limited to, a geographic breakdown of awarded grants and the overall amount applied for by all grant applicants, the total amount applied for by awarded grant applicants, each award amount, and a brief description of the funded projects.

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## CHAPTER 624

An act to add Section 25205 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Many alcoholic beverages currently available in California are packaged and labeled in a manner that is similar to packaging and labels

used for nonalcoholic beverages and products like energy drinks, colas, sodas, fruit drinks, and gelatins.

(b) This packaging and labeling practice has the potential for confusing underage youth, parents, teachers, law enforcement personnel, retail employers that sell alcoholic beverages, and other members of the public regarding the alcoholic content of these beverages.

(c) Ensuring that underage youth, parents, teachers, law enforcement personnel, retail employees that sell alcoholic beverages, and other members of the public are able to readily discern the fact that a particular product contains alcohol and the amount of alcohol the beverage contains is a high priority for California. California currently regulates information, including information regarding the contents of the container, located on containers of alcoholic beverages sold within the state.

(d) The purpose of Section 25205 of the Business and Professions Code is to provide additional consumer information regarding the alcohol content on the container of specified alcoholic beverages as a means to reduce potential consumer confusion and is not intended to provide health information or a warning.

SEC. 2. Section 25205 is added to the Business and Professions Code, to read:

25205. (a) Any container of beer or alcoholic beverage, other than sake, that is approved for labeling as a malt beverage under the Federal Alcohol Administration Act (27 U.S.C. Sec. 201 et seq.), that derives 0.5 percent or more of its alcoholic content by volume from flavors or other ingredients containing distilled alcohol and that is sold by a manufacturer or importer to a wholesaler or retailer within this state on or after July 1, 2009, shall bear a distinctive, conspicuous, and prominently displayed label, or firmly affixed sticker, containing the following information:

(1) The percentage alcohol content of the beverage by volume.

(2) The phrase "CONTAINS ALCOHOL" in bold capitalized letters at least three millimeters in height and that is distinguishable from the background and placed conspicuously in either horizontal or vertical lettering on the front of the brand label. A firmly affixed sticker need not be placed on the brand label provided it is placed on the front of the container.

(b) The department may require licensees to submit information as it determines to be necessary, and may adopt regulations as may be required, to implement and enforce this section. The regulations shall be for the limited purpose of ensuring compliance with this section and shall not place additional requirements on the label or sticker required by this section. Any information required to be provided by any licensee

to the department pursuant to this section shall be considered confidential and corporate proprietary information. This information shall not be subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(c) It is the exclusive purpose of this section to identify and specially label products described in subdivision (a) and not to classify these specially labeled products. Nothing in this section shall be construed to permit the classification of any product in a manner that is inconsistent with the definitions of beer, wine, and distilled spirits set forth in Chapter 1 (commencing with Section 23000) of this division.

SEC. 3. The Legislature finds and declares that Section 2 of this act, which adds Section 25205 to the Business and Professions Code, imposes a limitation on the public's rights of access to the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to facilitate manufacturer and importer participation in the labeling program, it is necessary to protect the confidentiality of trade secrets.

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.

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## CHAPTER 625

An act to amend Section 18901.5 of, and to add Section 18900.1 to, the Welfare and Institutions Code, relating to food stamps.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 18900.1 is added to the Welfare and Institutions Code, to read:

18900.1. (a) The State Department of Social Services shall propose a new name for the Food Stamp Program in California, by July 1, 2009. The department shall convene stakeholders to develop the new name, as provided in subdivision (b). The new name shall reflect one or more of the following concepts:

(1) That food stamps are no longer delivered by stamps.

(2) That food stamps support healthy living.

(3) That food stamps are important to agriculture in California.

(4) That food stamps would be better viewed as a health and nutrition program than as a welfare program.

(b) The department shall convene a diverse group of stakeholders to develop the new name, including representatives from agencies working to improve health and reduce diet-related illnesses.

(c) The department is encouraged to test the impact the new name would have on improving the perception of the program among low-income residents, and on increasing program participation.

SEC. 2. Section 18901.5 of the Welfare and Institutions Code is amended to read:

18901.5. (a) The department shall establish a program of categorical eligibility for food stamps in accordance with Section 5(a) of the federal Food Stamp Act of 1977 (7 U.S.C. Sec. 2014(a)), and implementing regulations, to improve nutrition and promote the retention and development of assets and resources for needy households who meet all other Food Stamp Program eligibility requirements. Categorical eligibility for food stamps shall also apply to any individual who is a member of a household that will be receiving or is eligible to receive cash assistance under Part 5 (commencing with Section 17000), or eligible to receive food assistance under Chapter 10.1 (commencing with Section 18930).

(b) The director shall implement the program established pursuant to this section only with the appropriate federal authorization and if implementation would not result in the loss of federal financial participation.

(c) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and Section 10554 of the Welfare and Institutions Code, until emergency regulations are filed with the Secretary of State, the State Department of Social Services may implement the changes made by subdivision (a) through all-county letters or similar instructions from the director. The department shall adopt emergency regulations as necessary to implement those amendments on or before January 1, 2010. The program established pursuant to this section shall be established on or before July 1, 2009,

and shall be fully implemented as to new applicants for food stamps on or before January 1, 2010.

(d) The department shall adopt regulations to implement this section. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for this purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. The emergency regulations shall be exempt from review by the Office of Administrative Law. The department shall adopt final regulations implementing the program authorized by this section on or before July 1, 2010.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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## CHAPTER 626

An act to add Sections 75506.7 and 75506.8 to the Government Code, relating to judges' retirement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 75506.7 is added to the Government Code, to read:

75506.7. (a) A judge may receive service credit for the purposes of retirement under Section 75522 or 75560, or for purposes of calculating survivor benefits under Section 75590, for the time during which he or she was absent from his or her position as a judge by reason of service with the uniformed services, if the judge returns to judicial office within six months of separation from an eligible period of service in the uniformed services, as prescribed in Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, and the judge elects and satisfies the requirements of subdivision (b).

(b) In order to receive service credit under subdivision (a) a judge shall contribute an amount equal to the member contributions that would

have been made by the judge during the absence as required under Sections 75061 and 75602. The judge's contributions shall be made prior to the judge's retirement and shall be effective only if accompanied by a lump-sum payment of the contributions due for the period during which the judge was absent due to service with the uniformed services. The judge's payment of contributions shall not exceed the amount the judge would have been required to contribute had the judge not served in the uniformed services and remained in judicial office continuously throughout the eligible period of service in the uniformed services.

(c) Upon satisfaction of the requirements of subdivisions (a) and (b), the judge shall be credited with the service that would have accrued had the judge remained continuously employed and not undertaken service in the uniformed services.

(d) Upon satisfaction of the requirements of subdivisions (a) and (b), the judge shall receive the monetary credits that would have accrued under Section 75520 if the member had not served in the uniformed services and had remained in judicial office continuously.

(e) The system shall comply with Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, as that chapter may be amended from time to time.

(f) For the purposes of this section:

(1) "Uniformed services" means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

(2) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes: active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard, or a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the employment for the purpose of performing funeral honors duty as provided in Section 12503 of Title 10 or Section 115 of Title 32 of the United States Code.

SEC. 2. Section 75506.8 is added to the Government Code, to read:

75506.8. When a judge that satisfies the requirements of Section 75506.7 makes the contributions required to receive service credit for service with the uniformed services, the state shall contribute an amount equal to the contributions that would have been made by the state during the judge's absence. The state's contribution shall be based upon the

judge's compensation earnable and the contribution rates in effect at the commencement of the absence.

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 these provisions governing retirement service credits for judges as soon as possible, it is necessary that this act take effect immediately.

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## CHAPTER 627

An act to amend Section 25783 of the Public Resources Code, and to add Section 321.7 to the Public Utilities Code, relating to energy.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 25783 of the Public Resources Code is amended to read:

25783. The commission shall do all the following:

(a) Publish educational materials designed to demonstrate how builders may incorporate solar energy systems during construction as well as energy efficiency measures that best complement solar energy systems.

(b) Develop and publish the estimated annual electrical generation and savings for solar energy systems. The estimates shall vary by climate zone, type of system, size, life cycle costs, electricity prices, and other factors the commission determines to be relevant to a consumer when making a purchasing decision.

(c) Provide assistance to builders and contractors. The assistance may include technical workshops, training, educational materials, and related research.

(d) The commission shall annually conduct random audits of solar energy systems to evaluate their operational performance.

SEC. 2. Section 321.7 is added to the Public Utilities Code, to read:

321.7. (a) On or before January 1, 2010, and biennially thereafter, the commission, in consultation with the Independent System Operator and the State Energy Resources Conservation and Development Commission, shall study, and submit a report to the Legislature and the Governor, on the impacts of distributed energy generation on the state's

distribution and transmission grid. The study shall evaluate all of the following:

(1) Reliability and transmission issues related to connecting distributed energy generation to the local distribution networks and regional grid.

(2) Issues related to grid reliability and operation, including interconnection, and the position of federal and state regulators toward distributed energy accessibility.

(3) The effect on overall grid operation of various distributed energy generation sources.

(4) Barriers affecting the connection of distributed energy to the state's grid.

(5) Emerging technologies related to distributed energy generation interconnection.

(6) Interconnection issues that may arise for the Independent System Operator and local distribution companies.

(7) The effect on peak demand for electricity.

(b) In addition, the commission shall specifically assess the impacts of the California Solar Initiative program, specified in Section 2851 and Section 25783 of the Public Resources Code, the self-generation incentive program authorized by Section 379.6, and the net energy metering pilot program authorized by Section 2827.9.

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## CHAPTER 628

An act to add and repeal Article 9 (commencing with Section 69660) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, relating to student financial aid.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Article 9 (commencing with Section 69660) is added to Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, to read:

### Article 9. California Physician Assistant Loan Assumption Program

69660. (a) The Legislature finds and declares all of the following:

(1) There is a growing shortage of physician assistants and there is a need for qualified physician assistants throughout California.

(2) The physician assistant shortage is most serious in medically underserved areas.

(3) Many medically underserved areas have difficulty recruiting and retaining high-quality physician assistants.

(4) The rising costs of higher education, coupled with a shift in available financial aid from scholarships and grants to loans, make loan repayment options an important consideration in a student's decision to pursue a postsecondary education.

(5) The availability of financial aid and loan repayment assistance are important considerations for many students in making their educational decisions.

(b) It is, therefore, the intent of the Legislature that all of the following occur:

(1) The California Physician Assistant Loan Assumption Program be designed to encourage persons to become licensed physician assistants and work in medically underserved areas.

(2) That the enactment of this article accomplish all of the following:

(A) Provide outstanding postsecondary students with the assurance of financial assistance to encourage them to complete a physician assistant program, obtain a physician assistant license, and seek employment as a physician assistant in a medically underserved area.

(B) Provide persons who agree to become licensed physician assistants with the assurance of financial assistance to encourage them to complete the additional coursework necessary to become a licensed physician assistant.

(C) Identify medically underserved areas.

(3) All persons eligible to enter into agreements for loan assumption pursuant to this article be persons who need to complete training or coursework in order to become a licensed physician assistant, and who agree to work in a medically underserved area.

(4) Funding necessary for the administration of this article be included within the annual budget of the Student Aid Commission in an amount necessary to meet the student loan obligations incurred by the commission.

69661. The California Physician Assistant Loan Assumption Program is hereby established. The program shall assume the qualifying educational loans of physician assistants who agree to practice in designated medically underserved areas, as provided in this article.

69661.5. For the purposes of this article, the following terms have the following meanings:

(a) "Commission" means the Student Aid Commission.

(b) "Eligible institution" means a postsecondary institution that is determined by the Student Aid Commission to meet both of the following requirements:

(1) The institution is eligible to participate in state and federal financial aid programs.

(2) The institution maintains an accredited physician assistant program.

(c) "Medically undeserved area" means an area defined as a health professional shortage area in Part 5 of Subchapter A of Chapter 1 of Title 42 of the Code of Federal Regulations or an area of the state where unmet priority needs for physicians exist as determined by the California Healthcare Workforce Policy Commission pursuant to Section 128225 of the Health and Safety Code.

(d) "Program" means the California Physician Assistant Loan Assumption Program.

69662. (a) Any person enrolled in an eligible institution, may be eligible to enter into an agreement for loan assumption, to be redeemed pursuant to Section 69665 upon becoming employed as a licensed physician assistant.

(b) In order to be eligible to enter into an agreement for loan assumption, an applicant shall satisfy all of the following conditions:

(1) The applicant is enrolled in or admitted to a physician assistant program at an eligible institution.

(2) The applicant is currently enrolled in a program, or has been admitted to a program in which he or she will be enrolled, on at least a half-time basis, as determined by the eligible institution. The applicant shall agree to maintain satisfactory academic progress and a minimum of half-time enrollment, as defined by the participating eligible institution.

(A) Except as provided in subparagraph (B), if a program participant fails to maintain half-time enrollment as required by this article and, under the terms of the agreement pursuant to paragraph (2) of subdivision (b) of Section 69662, the loan assumption agreement shall be deemed invalid. The participant is excused from the half-time enrollment requirement if he or she is in his or her final term in school and has no additional coursework required to become a physician assistant.

(B) Notwithstanding subparagraph (A), a program participant shall be excused from the half-time enrollment requirement for a period not to exceed one calendar year, unless approved by the commission for a longer period, if a program participant becomes unable to maintain half-time enrollment due to any of the following:

(i) Serious illness, pregnancy, or other natural causes.

(ii) The participant is called to military active duty status.

(iii) A natural disaster prevents a program participant from maintaining half-time enrollment due to the interruption of instruction at the eligible institution.

(3) The person has submitted an application to participate in the program and has been recommended by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(4) The applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) Any educational loan program approved by the Student Aid Commission.

(5) The applicant has agreed to work full time for at least four consecutive years, or on a part-time basis for the equivalent of four full-time years, as a physician assistant in this state and in a designated medically underserved area.

(c) The agreements entered into each year pursuant to subdivision (b) shall be with applicants who need to complete training or coursework in order to become a licensed physician assistant and agree to practice at a site located in an area of the state where unmet priority needs exist for primary care family physicians, as determined by the California Healthcare Workforce Policy Commission. An agreement shall remain valid even if the primary medical care facilities at which the applicant is employed ceases to be listed as a medically underserved area after the applicant is employed there.

(d) A person participating in the program pursuant to this article shall not enter into more than one agreement under this article.

69663. (a) The commission shall accept nominations from eligible institutions received pursuant to this article.

(b) The commission shall choose from among those nominations of students enrolled at least half time in a physician assistant program with outstanding student loans, based upon criteria that may include, but not necessarily be limited to, all of the following:

(1) Length of time remaining in physician assistant program.

(2) Grade point average in physician assistant program.

(3) Number of graduate and undergraduate degrees the applicant has obtained.

69664. On January 1, 2009, and each January 1 thereafter, the California Healthcare Workforce Policy Commission shall furnish the commission with both of the following:

(a) A list of medically underserved areas.

(b) A list of eligible schools that qualify for this program.

69665. The commission shall commence loan assumption payments, as specified in Section 69666, upon verification that the participant has fulfilled all of the following:

(a) The participant has become a physician assistant licensed to practice in California.

(b) The participant has provided the equivalent of full-time employment as a physician assistant in a designated medically underserved area.

(c) The participant has met the requirements of the agreement and all other applicable conditions of this article.

69666. (a) The terms of a loan assumption granted under this article shall be as follows, subject to the specific terms of each agreement:

(1) After a program participant has completed one year of full-time employment pursuant to Section 69665, the commission shall assume up to five thousand dollars ($5,000) of the participant's outstanding liability under one or more of the designated educational loan programs.

(2) After a program participant has completed two consecutive years of full-time employment pursuant to Section 69665, the commission shall assume up to an additional five thousand dollars ($5,000) of the participant's outstanding liability under one or more of the designated educational loan programs, for a total loan assumption of up to ten thousand dollars ($10,000).

(3) After a program participant has completed three consecutive years of full-time employment pursuant to Section 69665, the commission shall assume up to a maximum of an additional five thousand dollars ($5,000) of the participant's outstanding liability under one or more of the designated educational loan programs, for a total loan assumption of up to fifteen thousand dollars ($15,000).

(4) After a program participant has completed four consecutive years of full-time employment pursuant to Section 69665, the commission shall assume up to a maximum of an additional five thousand dollars ($5,000) of the participant's outstanding liability under one or more of the designated educational loan programs, for a total loan assumption of up to twenty thousand dollars ($20,000).

(b) The commission may assume liability for loans approved by the commission and disbursed prior to the date of the program participant being licensed as a physician assistant.

(c) Loans with the highest interest rate shall be given assumption priority, then loans with the earliest deadlines, and then all other loans.

(d) The term of the loan assumption agreement shall be not more than 10 years from the date on which the agreement was executed by the program participant and the commission.

(e) A grace period for loan assumption under this program shall be established, as determined necessary by the commission, in consultation with the community of health professionals and representatives of the Health Professions Education Foundation, Physician Assistant Committee of the Medical Board of California, and the California Academy of Physician Assistants.

69667. (a) Except as provided in subdivision (b), if a program participant fails to complete a minimum of four consecutive years of service as a physician assistant on a full-time basis or the equivalent on a part-time basis in a medically underserved area of the state as required by this article, under the terms of the agreement pursuant to paragraph (5) of subdivision (b) of Section 69662, the participant shall assume full liability for all student loan obligations remaining after the commission's assumption of loan liability for the last year of qualifying service pursuant to Section 69662.

(b) Notwithstanding subdivision (a), a program participant shall be excused from the consecutive years of service requirement for a period not to exceed one calendar year, unless approved by the commission for a longer period, if a program participant becomes unable to complete one of the four consecutive years of service as a physician assistant on a full-time basis or the equivalent on a part-time basis due to any of the following:

(1) Serious illness, pregnancy, or other natural causes.

(2) The participant is called to military active duty status.

(3) A natural disaster prevents a program participant from maintaining half-time enrollment due to the interruption of instruction at the eligible institution.

(c) The commission shall make no further payments under the loan assumption agreement until the applicable service requirements specified in Section 69665 have been satisfied.

69668. The commission shall encourage physician assistant education programs in the state, whose students are eligible under this program, to distribute applications for loan assumption and refer them to the commission for selection.

69669. The commission shall administer this article and shall adopt rules and regulations for that purpose. In developing those rules and regulations, the commission shall solicit the advice of representatives of the Health Professions Education Foundation, Physician Assistant

Committee of the Medical Board of California, and the California Academy of Physician Assistants. The rules and regulations shall include, but need not be limited to, the development of projections for funding purposes. The commission shall adopt initial regulations for the program within 12 months of the appropriation of operational funds for the program.

69670. On or before January 1, 2012, and annually thereafter, the commission shall submit a report to the Legislature. The report shall include all of the following:

(a) The number of participants in the program.

(b) The locations where the participants practice or attend school.

(c) The amount expended for the program's operation and the amount collected in donations for the program.

69671. On or before January 1, 2013, the Legislative Analyst's Office, in consultation with the Health Professions Education Foundation, Physician Assistant Committee of the Medical Board of California, and the California Academy of Physician Assistants, shall submit a report to the Legislature that describes the experience of the program since its inception, evaluates its effectiveness in improving access to health care for underserved populations, and makes recommendations for maintaining or expanding its operation regarding all of the following:

(a) The approximate number of students enrolled in each physician assistant education program in the state.

(b) The approximate number of students who graduate annually from each physician assistant education program in the state.

(c) The average tuition and other associated expenses incurred by students who complete a physician assistant education program in the state.

(d) The average educational debt of a student who completes a physician assistant program in the state.

(e) The average salary range of a physician assistant employed in the state.

(f) Any other information that the Legislative Analyst's Office deems necessary to prepare an accurate report on the effectiveness of the program.

69672. (a) The California Physician Assistant Loan Assumption Program Fund is hereby established in the State Treasury.

(b) The commission shall accept private funds that are offered to the commission to support the mission or operation of the program.

(c) Private or public funds made available for purposes of the program shall be deposited into the fund. Upon appropriation by the Legislature, moneys in the fund shall be available for expenditure by the commission for purposes of implementing the program pursuant to this article.

(d) The commission shall be under no obligation to administer the program under this article until sufficient moneys have been accumulated in the fund and appropriated to the commission by the Legislature.

69673. This article shall be implemented only to the extent that sufficient moneys are available to administer the program.

69674. (a) Commencing with the 2009–10 fiscal year, the commission shall issue loan assumption agreements for up to 100 student loans for program participants eligible under this article.

(b) Priority for these agreements shall be given to applicants who have obtained a probationary license but have not graduated from a physician assistant program.

(c) The issuance of loan assumption agreements under this article in any fiscal year shall be subject to the provision of funding in the annual Budget Act.

69675. This article shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

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## CHAPTER 629

An act to amend Section 25600 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 25600 of the Business and Professions Code is amended to read:

25600. (a) (1) No licensee shall, directly or indirectly, give any premium, gift, or free goods in connection with the sale or distribution of any alcoholic beverage, except as provided by rules that shall be adopted by the department to implement this section or as authorized by this division.

(2) (A) Notwithstanding paragraph (1), for purposes of this section, a refund to, or exchange of products for, a dissatisfied consumer by a licensee authorized to sell to consumers shall not be deemed a premium, gift, or free goods given in connection with the sale or distribution of an alcoholic beverage.

(B) A winegrower may advertise or otherwise offer consumers a guarantee of product satisfaction only in newsletters or other publications

of the winegrower or at the winegrower's premises. A winegrower may refund to a dissatisfied consumer the entire purchase price of wine produced by that winegrower and sold to that consumer, regardless of where the wine was purchased.

(b) (1) Except as provided in paragraph (2), no rule of the department may permit a licensee to give any premium, gift, or free goods of greater than inconsequential value in connection with the sale or distribution of beer. With respect to beer, premiums, gifts, or free goods, including advertising specialties that have no significant utilitarian value other than advertising, shall be deemed to have greater than inconsequential value if they cost more than twenty-five cents ($0.25) per unit, or cost more than fifteen dollars ($15) in the aggregate for all those items given by a single supplier to a single retail premises per calendar year.

(2) (A) No rule of the department may impose a dollar limit for consumer advertising specialties furnished by a beer manufacturer to the general public other than three dollars ($3) per unit original cost to the beer manufacturer who purchased it.

(B) Consumer advertising specialties furnished by a beer manufacturer are intended only for adults of legal drinking age. Coin banks, toys, balloons, magic tricks, miniature bottles or cans, confections, dolls, or other items that appeal to minors or underage drinkers may not be used in connection with the merchandising of beer.

(c) With respect to distilled spirits and wines, a licensee may furnish, give, rent, loan, or sell advertising specialties to a retailer, provided those items bear conspicuous advertising required of a sign and the total value of all retailer advertising specialties furnished by a supplier, directly or indirectly, to a retailer do not exceed fifty dollars ($50) per brand in any one calendar year per retail premises. The value of a retailer advertising specialty is the actual cost of that item to the supplier who initially purchased it, excluding transportation and installation costs. The furnishing or giving of any retailer advertising specialty shall not be conditioned upon the purchase of the supplier's product. Retail advertising specialties given or furnished free of charge may not be sold by the retail licensee. No rule of the department may impose a dollar limit for consumer advertising specialties furnished by a distilled spirits supplier to a retailer or to the general public of less than five dollars ($5) per unit original cost to the supplier who purchased it.

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## CHAPTER 630

An act to amend Section 10369.12 of the Insurance Code, relating to health insurance.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. Section 10369.12 of the Insurance Code is amended to read:

10369.12. (a) A disability policy may contain a provision in the form set forth herein.

Intoxicants and controlled substances: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any controlled substance unless administered on the advice of a physician.

(b) Subdivision (a) shall not apply to a health insurance policy.

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## CHAPTER 631

An act to add Section 1367.46 to the Health and Safety Code, and to add Section 10123.91 to the Insurance Code, relating to HIV testing.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. Section 1367.46 is added to the Health and Safety Code, to read:

1367.46. Every individual or group health care service plan contract that is issued, amended, or renewed on or after January 1, 2009, that covers hospital, medical, or surgery expenses shall provide coverage for human immunodeficiency virus (HIV) testing, regardless of whether the testing is related to a primary diagnosis.

SEC. 2. Section 10123.91 is added to the Insurance Code, to read:

10123.91. (a) On or after January 1, 2009, every insurer that issues, amends, or renews an individual or group policy of health insurance that covers hospital, medical, or surgical expenses shall provide coverage for human immunodeficiency virus (HIV) testing, regardless of whether the testing is related to a primary diagnosis.

(b) It shall remain within the sole discretion of the health insurer as to the provider of the testing with which it chooses to contract. Reimbursement shall be provided according to the respective principles and policies of the health insurer.

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.

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## CHAPTER 632

An act to add Section 12748.3 to the Water Code, relating to water.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 12748.3 is added to the Water Code, to read:

12748.3. (a) The state may provide funds in accordance with Section 12585.7 to the City of St. Helena, or to local agencies in the County of Napa, for the project for flood control on the Napa River in the County of Napa authorized by Section 5054 of the federal Water Resources Development Act of 2007 (Public Law 110-114), as follows:

(1) At an estimated cost to the state of the sum that may be appropriated for state cooperation by the Legislature upon the recommendations and advice of the department.

(2) Upon a specific written determination by the department that the project meets the requirements of Section 12582.7.

(b) The state assumes no liability for damages that may result from the project by either of the following:

(1) Authorizing the provision of funds in accordance with this section.

(2) The appropriation by the Legislature of these funds upon the recommendations and advice of the department.

(c) A county or local agency may receive the funds only if it enters into an agreement with the department pursuant to which the city or local agency agrees to indemnify and hold and save harmless the state, its officers, agents, and employees for any and all liability for damages that may result from the project.

(d) For the purposes of this section, "liability for damages" includes, but is not limited to, liability for damages relating to the construction or operation of the project or the failure of the project to operate as intended.

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## CHAPTER 633

An act to amend Section 831.8 of, and to add and repeal Section 831.9 of, the Government Code, relating to liability, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 831.8 of the Government Code is amended to read:

831.8. (a) Subject to subdivisions (d) and (e), neither a public entity nor a public employee is liable under this chapter for an injury caused by the condition of a reservoir if at the time of the injury the person injured was using the property for any purpose other than that for which the public entity intended or permitted the property to be used.

(b) Subject to subdivisions (d) and (e), neither an irrigation district nor an employee thereof nor the state nor a state employee is liable under this chapter for an injury caused by the condition of canals, conduits, or drains used for the distribution of water if at the time of the injury the person injured was using the property for any purpose other than that for which the district or state intended it to be used.

(c) Subject to subdivisions (d) and (e), neither a public agency operating flood control and water conservation facilities nor its employees are liable under this chapter for an injury caused by the condition or use of unlined flood control channels or adjacent groundwater recharge spreading grounds if, at the time of the injury, the person injured was using the property for any purpose other than that for which the public entity intended it to be used, and, if all of the following conditions are met:

(1) The public agency operates and maintains dams, pipes, channels, and appurtenant facilities to provide flood control protection and water conservation for a county whose population exceeds nine million residents.

(2) The public agency operates facilities to recharge a groundwater basin system which is the primary water supply for more than one million residents.

(3) The groundwater supply is dependent on imported water recharge which must be conducted in accordance with court-imposed basin management restrictions.

(4) The basin recharge activities allow the conservation and storage of both local and imported water supplies when these waters are available.

(5) The public agency posts conspicuous signs warning of any increase in waterflow levels of an unlined flood control channel or any spreading ground receiving water.

(d) Nothing in this section exonerates a public entity or a public employee from liability for injury proximately caused by a dangerous condition of property if all of the following occur:

(1) The injured person was not guilty of a criminal offense under Article 1 (commencing with Section 552) of Chapter 12 of Title 13 of Part 1 of the Penal Code in entering on or using the property.

(2) The condition created a substantial and unreasonable risk of death or serious bodily harm when the property or adjacent property was used with due care in a manner in which it was reasonably foreseeable that it would be used.

(3) The dangerous character of the condition was not reasonably apparent to, and would not have been anticipated by, a mature, reasonable person using the property with due care.

(4) The public entity or the public employee had actual knowledge of the condition and knew or should have known of its dangerous character a sufficient time prior to the injury to have taken measures to protect against the condition.

(e) Nothing in this section exonerates a public entity or a public employee from liability for injury proximately caused by a dangerous condition of property if all of the following occur:

(1) The person injured was less than 12 years of age.

(2) The dangerous condition created a substantial and unreasonable risk of death or serious bodily harm to children under 12 years of age using the property or adjacent property with due care in a manner in which it was reasonably foreseeable that it would be used.

(3) The person injured, because of his or her immaturity, did not discover the condition or did not appreciate its dangerous character.

(4) The public entity or the public employee had actual knowledge of the condition and knew or should have known of its dangerous character a sufficient time prior to the injury to have taken measures to protect against the condition.

(f) Nothing in subdivision (c) exonerates a public agency or public employee subject to that subdivision from liability for injury proximately caused by a dangerous condition of public property if all of the following occur:

(1) The person injured was 16 years of age or younger.

(2) The dangerous condition created a substantial and unreasonable risk of death or serious bodily harm to children 16 years of age or younger using the property or adjacent property with due care in a manner in which it was reasonably foreseeable that it would be used.

(3) The person injured did not discover the condition or did not appreciate its dangerous character because of his or her immaturity.

(4) The public entity or public employee had actual knowledge of the condition and knew or should have known of its dangerous character a sufficient time prior to the injury to have taken measures to protect against the condition.

(g) Subdivisions (c) and (f) shall become inoperative on and after January 1, 2013.

SEC. 2. Section 831.9 is added to the Government Code, to read:

831.9. (a) The County of Los Angeles Department of Public Works shall maintain a record of all known or reported injuries incurred by the public in the unlined flood control channels or adjacent groundwater recharge spreading grounds during the activities of groundwater recharge. The County of Los Angeles Department of Public Works shall also maintain a record of all claims, paid and not paid, including any civil actions or proceedings and their results, arising from those incidents, that were filed against the county. Copies of these records shall be filed annually, no later than January 1 of each year, with the Judicial Council, which shall then submit a report to the Legislature on or before January 31, 2012, on the incidences of injuries incurred, claims asserted, and the results of any civil action or proceeding filed by persons injured at these facilities.

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

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

SEC. 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:

Prior legislation, partially immunizing Los Angeles County from liability for the use of its flood control system to transport and conserve water by recharging underground aquifers, has expired. Over 1,000,000 residents of Los Angeles County benefited from the transport of more than 2,500,000 acre-feet of groundwater during the effective period of the expired legislation. It is therefore necessary for the health and safety of Los Angeles County residents that this act go into immediate effect.

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## CHAPTER 634

An act to add and repeal Section 41003.3 of the Education Code, relating to the Dixon Unified School District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. (a) The Legislature hereby finds and declares all of the following:

(1) The Dixon Unified School District is facing a projected one million six hundred eight thousand sixty-five dollar ($1,608,065) budget shortfall for the 2008–09 school year.

(2) The district, as a result of its budget crisis, has received a negative certification from the Solano County Office of Education.

(3) The district is in such financial difficulty that it could not afford to hire a superintendent, and the county superintendent has been serving as interim superintendent of the district.

(4) The district will be eliminating home-to-school transportation, except transportation for special education pupils.

(5) The district will be closing Silveyville Elementary, where 397 pupils are currently enrolled, and merging those pupils with pupils at Anderson Elementary, a school located miles away from Silveyville.

(6) The district has substantially reduced support staff pay, reducing it by almost five hundred thousand dollars ($500,000).

(7) The district has substantially reduced secondary school staff pay, reducing it by more than four hundred thousand dollars ($400,000).

(8) The district has substantially reduced elementary site staff pay, reducing it by more than two hundred seventy-five thousand dollars ($275,000).

(9) The district has reduced funding for programs, including athletics, music, and reading intervention.

(10) The district has reduced its budget by more than one million three hundred seventy thousand dollars ($1,370,000) from staff and maintenance reductions.

(11) The district has a new high school that includes a 40-acre farm attached to the high school property.

(12) The district currently has two empty schoolsites that previously shut down because of declining enrollment that will be available for growth, if necessary, in the future.

(13) The Dixon Unified School District is in extreme financial crisis, and has exhausted all of its available options.

(b) It is the intent of the Legislature to give the Dixon Unified School District the authority to sell its excess farmland previously used as the school farm, located five miles outside of the city and which is not feasible for future school construction, to pay for reestablishing a 3-percent reserve in order to stay out of receivership.

SEC. 2. Section 41003.3 is added to the Education Code, to read:

41003.3. (a) Consistent with the provisions of Article 4 (commencing with Section 17455) of Chapter 4 of Part 10.5 of Division 1 of Title 1, from July 1, 2008, to June 30, 2010, inclusive, the Dixon Unified School District may sell surplus real property previously used as the school farm on Sievers Road, located five miles outside of the city and which is not feasible for future school construction, together with any personal property located thereon, purchased entirely with local funds. The proceeds of the sale shall be deposited into the general fund of the school district in order to reestablish a 3-percent reserve. The remainder of the proceeds from the sale of the property that are not utilized to reestablish the 3-percent reserve shall be deposited into the capital outlay fund of the school district.

(b) In order to expend funds pursuant to subdivision (a), the district shall meet all of the following conditions:

(1) The district shall not be eligible for new construction funding for 10 years from the date that funds are deposited into the general fund of the school district pursuant to subdivision (a), except that the district may apply for new construction funds if both of the following conditions are met:

(A) At least five years have elapsed since the date upon which the sale was executed pursuant to subdivision (a).

(B) The State Allocation Board determines that the district has demonstrated enrollment growth or a need for additional sites or building construction that the district could not have easily anticipated at the time the sale was executed pursuant to subdivision (a).

(2) The district governing board shall complete a governance training program focusing on fiscal management provided by the County Office Fiscal Crisis and Management Assistance Team (FCMAT).

(3) Any remaining funds from the sale of the property shall be exhausted for capital outlay purposes prior to any request for modernization funding.

(4) Notwithstanding any other provision of law, the Dixon Unified School District, from July 1, 2008, to June 30, 2010, inclusive, shall not be eligible to receive financial hardship assistance pursuant to Article 8 (commencing with Section 17075.10) of Chapter 12.5 of Part 10 of Division 1 of Title 1.

(5) The district shall not be eligible to receive hardship funding from the State School Deferred Maintenance Fund pursuant to Section 17587 until all remaining funds from the sale of the property identified in, and pursuant to, subdivision (a) are exhausted for deferred maintenance or capital outlay purposes.

(6) The governing board of the district shall certify all of the following to the State Allocation Board:

(A) The district has no major deferred maintenance requirements that cannot be completed with existing capital outlay resources.

(B) The sale of the real property pursuant to this section does not violate any provisions of a local general obligation bond act.

(C) The real property sold pursuant to this section is not suitable to meet any projected school construction need for the next 10 years.

(7) Before exercising the authority granted by this section, the governing board of the district, at a regularly scheduled meeting of that board, shall present a plan for expending one-time resources pursuant to this section. The plan shall identify the source and use of the funds, and describe how the proposed use of funds, in combination with budget reductions, will address the district's deficit spending and restore the ongoing fiscal solvency of the district.

(8) No later than 10 years after the date of the sale of surplus property pursuant to subdivision (a), the district shall deposit into its capital outlay fund an amount equal to the amount of the proceeds from the sale of the property that is deposited into the district's general fund as needed to establish the 3-percent reserve in accordance with subdivision (a).

(c) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the financial circumstances of the Dixon Unified School District.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide fiscal relief to the Dixon Unified School District during the 2008–09 fiscal year and subsequent fiscal years, it is necessary that this act take effect immediately.

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## CHAPTER 635

An act to amend Sections 349 and 374 of the Streets and Highways Code, relating to highways.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 349 of the Streets and Highways Code is amended to read:

349. (a) Route 49 is from:

(1) Route 41 near Oakhurst to Route 140 at Mariposa.

(2) Route 140 at Mariposa to Route 120 near Moccasin.

(3) Route 120 near Chinese Camp to Route 80 near Auburn via the vicinity of Sonora; via Angels Camp, San Andreas, and Jackson; and via the vicinity of El Dorado, Diamond Springs, and Placerville.

(4) Route 80 near Auburn to Route 20 in Grass Valley.

(5) Route 20 at Nevada City to Route 89 near Sattley via Downieville.

(6) Route 89 near Sierraville to Route 70 near Vinton via Loyalton.

(b) (1) The commission may relinquish to the City of Auburn the portion of Route 49 that is located within the city limits of that city, upon terms and conditions the commission finds to be in the best interests of the state, if the department and the city enter into an agreement providing for that relinquishment.

(2) A relinquishment under this subdivision shall become effective immediately following the county recorder's recordation of the

relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, the relinquished portion of Route 49 shall cease to be a state highway.

(4) The portion of Route 49 relinquished under this subdivision shall be ineligible for future adoption under Section 81.

(5) For the portion of Route 49 that is relinquished under this subdivision, the City of Auburn shall maintain within its jurisdiction, signs directing motorists to the continuation of Route 49. The city may apply to the department for approval of a business route designation in accordance with Chapter 20, Topic 21, of the Highway Design Manual.

SEC. 2. Section 374 of the Streets and Highways Code is amended to read:

374. (a) Route 74 is from:

(1) Route 5 near San Juan Capistrano to Route 15 near Lake Elsinore.

(2) Route 15 near Lake Elsinore to Route 215 near Perris.

(3) Route 215 near Perris to Route 10 near Thousand Palms via Hemet and Palm Desert.

(b) (1) The commission may relinquish to the City of Palm Desert the portion of Route 74 that is located within the city limits of that city, upon terms and conditions the commission finds to be in the best interests of the state, if the department and the city enter into an agreement providing for that relinquishment.

(2) A relinquishment under this subdivision shall become effective immediately following the county recorder's recordation of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, the relinquished portion of Route 74 shall cease to be a state highway.

(4) The portion of Route 74 relinquished under this subdivision shall be ineligible for future adoption under Section 81.

(5) For the portion of Route 74 that is relinquished under this subdivision, the City of Palm Desert shall maintain within its jurisdiction signs directing motorists to the continuation of Route 74.

(c) (1) The commission may relinquish to the City of Lake Elsinore the portion of Route 74 located within the city limits of that city, upon terms and conditions the commission finds to be in the best interests of the state.

(2) Any relinquishment agreement shall require that the City of Lake Elsinore administer the operation and maintenance of the highway in a manner consistent with professional traffic engineering standards.

(3) Any relinquishment agreement shall require the City of Lake Elsinore to ensure that appropriate traffic studies or analyses will be performed to substantiate any decisions affecting the highway.

(4) Any relinquishment agreement shall also require the City of Lake Elsinore to provide for public notice and the consideration of public input on the proximate effects of any proposed decision on traffic flow, residences, or businesses, other than a decision on routine maintenance.

(5) Notwithstanding any of its other terms, any relinquishment agreement shall require the City of Lake Elsinore to indemnify and hold the department harmless from any liability for any claims made or damages suffered by any person, including a public entity, as a result of any decision made or action taken by the City of Lake Elsinore, its officers, employees, contractors, or agents, with respect to the design, maintenance, construction, or operation of that portion of Route 74 that is to be relinquished to the city.

(6) A relinquishment under this subdivision shall become effective immediately after the county recorder records the relinquishment resolution that contains the commission's approval of the terms and conditions of the relinquishment.

(7) On and after the effective date of the relinquishment, both of the following shall occur:

(A) The portion of Route 74 relinquished shall cease to be a state highway.

(B) The portion of Route 74 relinquished may not be considered for future adoption under Section 81.

(8) The City of Lake Elsinore shall ensure the continuity of traffic flow on the relinquished portion of Route 74, including any traffic signal progression.

(9) For relinquished portions of Route 74, the City of Lake Elsinore shall maintain signs directing motorists to the continuation of Route 74.

(d) (1) The commission may relinquish to the City of Perris the portion of Route 74 located within the city limits of that city between Seventh Street and Redlands Avenue, upon terms and conditions the commission finds to be in the best interests of the state.

(2) Any relinquishment agreement shall require that the City of Perris administer the operation and maintenance of the highway in a manner consistent with professional traffic engineering standards.

(3) Any relinquishment agreement shall require the City of Perris to ensure that appropriate traffic studies or analyses will be performed to substantiate any decisions affecting the highway.

(4) Any relinquishment agreement shall also require the City of Perris to provide for public notice and the consideration of public input on the

proximate effects of any proposed decision on traffic flow, residences, or businesses, other than a decision on routine maintenance.

(5) Notwithstanding any of its other terms, any relinquishment agreement shall require the City of Perris to indemnify and hold the department harmless from any liability for any claims made or damages suffered by any person, including a public entity, as a result of any decision made or action taken by the City of Perris, its officers, employees, contractors, or agents, with respect to the design, maintenance, construction, or operation of that portion of Route 74 that is to be relinquished to the city.

(6) A relinquishment under this subdivision shall become effective immediately after the county recorder records the relinquishment resolution that contains the commission's approval of the terms and conditions of the relinquishment.

(7) On and after the effective date of the relinquishment, both of the following shall occur:

(A) The portion of Route 74 relinquished shall cease to be a state highway.

(B) The portion of Route 74 relinquished may not be considered for future adoption under Section 81.

(8) The City of Perris shall ensure the continuity of traffic flow on the relinquished portion of Route 74, including any traffic signal progression.

(9) For relinquished portions of Route 74, the City of Perris shall maintain signs directing motorists to the continuation of Route 74.

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## CHAPTER 636

An act to amend Section 11 of Chapter 53 of the Statutes of 2004, relating to education finance.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Notwithstanding subdivision (d) of Section 41344 of the Education Code, the Education Audit Appeals Panel, at its discretion, may accept an appeal filed one business day late by the Vallejo City Unified School District related to Findings 2004-48, 2004–50, and 2004–58 from that district's 2003–04 local educational agency annual audit.

SEC. 2. Section 11 of Chapter 53 of the Statutes of 2004 is amended to read:

Sec. 11. (a) Notwithstanding Sections 17456, 17457, 17462, and 17463 of the Education Code, or any other law, from June 1, 2004, to July 1, 2010, inclusive, the Vallejo City Unified School District may sell property owned by the district and use the proceeds from the sale to reduce or retire the emergency loan provided in Section 9 of this act. The sale only of property pursuant to this subdivision is not subject to Section 17459 or 17464 of the Education Code.

(b) Notwithstanding any other provision of law, from June 1, 2004, to June 30, 2010, inclusive, the Vallejo City Unified School District is not eligible for financial hardship assistance pursuant to Article 8 (commencing with Section 17075.10) of Chapter 12.5 of Part 10 of Division 1 of Title 1 of the Education Code.

SEC. 3. The Legislature finds and declares that, due to unique circumstances relating to the fiscal emergency in the Vallejo City Unified School District, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution and the enactment of Sections 1 and 2 of this act as a special statute is therefore necessary.

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## CHAPTER 637

An act to amend Sections 7362 and 7363 of the Fish and Game Code, relating to fish.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 7362 of the Fish and Game Code is amended to read:

7362. (a) The director shall appoint a Bay-Delta Sport Fishing Enhancement Stamp Fund Advisory Committee, consisting of nine members. The committee members shall be selected from names of persons submitted by anglers and associations representing Bay-Delta anglers of this state and shall serve at the discretion of the director for terms of not more than four years. The director shall appoint persons to the committee who possess experience in subjects with specific value to the committee and shall attempt to balance the perspective of different anglers.

(b) The advisory committee shall recommend to the department projects and budgets for the expenditure of revenue received pursuant to Section 7360. The department shall give full consideration to the committee's recommendations.

(c) The department shall submit to the advisory committee and the Chief Clerk of the Assembly and the Secretary of the Senate for distribution to the appropriate fiscal and policy committees of the Legislature, at least annually, on or before January 10 of each year, an accounting of funds derived from the Bay-Delta Sport Fishing Enhancement Stamps and validations, including the number of stamps and validations sold, funds generated and expended, and the status of programs funded pursuant to this article. In addition, the department shall report, at least annually, to the committee on the status of projects undertaken with funds from that stamp or validation, including reporting the department's reasoning in cases where committee recommendations are not followed.

SEC. 2. Section 7363 of the Fish and Game Code is amended to read:

7363. This article shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2010, deletes or extends that date.

SEC. 3. 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.

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## CHAPTER 638

An act to add and repeal Section 25600.5 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 25600.5 is added to the Business and Professions Code, to read:

25600.5. Notwithstanding any other provision of this division, a manufacturer of distilled spirits, winegrower, rectifier, or distiller, or its authorized unlicensed agent, may provide, free of charge, entertainment, food, and distilled spirits, wine, or nonalcoholic beverages to consumers at an invitation-only event in connection with the sale or distribution of wine or distilled spirits, subject to the following conditions:

(a) No licensee, other than those specified in this section, may conduct or participate in any portion of an event authorized by this section. A licensee authorized to conduct an event pursuant to this section shall not be precluded from doing so on the basis of holding any other type of alcoholic beverage license.

(b) An event authorized by this section shall be conducted on premises for which a caterer's permit authorization has been issued, except that any event held on the premises of a licensed winegrower shall not be authorized to provide any distilled spirits other than brandy.

(c) No event authorized by this section shall be conducted on premises for which a permanent retail license has been issued.

(d) Except for fair market value payments authorized pursuant to this section, a licensed caterer shall not receive any other item of value or benefit in connection with events authorized by this section.

(e) The person authorized by this section to provide, free of charge, entertainment, food, and beverages shall be present during the event.

(f) The person authorized by this section to provide, free of charge, entertainment, food, and beverages shall have sole responsibility for providing payment for the entertainment, food, beverages, and rental fees at the event. Payments for entertainment, food, beverages, and rental fees shall not exceed fair market value. No other licensed person shall be authorized, under this section, to provide any portion of these payments.

(g) Requests for attendance at the event shall be by invitation sent to consumers over 21 years of age at a specific address via mail or e-mail, by telephone, or presented in person. Invitations or other advertisements of the event shall not be disseminated by any other means. Invitations shall not be sent by the authorized person or their authorized unlicensed agent inviting all of the employees of a retail licensee or a chain of retail licensees under common ownership to an authorized event.

(h) Attendance at the event shall be limited to consumers who receive and accept an invitation to the event. Invited consumers may each invite one guest. All attendees shall be over 21 years of age. The total number of consumers and their guests allowed at any event authorized by this section shall not exceed 400 people. Admittance to the event shall be controlled by a list containing the names of consumers who accepted

the invitation and their guests. The persons identified in this section shall be responsible for compliance.

(i) No premium, gift, free goods, or other thing of value may be given away in connection with the event, except as authorized by this division.

(j) The duration of any event authorized by this section shall not exceed four hours.

(k) (1) A person authorized to conduct events pursuant to this section shall not conduct more than 12 events in a calendar year where the consumers and guests in attendance exceed 100 people, and not more than 24 events in a calendar year where the consumers and guests in attendance is 100 people or fewer.

(2) The limitation on events authorized by this section shall be by person, whether that person holds a single license or multiple licenses. If a person holds multiple licenses, the limitation shall be applied to the person holding the license, not by type of license.

(*l*) When applying for a caterer's permit authorization, the person authorized to conduct an event pursuant to this section shall include, in addition to any information required by the department, all of the following information:

(1) The name of the company authorized to conduct the event.

(2) The number of people planned to be in attendance.

(3) The start and end times for the event.

(4) The location of the event.

(m) All alcoholic beverages provided pursuant to this section shall be purchased from the holder of the caterer's permit.

(n) All alcoholic beverages served at an event authorized by this section shall be served in accordance with Sections 25631 and 25632.

(o) No person authorized to conduct an event pursuant to this section shall hold such an event at the same location more than eight times in a calendar year.

(p) The person authorized to conduct an event under this section may provide attendees at the event with a free ride home. The free rides shall only constitute free ground transportation to attendees' homes or to hotels or motels where attendees are staying.

(q) In addition to the prescribed fee imposed upon a licensed caterer to conduct an event authorized by this section, the department may also impose a fee upon a licensee authorized by this section to provide, free of charge, entertainment, food, and beverages at an authorized event. The fee shall be representative of the cost of administering and enforcing the provisions of this section, but shall not exceed two hundred dollars ($200) per event.

(r) The Legislature finds and declares both of the following:

(1) That it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques.

(2) Any exception established by the Legislature to the general prohibition against tied interests must be limited to the express terms of the exception so as to not undermine the general prohibitions.

(s) This section shall remain in effect until January 1, 2014, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2014, deletes or extends that date.

SEC. 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.

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## CHAPTER 639

An act to add Sections 301.1 and 407.5 to the Streets and Highways Code, relating to transportation.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 301.1 is added to the Streets and Highways Code, to read:

301.1. (a) The commission may relinquish to the City of Torrance the portion of Route 1 that is located within the city limits of the city, upon terms and conditions the commission finds to be in the best interests of the state.

(b) A relinquishment under this section shall become effective immediately following the recordation by the county recorder of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(c) On and after the effective date of the relinquishment, both of the following shall occur:

(1) The portion of Route 1 relinquished under this section shall cease to be a state highway.

(2) The portion of Route 1 relinquished under this section may not be considered for future adoption under Section 81.

(d) The city shall ensure the continuity of traffic flow on the relinquished portion of Route 1, including, but not limited to, any traffic signal progression.

(e) For the portion of Route 1 that is relinquished, the city shall maintain within its jurisdiction signs directing motorists to the continuation of Route 1.

SEC. 2. Section 407.5 is added to the Streets and Highways Code, to read:

407.5. (a) The commission may relinquish to the City of Torrance the portion of Route 107 that is located within the city limits of the city, upon terms and conditions the commission finds to be in the best interests of the state.

(b) A relinquishment under this section shall become effective immediately following the recordation by the county recorder of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(c) On and after the effective date of the relinquishment, both of the following shall occur:

(1) The portion of Route 107 relinquished under this section shall cease to be a state highway.

(2) The portion of Route 107 relinquished under this section may not be considered for future adoption under Section 81.

(d) The city shall ensure the continuity of traffic flow on the relinquished portion of Route 107, including, but not limited to, any traffic signal progression.

(e) For the portion of Route 107 that is relinquished, the city shall maintain within its jurisdiction signs directing motorists to the continuation of Route 107.

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## CHAPTER 640

An act to amend Section 2023 of, and to amend and renumber Section 2435.2 of, the Business and Professions Code, and to amend Section 128553 of the Health and Safety Code, relating to physicians and surgeons, and making an appropriation therefor.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. Section 2023 of the Business and Professions Code is amended to read:

2023. (a) The board, in conjunction with the Health Professions Education Foundation, shall study the issue of its providing medical malpractice insurance to physicians and surgeons who provide voluntary, unpaid services as described in subdivision (b) of Section 2083, and report its findings to the Legislature on or before January 1, 2008.

(b) The report shall include, but not be limited to, a discussion of the following items:

(1) The cost of administering a program to provide medical malpractice insurance to the physicians and surgeons and the process for administering the program.

(2) The options for providing medical malpractice insurance to the physicians and surgeons and for funding the coverage.

(3) Whether the licensure surcharge fee assessed under Section 2436.5 is sufficient to fund the provision of medical malpractice insurance for the physicians and surgeons.

(c) This section shall be implemented only after the Legislature has made an appropriation from the Contingent Fund of the Medical Board of California to fund the study.

SEC. 2. Section 2435.2 of the Business and Professions Code, as added by Section 1 of Chapter 293 of the Statutes of 2005, is amended and renumbered to read:

2436.5. (a) In addition to the fees charged for the initial issuance or biennial renewal of a physician and surgeon's certificate pursuant to Section 2435, and at the time those fees are charged, the board shall charge each applicant or renewing licensee an additional twenty-five dollar ($25) fee for the purposes of this section.

(b) This twenty-five dollar ($25) fee shall be paid at the time of application for initial licensure or biennial renewal. The twenty-five dollar ($25) fee shall be due and payable along with the fee for the initial certificate or biennial renewal.

(c) The board shall transfer all funds collected pursuant to this section, on a monthly basis, to the Medically Underserved Account for Physicians created by Section 128555 of the Health and Safety Code for the Steven M. Thompson Physician Corps Loan Repayment Program.

(d) Up to 15 percent of the funds collected pursuant this section shall be dedicated to loan assistance for physicians and surgeons who agree

to practice in geriatric care settings or settings that primarily serve adults over the age of 65 years or adults with disabilities. Priority consideration shall be given to those physicians and surgeons who are trained in, and practice, geriatrics and who can meet the cultural and linguistic needs and demands of diverse populations of older Californians.

SEC. 3. Section 128553 of the Health and Safety Code is amended to read:

128553. (a) Program applicants shall possess a current valid license to practice medicine in this state issued pursuant to Section 2050 of the Business and Professions Code.

(b) The foundation, in consultation with those identified in subdivision (b) of Section 123551, shall use guidelines developed by the Medical Board of California for selection and placement of applicants until the office adopts other guidelines by regulation.

(c) The guidelines shall meet all of the following criteria:

(1) Provide priority consideration to applicants that are best suited to meet the cultural and linguistic needs and demands of patients from medically underserved populations and who meet one or more of the following criteria:

(A) Speak a Medi-Cal threshold language.

(B) Come from an economically disadvantaged background.

(C) Have received significant training in cultural and linguistically appropriate service delivery.

(D) Have three years of experience working in medically underserved areas or with medically underserved populations.

(E) Have recently obtained a license to practice medicine.

(2) Include a process for determining the needs for physician services identified by the practice setting and for ensuring that the practice setting meets the definition specified in subdivision (h) of Section 128552.

(3) Give preference to applicants who have completed a three-year residency in a primary specialty.

(4) Seek to place the most qualified applicants under this section in the areas with the greatest need.

(5) Include a factor ensuring geographic distribution of placements.

(6) Provide priority consideration to applicants who agree to practice in a geriatric care setting and are trained in geriatrics, and who can meet the cultural and linguistic needs and demands of a diverse population of older Californians. On and after January 1, 2009, up to 15 percent of the funds collected pursuant to Section 2436.5 of the Business and Professions Code shall be dedicated to loan assistance for physicians and surgeons who agree to practice in geriatric care settings or settings that primarily serve adults over the age of 65 years or adults with disabilities.

(d) (1) The foundation may appoint a selection committee that provides policy direction and guidance over the program and that complies with the requirements of subdivision (*l*) of Section 128552.

(2) The selection committee may fill up to 20 percent of the available positions with program applicants from specialties outside of the primary care specialties.

(e) Program participants shall meet all of the following requirements:

(1) Shall be working in or have a signed agreement with an eligible practice setting.

(2) Shall have full-time status at the practice setting. Full-time status shall be defined by the board and the selection committee may establish exemptions from this requirement on a case-by-case basis.

(3) Shall commit to a minimum of three years of service in a medically underserved area. Leaves of absence shall be permitted for serious illness, pregnancy, or other natural causes. The selection committee shall develop the process for determining the maximum permissible length of an absence and the process for reinstatement. Loan repayment shall be deferred until the physician is back to full-time status.

(f) The office shall adopt a process that applies if a physician is unable to complete his or her three-year obligation.

(g) The foundation, in consultation with those identified in subdivision (b) of Section 128551, shall develop a process for outreach to potentially eligible applicants.

(h) The foundation may recommend to the office any other standards of eligibility, placement, and termination appropriate to achieve the aim of providing competent health care services in approved practice settings.

SEC. 3.5. Section 128553 of the Health and Safety Code is amended to read:

128553. (a) Program applicants shall possess a current valid license to practice medicine in this state issued pursuant to Section 2050 of the Business and Professions Code.

(b) The foundation, in consultation with those identified in subdivision (b) of Section 123551, shall use guidelines developed by the Medical Board of California for selection and placement of applicants until the office adopts other guidelines by regulation.

(c) The guidelines shall meet all of the following criteria:

(1) Provide priority consideration to applicants that are best suited to meet the cultural and linguistic needs and demands of patients from medically underserved populations and who meet one or more of the following criteria:

(A) Speak a Medi-Cal threshold language.

(B) Come from an economically disadvantaged background.

(C) Have received significant training in cultural and linguistically appropriate service delivery.

(D) Have three years of experience working in medically underserved areas or with medically underserved populations.

(E) Have recently obtained a license to practice medicine.

(2) Include a process for determining the needs for physician services identified by the practice setting and for ensuring that the practice setting meets the definition specified in subdivision (h) of Section 128552.

(3) Give preference to applicants who have completed a three-year residency in a primary specialty.

(4) Seek to place the most qualified applicants under this section in the areas with the greatest need.

(5) Include a factor ensuring geographic distribution of placements.

(6) Provide priority consideration to applicants who agree to practice in a geriatric care setting and are trained in geriatrics, and who can meet the cultural and linguistic needs and demands of a diverse population of older Californians. On and after January 1, 2009, up to 15 percent of the funds collected pursuant to Section 2436.5 of the Business and Professions Code shall be dedicated to loan assistance for physicians and surgeons who agree to practice in geriatric care settings or settings that primarily serve adults over the age of 65 years or adults with disabilities.

(d) (1) The foundation may appoint a selection committee that provides policy direction and guidance over the program and that complies with the requirements of subdivision (*l*) of Section 128552.

(2) The selection committee may fill up to 20 percent of the available positions with program applicants from specialties outside of the primary care specialties.

(e) Program participants shall meet all of the following requirements:

(1) Shall be working in or have a signed agreement with an eligible practice setting.

(2) Shall have full-time status at the practice setting. Full-time status shall be defined by the board and the selection committee may establish exemptions from this requirement on a case-by-case basis.

(3) Shall commit to a minimum of three years of service in a medically underserved area. Leaves of absence shall be permitted for serious illness, pregnancy, or other natural causes. The selection committee shall develop the process for determining the maximum permissible length of an absence and the process for reinstatement. Loan repayment shall be deferred until the physician is back to full-time status.

(f) The office shall adopt a process to reconcile the loan should a physician be unable to complete his or her three-year obligation.

(g) The foundation, in consultation with those identified in subdivision (b) of Section 128551, shall develop a process for outreach to potentially eligible applicants.

(h) The foundation may recommend to the office any other standards of eligibility, placement, and termination appropriate to achieve the aim of providing competent health care services in approved practice settings.

SEC. 4. Section 3.5 of this bill incorporates amendments to Section 128553 of the Health and Safety Code proposed by both this bill and AB 2543. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 128553 of the Health and Safety Code, and (3) this bill is enacted after AB 2543, in which case Section 3 of this bill shall not become operative.

SEC. 5. This act shall become operative only if Senate Bill 1379 of the 2007–08 Regular Session is enacted and becomes effective on or before January 1, 2009.

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## CHAPTER 641

An act to add Chapter 8 (commencing with Section 50700) to Part 2 of Division 31 of the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Chapter 8 (commencing with Section 50700) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

### CHAPTER 8. HOUSING-RELATED PARKS PROGRAM

50700. For the purposes of this chapter, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) "Designated time period" means the time period designated in the Notice of Funding Availability required under subdivision (b) of Section 50702.

(b) "Disadvantaged community," for the purposes of this program, 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 the most recent United States Department of Census data available at the time of the Notice of Funding Availability.

(c) "Housing start" means documentation of a completed foundation inspection issued during the designated time period.

(d) "Infill project" means a residential or mixed-use residential project located within an urbanized area on a site that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For these purposes, a property is adjoining the side of a project site if the property is separated from the project site only by an improved public right-of-way.

(e) "Park and recreation facility" means a facility that provides benefits to the community and includes, but is not limited to, places for organized team sports, outdoor recreation, and informal turf play; nonmotorized recreational trails; permanent play structures; landscaping; community gardens; places for passive recreation; multipurpose structures designed to meet the special recreational, educational, vocational, and social needs of youth, senior citizens, and other population groups; recreation areas created by the redesign and retrofit of urban freeways; community swim centers; regional recreational trails; and infrastructure and other improvements that support these facilities.

(f) "Parks deficient community" means a community that has less than three acres of usable parkland per 1000 residents.

(g) "Regional blueprint plan" means a regional plan that implements statutory requirements intended to foster comprehensive planning, as defined in Section 65041.1 of, Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7 of, and Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of, the Government Code. The regional blueprint plan articulates regional consensus and performance outcomes on a more efficient land use pattern that supports improved mobility and reduces dependency on single-occupant vehicle trips; accommodates an adequate supply of housing for all income levels; reduces impacts on valuable farmland, natural resources, and air quality; includes the reduction of greenhouse gas emissions; increases water and energy conservation and efficiency; and promotes a prosperous economy and safe, healthy, sustainable, and vibrant neighborhoods.

(h) "Urbanized area" means an incorporated city or an urbanized area or urban cluster as defined by the United States Census Bureau. For unincorporated areas outside of an urban area or urban cluster, the area shall be within a designated urban service area that is designated in the local general plan for urban development and is served by public sewer and water.

(i) "Urban use" means any residential, commercial, industrial, public institutional, transit, transportation passenger facility, or retail use, or any combination of those uses.

50701. There is hereby established in state government the Housing-Related Parks Program, to be administered by the department, using funds allocated, upon appropriation, under subdivision (d) of Section 53545, for the purpose of providing grants for the creation, development, or rehabilitation of park and recreation facilities to cities, counties, and cities and counties for housing starts for newly constructed units that are affordable to very low or low-income households.

50702. (a) To the extent that funds are available for this purpose, the department shall determine a base grant amount to be provided under this chapter to any city, county, or city and county that meets all of the following criteria:

(1) On or before the end of the period covered by the Notice of Funding Availability required under subdivision (b), the jurisdiction has adopted a housing element that the department, pursuant to Section 65585 of the Government Code, has found to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, and the jurisdiction has submitted to the department the annual progress report required under Section 65400 of the Government Code within the preceding 12 months.

(2) The jurisdiction can document housing starts for newly constructed units that are affordable to very low or low-income households within the designated time period and that meet either of the following criteria:

(A) In the case of rental units, the development is subject to a regulatory agreement recorded against the property that obligates the owner to maintain rents on the restricted units at levels affordable to very low or low-income households for at least 55 years.

(B) In the case of ownership housing, units in the development are initially sold to households of very low or low income at an affordable housing cost. If public funds are used to achieve an affordable housing cost, then upon the sale of an assisted unit to a very low or low-income household, the public entity shall ensure the repayment of the public funds and reuse of those funds for affordable housing for a period of at least 20 years. The proposed mechanism for restrictions of ownership units shall be consistent with criteria established by the department and specified in the Notice of Funding Availability.

(b) For each year that funds are available, the department shall issue a Notice of Funding Availability for housing starts issued during the designated time period. The department shall accept applications at the close of the designated period. Grant amounts shall be based on a

per-bedroom incentive for each unit restricted for very low and low-income households. For the purposes of this section, single-room occupancies and studio apartments shall be considered one-bedroom units.

(c) If eligibility for funds exceeds the amount of funding available for the program, the department shall reduce all grants proportionally. Funds awarded shall be disbursed upon documentation of a certificate of occupancy, final inspection, or other comparable local approval.

50703. (a) The department shall award bonus funds in addition to the base grant award for applicants that meet the requirements under Section 50702. The department shall determine the amount of the bonus funds to be awarded pursuant to this chapter.

(b) The amount of the bonus funds to be awarded shall be established in the Notice of Funding Availability.

(c) Bonus funds shall be awarded for any of the following:

(1) Qualifying units that are affordable to extremely low income households.

(2) Qualifying units that are affordable to very low and low-income households and are developed in infill projects.

(3) Jurisdictions that have met or exceeded housing production thresholds established by the department, in consultation with the Department of Finance.

(4) Jurisdictions that demonstrate that grant funds will be spent to improve a park or community recreational facility that will serve a disadvantaged community, as defined in subdivision (a) of Section 50700.

(5) Jurisdictions that demonstrate that grant funds will be spent to create a new park or community recreational facility that will serve a disadvantaged community, as defined in subdivision (a) of Section 50700.

(6) Jurisdictions that meet the definition of a park deficient community, as defined in subdivision (b) of Section 50700.

(7) Those jurisdictions that can demonstrate that grant funds will be spent to create or improve a park or community recreational facility to support infill development, or development within a jurisdiction that has conformed its general plan to the regional blueprint, as determined by the council of governments.

50704. (a) (1) Except as authorized under paragraph (2), a city, county, or city and county shall not receive a grant unless it qualifies, based on housing starts issued during the period designated in the Notice of Funding Availability, for a grant in an amount of seventy-five thousand dollars ($75,000) or more.

(2) If a city, county, or city and county is not able to meet the minimum qualification amount under paragraph (1), it may delay application, combine the number of housing starts issued during the

designated period described in paragraph (1) with the number of housing starts issued during one or more subsequent Notice of Funding Availability periods, and apply once it is able to meet the minimum qualification amount by using the combined amount of housing starts issued.

(b) Grants provided pursuant to this chapter shall be used for the costs of park and recreation facility creation, development, or rehabilitation, including, but not limited to, the acquisition of land for the purposes of those activities, consistent with the requirements set forth in Section 16727 of the Government Code.

(c) Funds awarded pursuant to this chapter shall supplement, not supplant, other available funding.

(d) A city, county, or city and county that receives funds under this chapter may subcontract through a recreation and park district formed under Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code, or a district formed pursuant to Section 5500 or 35100 of the Public Resources Code, for the creation or improvement of a park or recreational facility, or any nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3)), that is exempt from taxation under Section 501(a) of that code (26 U.S.C. Sec. 501(a)), and that has among its purposes the conservation of natural or cultural resources.

50704.5. The department shall adopt guidelines for the operation of the program. The guidelines shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

SEC. 2. The sum of four hundred fifty-nine thousand dollars ($459,000) is hereby appropriated from the Housing Urban-Suburban-and-Rural Parks Account in the Housing and Emergency Shelter Trust Fund of 2006 to the Department of Housing and Community Development to fund the startup administrative costs of the Housing-Related Parks Program established under this act.

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## CHAPTER 642

An act to add Section 395.6 to the Military and Veterans Code, relating to military service.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 395.6 is added to the Military and Veterans Code, to read:

395.6. (a) The Governor may appoint a mediator in his or her office to take complaints, regarding possible violations or other issues dealing with the Uniformed Service Employment and Reemployment Rights Act (38 U.S.C. Sec. 4301 et seq.), hereafter USERRA, and Section 395.06, and to resolve and coordinate the resolution of those complaints or issues, from state employees who satisfy both of the following:

(1) Are members of either of the following:

(A) The California National Guard.

(B) A reserve component of the Armed Forces of the United States.

(2) Encounter problems regaining their state position when they return from service in the California National Guard or from service in a reserve component of the United States Armed Forces.

(b) Each state agency and department may appoint a mediator to take complaints, regarding possible violations of USERRA and other issues relating to state pay, and to resolve and coordinate the resolution of those complaints with, if necessary, the assistance of the Governor-appointed ombudsman, from employees of that department or agency who are members of either the California National Guard or a reserve component of the Armed Forces of the United States.

(c) Mediators appointed under the provisions of subdivisions (a) and (b) shall become knowledgeable about USERRA law and, to the extent possible, work with the California Committee for Employer Support of the Guard and Reserve, a Department of Defense organization, and the California National Guard.

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## CHAPTER 643

An act to add Section 13943.3 to the Government Code, relating to counties.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 13943.3 is added to the Government Code, to read:

13943.3. Notwithstanding any other provision of this chapter, the board may authorize the Controller to discharge the Department of Water Resources from accountability for collection of the loan issued to the Arrowhead Manor Water Company in 1980 under the California Safe Drinking Water Bond Law of 1976, but only if San Bernardino County or its county service area acquires the water system financed by the loan issued to the Arrowhead Manor Water Company and pays the amount of nine hundred ten thousand five hundred twenty dollars ($910,520) in complete satisfaction of that loan, on or before January 30, 2009.

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## CHAPTER 644

An act to amend Section 25356.1 of, to add Section 25299.50.5 to, and to add and repeal Sections 25299.50.3 and 25299.50.4 of, the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 25299.50.3 is added to the Health and Safety Code, to read:

25299.50.3. (a) For purposes of this section, "school district" means a school district as defined in Section 80 of the Education Code, or a county office of education.

(b) The School District Account is hereby created in the Underground Storage Tank Cleanup Fund, for expenditure by the board to pay a claim filed by a district that is a school district and has a priority based on paragraph (4) of subdivision (b) of Section 25299.52. Notwithstanding Section 25299.52, in the 2009–10, 2010–11, and 2011–12 fiscal years, the board shall pay a claim filed by a district that is a school district and has a priority based on paragraph (4) of subdivision (b) of Section 25299.52 only from funds appropriated from the School District Account.

(c) (1) The sum of ten million dollars ($10,000,000) per year shall be transferred, in the 2009–10, 2010–11, and 2011–12 fiscal years, from the Underground Storage Tank Cleanup Fund to the School District Account, for expenditure upon appropriation by the Legislature for the payment of claims filed by a district that is a school district with a priority based on paragraph (4) of subdivision (b) of Section 25299.52.

(2) The board shall consult with the Department of Toxic Substances Control in allocating the funds transferred to the School District Account.

(3) The board shall pay claims from the School District Account in the order of the date of the filing of the claim application to the Underground Storage Tank Cleanup Fund.

(d) Funds in the School District Account that are not expended in the 2009–10 or 2010–11 fiscal years shall remain in the School District Account. Unencumbered funds remaining in the School District Account on July 1, 2012, shall be transferred to the Underground Storage Tank Cleanup Fund. Encumbered funds remaining in the School District Account on July 1, 2012, shall remain in the School District Account. Those encumbered funds remaining in the School District Account on July 1, 2012, shall be liquidated on or before June 30, 2014.

(e) The board shall include information on the expenditure of the funds transferred to the School District Account, as well as the amount of all claims filed by districts that are school districts and the amount of reimbursements made to districts that are school districts from the Underground Storage Tank Cleanup Fund, in its annual report, and shall, in consultation with the Department of Toxic Substances Control, estimate the amount of funds needed to reimburse anticipated future claims by districts that are school districts. The board shall provide a copy of this report to the State Allocation Board and the State Department of Education.

(f) This section does not affect the priority of a district that is a school district and has a priority based on paragraph (2) or (3) of subdivision (b) of Section 25299.52.

(g) This section shall remain in effect only until July 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2014, deletes or extends that date.

SEC. 2. Section 25299.50.4 is added to the Health and Safety Code, to read:

25299.50.4. (a) It is the intent of the Legislature that the board and the Department of Toxic Substances Control, using information gathered and reported pursuant to subdivision (e) of Section 25299.50.3, propose changes to Section 25299.50.3 that may be necessary to ensure that adequate funds are available to reimburse anticipated future claims by districts that are school districts and have a priority based on paragraph (4) of subdivision (b) of Section 25299.52.

(b) This section shall remain in effect only until July 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2014, deletes or extends that date.

SEC. 3. Section 25299.50.5 is added to the Health and Safety Code, to read:

25299.50.5. Upon the repeal of Section 25299.50.3, all moneys in the School District Account and all moneys due that account shall revert

to, and accrue to the benefit of, the Underground Storage Tank Cleanup Fund in the State Treasury.

SEC. 4. Section 25356.1 of the Health and Safety Code is amended to read:

25356.1. (a) For purposes of this section, "regional board" means a California regional water quality control board and "state board" means the State Water Resources Control Board.

(b) Except as provided in subdivision (h), the department, or, if appropriate, the regional board shall prepare or approve remedial action plans for the sites listed pursuant to Section 25356.

(c) A potentially responsible party may request the department or the regional board, when appropriate, to prepare or approve a remedial action plan for a site not listed pursuant to Section 25356, if the department or the regional board determines that a removal or remedial action is required to respond to a release of a hazardous substance. The department or the regional board shall respond to a request to prepare or approve a remedial action plan within 90 days of receipt. This subdivision does not affect the authority of a regional board to issue and enforce a cleanup and abatement order pursuant to Section 13304 of the Water Code or a cease and desist order pursuant to Section 13301 of the Water Code.

(d) All remedial action plans prepared or approved pursuant to this section shall be based upon Section 25350, Subpart E of the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. 300.400 et seq.), and any amendments thereto, and upon all of the following factors, to the extent that these factors are consistent with these federal regulations and do not require a less stringent level of cleanup than these federal regulations:

(1) Health and safety risks posed by the conditions at the site. When considering these risks, the department or the regional board shall consider scientific data and reports which may have a relationship to the site.

(2) The effect of contamination or pollution levels upon present, future, and probable beneficial uses of contaminated, polluted, or threatened resources.

(3) The effect of alternative remedial action measures on the reasonable availability of groundwater resources for present, future, and probable beneficial uses. The department or the regional board shall consider the extent to which remedial action measures are available that use, as a principal element, treatment that significantly reduces the volume, toxicity, or mobility of the hazardous substances, as opposed to remedial actions that do not use this treatment. The department or the regional board shall not select remedial action measures that use offsite transport and disposal of untreated hazardous substances or contaminated

materials if practical and cost-effective treatment technologies are available.

(4) Site-specific characteristics, including the potential for offsite migration of hazardous substances, the surface or subsurface soil, and the hydrogeologic conditions, as well as preexisting background contamination levels.

(5) Cost-effectiveness of alternative remedial action measures. In evaluating the cost-effectiveness of proposed alternative remedial action measures, the department or the regional board shall consider, to the extent possible, the total short-term and long-term costs of these actions and shall use, as a major factor, whether the deferral of a remedial action will result, or is likely to result, in a rapid increase in cost or in the hazard to public health or the environment posed by the site. Land disposal shall not be deemed the most cost-effective measure merely on the basis of lower short-term cost.

(6) The potential environmental impacts of alternative remedial action measures, including, but not limited to, land disposal of the untreated hazardous substances as opposed to treatment of the hazardous substances to remove or reduce its volume, toxicity, or mobility prior to disposal.

(e) A remedial action plan prepared pursuant to this section shall include the basis for the remedial action selected and shall include an evaluation of each alternative considered and rejected by the department or the regional board for a particular site. The plan shall include an explanation for rejection of alternative remedial actions considered but rejected. The plan shall also include an evaluation of the consistency of the selected remedial action with the requirements of the federal regulations and the factors specified in subdivision (d), if those factors are not otherwise adequately addressed through compliance with the federal regulations. The remedial action plan shall also include a nonbinding preliminary allocation of responsibility among all identifiable potentially responsible parties at a particular site, including those parties which may have been released, or may otherwise be immune, from liability pursuant to this chapter or any other provision of law. Before adopting a final remedial action plan, the department or the regional board shall prepare or approve a draft remedial action plan and shall do all of the following:

(1) Circulate the draft plan for at least 30 days for public comment.

(2) Notify affected local and state agencies of the removal and remedial actions proposed in the remedial action plan and publish a notice in a newspaper of general circulation in the area affected by the draft remedial action plan. The department or the regional board shall also post notices in the location where the proposed removal or remedial action would be located and shall notify, by direct mailing, the owners

of property contiguous to the site addressed by the plan, as shown in the latest equalized assessment roll.

(3) Hold one or more meetings with the lead and responsible agencies for the removal and remedial actions, the potentially responsible parties for the removal and remedial actions, and the interested public, to provide the public with the information that is necessary to address the issues that concern the public. The information to be provided shall include an assessment of the degree of contamination, the characteristics of the hazardous substances, an estimate of the time required to carry out the removal and remedial actions, and a description of the proposed removal and remedial actions.

(4) Comply with Section 25358.7.

(f) After complying with subdivision (e), the department or the regional board shall review and consider any public comments, and shall revise the draft plan, if appropriate. The department or the regional board shall then issue the final remedial action plan.

(g) (1) A potentially responsible party named in the final remedial action plan issued by the department or the regional board may seek judicial review of the final remedial action plan by filing a petition for writ of mandate pursuant to Section 1085 of the Code of Civil Procedure within 30 days after the final remedial action plan is issued by the department or the regional board. Any other person who has the right to seek judicial review of the final remedial action plan by filing a petition for writ of mandate pursuant to Section 1085 of the Code of Civil Procedure shall do so within one year after the final remedial action plan is issued. No action may be brought by a potentially responsible party to review the final remedial action plan if the petition for writ of mandate is not filed within 30 days of the date that the final remedial action plan was issued. No action may be brought by any other person to review the final remedial action plan if the petition for writ of mandate is not filed within one year of the date that the final remedial action plan was issued. The filing of a petition for writ of mandate to review the final remedial action plan shall not stay any removal or remedial action specified in the final plan.

(2) For purposes of judicial review, the court shall uphold the final remedial action plan if the plan is based upon substantial evidence available to the department or the regional board, as the case may be.

(3) This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction, including, but not limited to, enjoining the expenditure of funds pursuant to paragraph (2) of subdivision (b) of Section 25385.6.

(h) (1) This section does not require the department or a regional board to prepare a remedial action plan if conditions present at a site

present an imminent or substantial endangerment to the public health and safety or to the environment or, if the department, a regional board, or a responsible party takes a removal action at a site and the estimated cost of the removal action is less than two million dollars ($2,000,000). The department or a regional board shall prepare or approve a removal action work plan for all sites where a nonemergency removal action is proposed and where a remedial action plan is not required. For sites where removal actions are planned and are projected to cost less than two million dollars ($2,000,000), the department or a regional board shall make the local community aware of the hazardous substance release site and shall prepare, or direct the parties responsible for the removal action to prepare, a community profile report to determine the level of public interest in the removal action. Based on the level of expressed interest, the department or regional board shall take appropriate action to keep the community informed of project activity and to provide opportunities for public comment which may include conducting a public meeting on proposed removal actions.

(2) A remedial action plan is not required pursuant to subdivision (b) if the site is listed on the National Priority List by the Environmental Protection Agency pursuant to the federal act, if the department or the regional board concurs with the remedy selected by the Environmental Protection Agency's record of decision. The department or the regional board may sign the record of decision issued by the Environmental Protection Agency if the department or the regional board concurs with the remedy selected.

(3) The department may waive the requirement that a remedial action plan meet the requirements specified in subdivision (d) if all of the following apply:

(A) The responsible party adequately characterizes the hazardous substance conditions at a site listed pursuant to Section 25356.

(B) The responsible party submits to the department, in a form acceptable to the department, all of the following:

(i) A description of the techniques and methods to be employed in excavating, storing, handling, transporting, treating, and disposing of materials from the site.

(ii) A listing of the alternative remedial measures which were considered by the responsible party in selecting the proposed removal action.

(iii) A description of methods that will be employed during the removal action to ensure the health and safety of workers and the public during the removal action.

(iv) A description of prior removal actions with similar hazardous substances and with similar public safety and environmental considerations.

(C) The department determines that the remedial action plan provides protection of human health and safety and for the environment at least equivalent to that which would be provided by a remedial action plan prepared in accordance with subdivision (c).

(D) The total cost of the removal action is less than two million dollars ($2,000,000).

(4) For purposes of this section, the cost of a removal action includes the cleanup of removal of released hazardous substances from the environment or the taking of other actions that are necessary to prevent, minimize, or mitigate damage that may otherwise result from a release or threatened release, as further defined by Section 9601 (23) of Title 42 of the United States Code.

(5) Paragraph (2) of this subdivision does not apply to a removal action paid from the state account.

(i) Article 2 (commencing with Section 13320), Article 3 (commencing with Section 13330), Article 5 (commencing with Section 13350), and Article 6 (commencing with Section 13360) of Chapter 5 of Division 7 of the Water Code apply to an action or failure to act by a regional board pursuant to this section.

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## CHAPTER 645

An act to amend Sections 18705, 18707, 18708, and 18709 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 18705 of the Revenue and Taxation Code is amended to read:

18705. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Military Family Relief Fund, established by Section 18706. That designation is to be used as a voluntary checkoff on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on the joint return.

(c) A designation shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made. In the event that no designee is specified, the contribution shall be transferred to the General Fund, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article.

(d) In the event a taxpayer designates a contribution to more than one account or fund listed on the tax return, and the amount available for designation is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the forms of the return to include a space labeled the "California Military Family Relief Fund" to allow for the designation permitted.

(1) The forms shall include in the instructions information that the contribution may be in the amount of one dollar ($1) or more and that the contribution shall be used to provide financial aid grants to reserve members of the Armed Forces of the United States who are California residents, who have been called to active duty.

(2) The forms shall also include in the instructions information that additional contributions may be made at any time to the California Military Family Relief Fund, from sources other than the tax form.

(f) Notwithstanding any other provision of law, a voluntary contribution designation for the California Military Family Relief Fund may not be added to the tax return until another voluntary contribution designation is removed.

(g) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 for any contribution made pursuant to subdivision (a).

SEC. 2. Section 18707 of the Revenue and Taxation Code is amended to read:

18707. All moneys transferred to the California Military Family Relief Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) (1) (A) To the Military Department for the establishment of financial aid grants to reserve members of the Armed Forces of the United States who are California residents, who have been called to active duty. Moneys transferred to the California Military Family Relief

Fund before January 1, 2009, shall be reserved for the California National Guard. Grants to the members of the California National Guard shall first be distributed from moneys transferred to the California Military Family Relief Fund before January 1, 2009, and only after these moneys are exhausted shall these grants be awarded from moneys transferred to the California Military Family Relief Fund on and after January 1, 2009. The Military Department shall establish eligibility criteria for the grants.

(B) On or after January 1, 2009, the California National Guard may make moneys transferred to the California Military Family Relief Fund before January 1, 2009, up to one hundred thousand dollars ($100,000), available for distribution to qualified members of the reserve component, excluding members of the California National Guard, until adequate moneys are available to ensure that all approved grants are funded. These distributed moneys shall be repaid to the California National Guard with moneys transferred to the California Military Family Relief Fund on and after January 1, 2009.

(2) It is the intent of the Legislature that every qualified reserve member, regardless of branch, in need of emergency assistance be able to receive a grant. In order to ensure that the grants awarded pursuant to this article are administered objectively, the awarding of grants from the California Military Family Relief Fund shall be governed by a Memorandum of Agreement, developed by a working group comprised of representatives from at least three reserve components that describe the procedures and requirements for participation in the grant program. All organizations participating in the grant program must be signatories of the Memorandum of Agreement.

(3) In addition to criteria established by the Military Department pursuant to paragraph (1), reserve members of the Armed Forces of the United States who are California residents shall show proof of all of the following to be eligible to receive a grant:

(A) Membership in the Armed Forces of the United States.

(B) Residency in California.

(C) Deployment to active duty for at least 60 consecutive days.

(D) One of the following:

(i) The military salary of the member, combined with any ongoing partial receipt of civilian salary, has decreased by 10 percent or more from the member's civilian salary, or the household income of the member's family has decreased by 10 percent or more from the member's household income prior to deployment.

(ii) The member, within six months of returning from active duty, has experienced a 10-percent loss, or greater, in income, compared to predeployment income, as a direct result of deployment.

(4) Grants awarded pursuant to this article may only be used for any of the following: food, housing, child care, utilities, medical services, medical prescriptions, insurance, and vehicle-related payments.

(5) Reserve members of the Armed Forces of the United States who are California residents may not be eligible to receive a grant if the member receives a punitive discharge or an administrative discharge with service characterized as under other than honorable conditions.

(6) Reserve members of the Armed Forces of the United States who are awarded grants pursuant to this article may be required to receive counseling, within a specified time period, as a condition of the grants.

SEC. 3. Section 18708 of the Revenue and Taxation Code is amended to read:

18708. The Legislature finds and declares all of the following:

(a) Due to the extended wars and conflicts around the globe, deployment of reserve members of the Armed Forces of the United States can average a year or more.

(b) Private companies do not generally offset the difference in their employees' reduced salaries while serving overseas. Military families are losing as much as 70 percent of their household income when a primary income producer serves on active duty.

(c) It is the intent of the Legislature, in enacting this article, to establish a fund for the granting of relief aid to persons who are reserve members of the Armed Forces of the United States who are California residents, who have been called to active duty.

SEC. 4. Section 18709 of the Revenue and Taxation Code is amended to read:

18709. (a) This article shall, subject to subdivision (b), 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.

(b) (1) By September 1, 2006, and by September 1 of each subsequent calendar year that the California Military Family Relief 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 Adjutant General 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 2006 calendar year or the minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with calendar year 2007, 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.

(e) Notwithstanding the amendments made to this section by the act adding this subdivision, if, by September 1, 2006, the Franchise Tax Board determines that the amount of contributions estimated to be received during the 2006 calendar year will not be at least two hundred fifty thousand dollars ($250,000), this article is repealed with respect to returns filed for taxable years beginning on or after January 1, 2006.

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## CHAPTER 646

An act to amend Sections 32261, 32265, 32270, and 48900 of the Education Code, relating to pupil safety.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 32261 of the Education Code is amended to read:

32261. (a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(b) The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of truancy and crime, including vandalism, drug and alcohol abuse, gang membership, gang violence, and hate crimes.

(c) It is the intent of the Legislature in enacting this chapter to support California public schools as they develop their mandated comprehensive safety plans that are the result of a systematic planning process, that include strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on school campuses, and that address the safety concerns of local law enforcement agencies, community leaders, parents, pupils, teachers, administrators, school police, and other school employees interested in the prevention of school crime and violence.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

(e) It is the intent of the Legislature in enacting this chapter that the School/Law Enforcement Partnership shall not duplicate any existing gang or drug and alcohol abuse program currently provided for schools.

(f) As used in this chapter, "bullying" means one or more acts by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4.

(g) As used in this chapter, an "electronic act" means the transmission of a communication, including, but not limited to, a message, text, sound, or image by means of an electronic device, including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer, or pager.

SEC. 2. Section 32265 of the Education Code is amended to read:

32265. (a) The partnership shall sponsor at least two regional conferences for school districts, county offices of education, agencies serving youth, allied agencies, community-based organizations, and law enforcement agencies to identify exemplary programs and techniques that have been effectively used to reduce school crime, including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy, and excessive absenteeism.

(b) The conference may include, but need not be limited to, information on all of the following topics:

(1) Interagency collaboration between schools, agencies serving youth, law enforcement agencies, and others.

(2) School attendance.

(3) School safety.

(4) Citizenship education.

(5) Drug and alcohol abuse.

(6) Child abuse prevention, detection, and reporting.

(7) Parental education.

(8) Crisis response training.

(9) Bullying prevention, including the prevention of acts committed personally or by means of an electronic act.

(10) Threat assessment.

(11) Conflict resolution and youth mediation.

(12) Teen relationship violence.

(13) Discrimination and harassment reporting and prevention, including, but not limited to, sexual harassment reporting and prevention.

(14) Hate crime reporting and prevention.

(15) Reporting and prevention of abuse against pupils with disabilities.

SEC. 3. Section 32270 of the Education Code is amended to read:

32270. (a) The partnership shall establish a statewide school safety cadre for the purpose of facilitating interagency coordination and collaboration among school districts, county offices of education, agencies serving youth, allied agencies, community-based organizations, and law enforcement agencies to improve school attendance, encourage good citizenship, and to reduce school violence, school crime, including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy rates, bullying, including acts that are committed personally or by means of an electronic act, teen relationship violence,

and discrimination and harassment, including, but not limited to, sexual harassment.

(b) The partnership may appoint up to 100 professionals from educational agencies, community-based organizations, allied agencies, and law enforcement to the statewide cadre.

(c) The partnership shall provide training to the statewide cadre representatives to enable them to initiate and maintain school community safety programs among school districts, county offices of education, agencies serving youth, allied agencies, community-based organizations, and law enforcement agencies in each region.

SEC. 4. Section 48900 of the Education Code is amended to read:

48900. A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense.

(b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stolen or attempted to steal school property or private property.

(h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew

packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(*l*) Knowingly received stolen school property or private property.

(m) Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.

(r) Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act, as defined in subdivisions (f) and (g) of Section 32261, directed specifically toward a pupil or school personnel.

(s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section, unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.
(2) While going to or coming from school.
(3) During the lunch period whether on or off the campus.
(4) During, or while going to or coming from, a school sponsored activity.

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

(v) A superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section.

(w) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

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## CHAPTER 647

An act to add Section 19965 to the Business and Professions Code, relating to gambling.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 19965 is added to the Business and Professions Code, to read:

19965. Notwithstanding Sections 19961 and 19962, a city, county, or city and county may amend an ordinance to increase the number of gambling tables that may be operated in a gambling establishment as follows:

(a) If the ordinance in effect on July 1, 2007, provided for five to eight tables, inclusive, the amended ordinance may allow an increase of three tables.

(b) If the ordinance in effect on July 1, 2007, provided for nine to 12 tables, inclusive, the amended ordinance may allow an increase of four tables.

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## CHAPTER 648

An act to amend Sections 1570.2, 1570.7, 1570.9, 1572, 1574.5, and 1578.1 of the Health and Safety Code, and to amend Sections 14521, 14526.1, 14528.1, 14550, and 14550.5 of, and to add Section 14553.1 to, the Welfare and Institutions Code, relating to adult day health care.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 1570.2 of the Health and Safety Code is amended to read:

1570.2. The Legislature hereby finds and declares that there exists a pattern of overutilization of long-term institutional care for elderly persons or adults with disabilities, and that there is an urgent need to establish and to continue a community-based system of quality adult day health care which will enable elderly persons or adults with disabilities to maintain maximum independence. While recognizing that there continues to be a substantial need for facilities providing custodial care, overreliance on this type of care has proven to be a costly panacea in both financial and human terms, often traumatic, and destructive of continuing family relationships and the capacity for independent living.

It is, therefore, the intent of the Legislature in enacting this chapter and related provisions to provide for the development of policies and programs that will accomplish the following:

(a) Ensure that elderly persons and adults with disabilities are not institutionalized inappropriately or prematurely.

(b) Provide a viable alternative to institutionalization for those elderly persons and adults with disabilities who are capable of living at home with the aid of appropriate health care or rehabilitative and social services.

(c) Establish adult day health centers in the community for this purpose, that will be easily accessible to all participants, including economically disadvantaged elderly persons and adults with disabilities, and that will provide outpatient health, rehabilitative, and social services

necessary to permit the participants to maintain personal independence and lead meaningful lives.

(d) Include the services of adult day health centers as a benefit under the Medi-Cal Act, that shall be an initial and integral part in the development of an overall plan for a coordinated, comprehensive continuum of optional long-term care services based upon appropriate need.

(e) Establish a rural alternative adult day health care program designed to meet the special needs and requirements of rural areas to enable the implementation of subdivisions (a) through (d), inclusive, for all Californians in need of those services.

(f) Ensure that all laws, regulations, and procedures governing adult day health care be enforced equitably regardless of organizational sponsorship and that all program flexibility provisions be administered equitably.

SEC. 2. Section 1570.7 of the Health and Safety Code is amended to read:

1570.7. As used in this chapter and in any regulations promulgated thereunder:

(a) "Adult day health care" means an organized day program of therapeutic, social, and skilled nursing health activities and services provided pursuant to this chapter to elderly persons or adults with disabilities with functional impairments, either physical or mental, for the purpose of restoring or maintaining optimal capacity for self-care. Provided on a short-term basis, adult day health care serves as a transition from a health facility or home health program to personal independence. Provided on a long-term basis, it serves as an alternative to institutionalization in a long-term health care facility when 24-hour skilled nursing care is not medically necessary or viewed as desirable by the recipient or his or her family.

(b) "Adult day health center" or "adult day health care center" means a licensed and certified facility that provides adult day health care.

(c) "Core staff" includes the positions of program director, registered nurse, social worker, activity director, and program aide.

(d) "Department" or "state department" means the State Department of Public Health.

(e) "Director" means the State Public Health Officer.

(f) "Elderly" or "older person" means a person 55 years of age or older, but also includes other adults who are chronically ill or impaired and who would benefit from adult day health care.

(g) "Extended hours" means those hours of operation prior to or following the adult day health care program hours of service, as designated by the adult day health care center in its plan of operation,

during which the adult day health care center may operate an adult day program, or an Alzheimer's day care resource center, or both.

(h) "Hours of service" means the program hours defined and posted by the adult day health care center for the provision of adult day health care services, pursuant to Section 14550 of the Welfare and Institutions Code, which shall be no less than four hours, excluding transportation.

(i) "Individual plan of care" means a plan designed to provide recipients of adult day health care with appropriate treatment in accordance with the assessed needs of each individual.

(j) "License" means a basic permit to operate an adult day health care center. With respect to a health facility licensed pursuant to Chapter 2 (commencing with Section 1250), "license" means a special permit, as defined by Section 1251.5, empowering the health facility to provide adult day health care services.

(k) "Long-term absence" or "long-term vacancy" means an absence or vacancy lasting, or likely to last, more than one month. An adult day health care center's policies and procedures shall be specific regarding coverage in the situation for long-term absences or vacancies.

(*l*) "Maintenance program" means procedures and exercises that are provided to a participant, pursuant to Section 1580, in order to generally maintain existing function. These procedures and exercises are planned by a licensed or certified therapist and are provided by a person who has been trained by a licensed or certified therapist and who is directly supervised by a nurse or by a licensed or certified therapist.

(m) "Program director" shall be a person with both of the following:

(1) One of the following backgrounds:

(A) A person with a bachelor's degree and a minimum of two years of experience in a management, supervisory, or administrative position.

(B) A person with a master's degree and a minimum of one year of experience in a management, supervisory, or administrative position.

(C) A registered nurse with a minimum of two years experience in a management, supervisory, or administrative position.

(2) Appropriate skills, knowledge, and abilities related to the health, and mental, cognitive, and social needs of the participant group being served by the adult day health center.

(n) "Restorative therapy" means physical, occupational, and speech therapy, and psychiatric and psychological services that are planned and provided by a licensed or certified therapist. The therapy and services may also be provided by an assistant or aide under the appropriate supervision of a licensed therapist, as determined by the licensed therapist. The therapy and services are provided to restore function, when there is an expectation that the condition will improve significantly in a

reasonable period of time, as determined by the multidisciplinary assessment team.

(o) "Short-term absence" or "short-term vacancy" means an absence or vacancy lasting one month or less, and includes sick leave and vacations. An adult day health care center shall ensure that appropriate staff is designated to serve in these positions during the short-term absence or vacancy and that the center's policies and procedures are specific regarding coverage of short-term absences or vacancies.

(p) "Social worker" shall be a person who meets one of the following:

(1) The person holds a master's degree in social work from an accredited school of social work.

(2) The person holds a master's degree in psychology, gerontology, or counseling from an accredited school and has one year of experience providing social services in one or more of the fields of aging, health, or long-term care services.

(3) The person is licensed by the California Board of Behavioral sciences.

(4) The person holds a bachelor's degree in social work from an accredited school with two years of experience providing social services in one or more of the fields of aging, health, or long-term care services.

SEC. 3. Section 1570.9 of the Health and Safety Code is amended to read:

1570.9. In the event of conflict between the provisions of this chapter and the provisions of Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), or Chapter 3 (commencing with Section 1500) of this division, this chapter shall be deemed controlling. Except as provided in Section 1507, no facility which provides a specialized program of both medical and nonmedical care for the elderly or adults with disabilities on an outpatient basis shall be licensed as a health facility, clinic, or community care facility under this division, but shall be subject to licensure exclusively in accordance with the provisions of this chapter.

Review of the need and desirability of proposals for adult day health centers shall be governed by the provisions of this chapter and shall not be subject to review under Part 1.5 (commencing with Section 437) of Division 1.

SEC. 4. Section 1572 of the Health and Safety Code is amended to read:

1572. (a) The functions and duties of the State Department of Public Health provided for under this chapter shall be performed by the California Department of Aging commencing on the date those functions are transferred from the State Department of Public Health to the California Department of Aging. The authority, functions, and

responsibility for the administration of the adult day health care program by the California Department of Aging and the State Department of Public Health shall be defined in an interagency agreement between the two departments and the State Department of Health Care Services that specifies how the departments will work together.

(b) The interagency agreement shall specify that the California Department of Aging is designated by the department as the agency responsible for community long-term care programs. At a minimum, the interagency agreement shall clarify each department's responsibilities on issues involving licensure and certification of adult day health care providers, payment of adult day health care claims, prior authorization of services, promulgation of regulations, and development of adult day health care Medi-Cal rates. This agreement shall also include provisions whereby the department and the California Department of Aging shall collaborate in the development and implementation of health programs and services for older persons and functionally impaired adults.

(c) The Director of the California Department of Aging shall make recommendations regarding licensure to the Licensing and Certification Division in the State Department of Public Health. The recommendation shall be based on all of the following criteria:

(1) An evaluation of the ability of the applicant to provide adult day health care in accordance with the requirements of this chapter and regulations adopted hereunder.

(2) Other criteria that the director deems necessary to protect public health and safety.

SEC. 5. Section 1574.5 of the Health and Safety Code is amended to read:

1574.5. (a) All adult day health care centers shall maintain compliance with licensing and certification requirements. These requirements shall not prohibit program flexibility for the use of alternate concepts, methods, procedures, techniques, equipment, number and qualifications of personnel, or the conducting of pilot projects, if these alternatives or pilot projects are carried out with provisions for safe and adequate care and with the prior written approval of the state department. This approval shall provide for the terms and conditions under which permission to use an alternative or pilot program is granted. Particular attention shall be given to encourage the development of models appropriate to rural areas. The department may allow the substitution of work experience for academic requirements for the position of program director, administrator, or activity coordinator.

(b) The applicant or licensee may submit a written request to the department for program flexibility, and shall submit with the request substantiating evidence supporting the request.

(c) Any approval by the department granted under this section, or a true copy thereof, shall be posted immediately adjacent to the center's license.

SEC. 6. Section 1578.1 of the Health and Safety Code is amended to read:

1578.1. (a) Notwithstanding subdivisions (b) and (c) of Section 1570.7 or any other provision of law, if an adult day health care center licensee also provides adult day program services, the adult day health care license shall be the only license required to provide these additional services. Costs shall be allocated among the programs in accordance with generally accepted accounting practices.

(b) The department, unless otherwise specified by the interagency agreement entered into pursuant to Section 1572 shall evaluate the program services provided for in subdivision (a) for quality of care and compliance with program requirements, concurrent with inspections of the adult day health care facility, using a single survey process.

(c) The department and the California Department of Aging shall jointly develop and adopt regulations pursuant to Section 1580 for the provision of different levels of care under the single adult day health care license.

SEC. 7. Section 14521 of the Welfare and Institutions Code is amended to read:

14521. It is the intent of the Legislature in enacting this chapter to establish adult day health care as a Medi-Cal benefit and allow persons eligible to receive the benefits under Chapter 7 (commencing with Section 14000) of this part, and who have medical or psychiatric impairments, to receive adult day health care services. It is the intent of the Legislature in authorizing this Medi-Cal benefit to establish and continue a community-based system of quality adult day health care services that will accomplish all of the following:

(a) Ensure that elderly persons and adults with disabilities will not be institutionalized prematurely and inappropriately.

(b) Provide appropriate health and social services designed to maintain elderly persons in their own communities.

(c) Establish adult day health care centers in locations easily accessible to persons who are economically disadvantaged.

(d) Encourage the establishment of rural alternative adult day health care centers that are designed to make adult day health care accessible to elderly persons and adults with disabilities living in rural areas.

SEC. 8. Section 14526.1 of the Welfare and Institutions Code is amended to read:

14526.1. (a) Initial and subsequent treatment authorization requests may be granted for up to six calendar months.

(b) Treatment authorization requests shall be initiated by the adult day health care center, and shall include all of the following:

(1) The signature page of the history and physical form that shall serve to document the request for adult day health care services. A complete history and physical form, including a request for adult day health care services signed by the participant's personal health care provider, shall be maintained in the participant's health record. This history and physical form shall be developed by the department and published in the inpatient/outpatient provider manual. The department shall develop this form jointly with the statewide association representing adult day health care providers.

(2) The participant's individual plan of care, pursuant to Section 54211 of Title 22 of the California Code of Regulations.

(c) Every six months, the adult day health care center shall initiate a request for an updated history and physical form from the participant's personal health care provider using a standard update form that shall be maintained in the participant's health record. This update form shall be developed by the department for that use and shall be published in the inpatient/outpatient provider manual. The department shall develop this form jointly with the statewide association representing adult day health care providers.

(d) Authorization or reauthorization of an adult day health care treatment authorization request shall be granted only if the participant meets all of the following medical necessity criteria:

(1) The participant has one or more chronic or post acute medical, cognitive, or mental health conditions that are identified by the participant's personal health care provider or other health professionals and are documented in the participant's health record and require treatment, monitoring, or intervention without which the participant's condition will likely deteriorate and require emergency department visits, hospitalization, or other institutionalization.

(2) The participant's condition or conditions result in both of the following:

(A) Limitations in the performance of two or more activities of daily living or instrumental activities of daily living, as those terms are defined in Section 14522.3, or one or more from each category.

(B) A need for assistance or supervision in performing the activities identified in subparagraph (A) as related to the condition or conditions specified in paragraph (1) of subdivision (d).

(3) The participant's network of nonadult day health care center supports is insufficient to maintain the individual in the community, demonstrated by at least one of the following:

(A) The participant lives alone and has no family or caregivers available to provide sufficient and necessary care or supervision.

(B) The participant resides with one or more related or unrelated individuals, but they are unwilling or unable to provide sufficient and necessary care or supervision to the participant.

(C) The participant has family or caregivers available, but those individuals require respite in order to continue providing sufficient and necessary care or supervision to the participant.

(4) A high potential exists for the deterioration of the participant's medical, cognitive, or mental health condition or conditions in a manner likely to result in emergency department visits, hospitalization, or other institutionalization if adult day health care services are not provided.

(5) The participant's condition or conditions require individualized adult day health care services specified in subdivisions (a) to (d), inclusive, of Section 14550.5, on each day of attendance, that are needed in addition to any other health care support the participant is currently receiving in his or her place of residence and designed to maintain the ability of the participant to remain in the community and avoid emergency department visits, hospitalizations, or other institutionalization.

(e) Reauthorization of an adult day health care treatment authorization request shall be granted when the criteria specified in subdivision (d) have been met and the participant's condition would likely deteriorate if the adult day health care services were denied.

SEC. 9. Section 14528.1 of the Welfare and Institutions Code is amended to read:

14528.1. (a) The personal health care provider, as defined in Section 14552.3, shall have and retain responsibility for the participant's medical care.

(b) If the participant does not have a personal health care provider during the initial assessment process to determine eligibility for adult day health care, the adult day health care center staff physician may conduct the initial history and physical for the participant.

(c) The adult day health care center shall make all reasonable efforts to assist the participant in establishing a relationship with a personal health care provider.

(d) If the adult day health care center is unable to locate a personal health care provider for the participant, or if the participant refuses to establish a relationship with a personal health care provider, the adult day health care center shall do both of the following:

(1) Document the lack of personal health care provider relationship in the participant's health record.

(2) Continue to document all efforts taken to assist the participant in establishing a relationship with a personal health care provider.

(e) (1) A personal physician for one or more of an adult day health care center's enrolled participants may serve as the adult day health care staff physician.

(2) When a personal physician serves as the staff physician, the physician shall have a personal care services arrangement with the adult day health care center that meets the criteria set forth in Section 1395nn(e)(3)(A) of Title 42 of the United States Code.

(3) A personal care physician, an adult day health care staff physician, or an immediate family member of the personal care physician or adult day health care staff physician, shall comply with ownership interest restrictions as provided under Section 654.2 of the Business and Professions Code.

SEC. 10. Section 14550 of the Welfare and Institutions Code is amended to read:

14550. Adult day health care centers shall offer, and shall provide directly on the premises, at least the following services:

(a) Rehabilitation services, including the following:

(1) Occupational therapy as an adjunct to treatment designed to restore impaired function of patients with physical or mental limitations.

(2) Physical therapy appropriate to meet the needs of the patient.

(3) Speech therapy for participants with speech or language disorders.

(b) Medical services supervised by either the participant's personal physician or a staff physician, or both, which emphasize prevention treatment, rehabilitation, and continuity of care and also provide for maintenance of adequate medical records. To the extent otherwise permitted by law, medical services may be provided by nurse practitioners, as defined in Section 2835 of the Business and Professions Code, operating within the existing scope of practice, or under standardized procedures pursuant to Section 2725 of the Business and Professions Code, or by registered nurses practicing under standardized procedures pursuant to Section 2725 of the Business and Professions Code.

(c) Nursing services, including the following:

(1) Nursing services rendered by a professional nursing staff, who periodically evaluate the particular nursing needs of each participant and provide the care and treatment that is indicated.

(2) Self-care services oriented toward activities of daily living and personal hygiene, such as toileting, bathing, and grooming.

(d) Nutrition services, including the following:

(1) The program shall provide a minimum of one meal per day which is of suitable quality and quantity as to supply at least one-third of the

daily nutritional requirement, unless the participant declines the meal or medical contraindications exist, as documented in the participant's health record, that prohibit the ingestion of the meal at the adult day health care center. Additionally, special diets and supplemental feedings shall be available if indicated.

(2) Dietary counseling and nutrition education for the participant and his or her family shall be a required adjunct of such service. Dietary counseling and nutrition education may be provided by a professional registered nurse, unless the participant is receiving a special diet prescribed by a physician, or a nurse determines that the services of a registered dietician are necessary.

(e) Psychiatric or psychological services which include consultation and individual assessment by a psychiatrist, clinical psychologist, or a psychiatric social worker, when indicated, and group or individual treatment for persons with diagnosed mental, emotional, or behavioral problems.

(f) Social work services to participants and their families to help with personal, family, and adjustment problems that interfere with the effectiveness of treatment.

(g) Planned recreational and social activities suited to the needs of the participants and designed to encourage physical exercise, to prevent deterioration, and to stimulate social interaction.

(h) Transportation service for participants, when needed, to and from their homes utilizing specially equipped vehicles to accommodate participants' needs. The transportation service may only exceed one hour when necessary to ensure regular and planned attendance at the adult day health care center and when there is documentation in the participant's health record that there is no medical contraindication.

(i) Written policies and procedures for dealing with natural disaster and emergency situations.

SEC. 11. Section 14550.5 of the Welfare and Institutions Code is amended to read:

14550.5. Adult day health care centers shall offer, and provide directly on the premises, in accordance with the participant's individual plan of care, and subject to authorization pursuant to Section 14526, the following core services to each participant during each day of the participant's attendance at the center:

(a) One or more of the following professional nursing services:

(1) Observation, assessment, and monitoring of the participant's general health status and changes in his or her condition, risk factors, and the participant's specific medical, cognitive, or mental health condition or conditions upon which admission to the adult day health care center was based.

(2) Monitoring and assessment of the participant's medication regimen, administration and recording of the participant's prescribed medications, and intervention, as needed, based upon the assessment and the participant's reactions to his or her medications.

(3) Oral or written communication with the participant's personal health care provider, other qualified health care or social service provider, or the participant's family or other caregiver, regarding changes in the participant's condition, signs, or symptoms.

(4) Supervision of the provision of personal care services for the participant, and assistance, as needed.

(5) Provision of skilled nursing care and intervention, within scope of practice, to participants, as needed, based upon an assessment of the participant, his or her ability to provide self-care while at the adult day health care center, and any health care provider orders.

(b) One or both of the following core personal care services or social services:

(1) One or both of the following personal care services:

(A) Supervision of, or assistance with, activities of daily living or instrumental activities of daily living.

(B) Protective group supervision and interventions to assure participant safety and to minimize the risk of injury, accident, inappropriate behavior, or wandering.

(2) One or more of the following social services provided by the adult day health care center social worker or social worker assistant:

(A) Observation, assessment, and monitoring of the participant's psychosocial status.

(B) Group work to address psychosocial issues.

(C) Care coordination.

(c) At least one of the following therapeutic activities provided by the adult day health care center activity coordinator or other trained adult day health care center personnel:

(1) Group or individual activities to enhance the social, physical, or cognitive functioning of the participant.

(2) Facilitated participation in group or individual activities for those participants whose frailty or cognitive functioning level precludes them from active participation in scheduled activities.

(d) One meal per day of attendance, in accordance with Section 54331 of Title 22 of the California Code of Regulations, unless the participant declines the meal or medical contraindications exist, as documented in the participant's health record, that prohibit the ingestion of the meal.

SEC. 12. Section 14553.1 is added to the Welfare and Institutions Code, to read:

14553.1. The adult day health care center's policies and procedures shall include provisions for the following:

(a) Designating the staff who will serve in the required positions during a short-term absence or short-term vacancy, as defined in subdivision (o) of Section 1570.7 of the Health and Safety Code, of required staff.

(b) Providing coverage for required staff in the event of a long-term absence or long-term vacancy, as defined in subdivision (k) of Section 1570.7 of the Health and Safety Code.

(c) Ensuring continuity of services for participants during staff absences.

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## CHAPTER 649

An act to amend Section 40081 of the Education Code, to add Section 5384.2 to the Public Utilities Code, to amend Sections 545 and 40000.11 of, and to add Section 12517.45 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 40081 of the Education Code is amended to read:

40081. (a) The department shall develop or approve courses for training school pupil activity bus (SPAB), transit bus, schoolbus, and farm labor vehicle drivers that will provide them with the skills and knowledge necessary to prepare them for certification pursuant to Sections 12517, 12519, and 12804.6 of the Vehicle Code. The department shall seek the advice and assistance of the Department of Motor Vehicles and the Department of the California Highway Patrol in developing or approving those courses.

(b) The department shall train or approve the necessary instructional personnel to conduct the driver training courses. For all schoolbus and school pupil activity bus (SPAB) driver instructor training, the department shall provide for and approve the course outline and lesson plans used in the course. For transit bus and farm labor vehicle driver training, the department shall approve the course outline and lesson plans used in the course.

(c) All courses of study and training activities required by this article shall be approved by the department and given by, or in the presence of,

an instructor in possession of a valid school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate of the appropriate class.

(d) As an alternative to subdivisions (a), (b), and (c), instructors who have received a certificate from the Transportation Safety Institute of the United States Department of Transportation indicating that they have completed the Mass Transit Instructor Orientation and Training (Train-the-Trainer) course may approve courses of instruction and train transit bus drivers in order to meet the requirements for certification pursuant to Section 12804.6 of the Vehicle Code.

(e) On or before January 1, 2010, the department, in consultation with the Department of Motor Vehicles and the Department of the California Highway Patrol, shall review and, if necessary, revise its training courses and requirements for drivers of vehicles described in subdivision (k) of Section 545 of the Vehicle Code. The review shall address the course content and the minimum number of hours required for classroom instruction and behind-the-wheel training in order to ensure that drivers of those vehicles are trained in a manner that is appropriate for the type of vehicle they will be driving to transport pupils in a safe manner.

SEC. 2. Section 5384.2 is added to the Public Utilities Code, to read:

5384.2. A school, school district, or the state is not liable for transportation services provided by an operator of a charter-party carrier operating a motor vehicle as specified in subdivision (k) of Section 545 of the Vehicle Code for which the school or school district has not contracted, arranged, or otherwise provided.

SEC. 3. Section 545 of the Vehicle Code is amended to read:

545. A "schoolbus" is a motor vehicle designed, used, or maintained for the transportation of any school pupil at or below the 12th-grade level to or from a public or private school or to or from public or private school activities, except the following:

(a) A motor vehicle of any type carrying only members of the household of the owner of the vehicle.

(b) A motortruck transporting pupils who are seated only in the passenger compartment, or a passenger vehicle designed for and carrying not more than 10 persons, including the driver, unless the vehicle or truck is transporting two or more disabled pupils confined to wheelchairs.

(c) A motor vehicle operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned or operated transit system, only during the time it is on a scheduled run and is available to the general public, or on a run scheduled in response to a request from a disabled pupil confined to a wheelchair, or from a parent of the disabled pupil, for transportation to or from nonschool activities, and the motor vehicle is designed for and actually carries not more than 16 persons

including the driver, is available to eligible persons of the general public, and the school does not provide the requested transportation service.

(d) A school pupil activity bus.

(e) A motor vehicle operated by a carrier licensed by the Interstate Commerce Commission which is transporting pupils on a school activity entering or returning to the state from another state or country.

(f) A youth bus.

(g) Notwithstanding any other provisions of this section, the governing board of a district maintaining a community college may, by resolution, designate any motor vehicle operated by or for the district, a schoolbus within the meaning of this section, if it is primarily used for the transportation of community college students to or from a public community college or to or from public community college activities. The designation shall not be effective until written notification thereof has been filed with the Department of the California Highway Patrol.

(h) A state-owned motor vehicle being operated by a state employee upon the driveways, paths, parking facilities, or grounds specified in Section 21113 that are under the control of a state hospital under the jurisdiction of the State Department of Developmental Services where the posted speed limit is not more than 20 miles per hour. The motor vehicle may also be operated for a distance of not more than one-quarter mile upon a public street or highway that runs through the grounds of a state hospital under the jurisdiction of the State Department of Developmental Services, if the posted speed limit on the public street or highway is not more than 25 miles per hour and if all traffic is regulated by posted stop signs or official traffic control signals at the points of entry and exit by the motor vehicle.

(i) A general public paratransit vehicle, if the general public paratransit vehicle does not duplicate existing schoolbus service, does not transport a public school pupil at or below the 12th grade level to a destination outside of that pupil's school district, and is not used to transport public school pupils in areas where schoolbus services were available during the 1986–87 school year. In areas where expanded school services require expanded transportation of public school pupils, as determined by the governing board of a school district, general public paratransit vehicles shall not be used to transport those pupils for a period of three years from the date that a need for expansion is identified. For purposes of this section, a pupil is defined as a student at or below the 12th grade level who is being transported to a mandated school activity.

(j) A schoolbus with the flashing red light signal system, the amber warning system, and the schoolbus signs covered, while being used for transportation of persons other than pupils, to or from school or school related activities.

(k) A motor vehicle, other than a motor vehicle described in subdivision (b), that is designed to carry not more than 25 persons including the driver, while being used for the transportation of pupils to or from school-related activities if the vehicle is operated by a passenger charter-party carrier certified and licensed by the Public Utilities Commission pursuant to Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code that is not under a contractual agreement with a school or school district, and the transportation does not duplicate schoolbus service or any other transportation services for pupils contracted, arranged, or otherwise provided by the school or school district.

SEC. 4. Section 12517.45 is added to the Vehicle Code, to read:

12517.45. (a) A person shall not operate a motor vehicle described in subdivision (k) of Section 545 while transporting school pupils at or below the 12th-grade level to or from a public or private school or to or from public or private school activities, unless all of the following requirements are met:

(1) The person has in his or her immediate possession all of the following:

(A) A valid driver's license of a class appropriate to the vehicle driven and that is endorsed for passenger transportation.

(B) Either a certificate to drive a schoolbus as described in Section 40082 of the Education Code, or a certificate to drive a school pupil activity bus as described in Section 40083 of the Education Code, issued by the department in accordance with eligibility and training requirements specified by the department, the State Department of Education, and the Department of the California Highway Patrol.

(C) A parental authorization form for each pupil signed by a parent or a legal guardian of the pupil that gives permission for that pupil to be transported to or from the school or school-related activity.

(2) (A) The motor vehicle has passed an annual inspection conducted by the Department of the California Highway Patrol and is in compliance with the charter-party carrier's responsibilities under Section 5374 of the Public Utilities Code.

(B) The Department of the California Highway Patrol may charge a charter-party carrier a reasonable fee sufficient to cover the costs incurred by the Department of the California Highway Patrol in conducting the annual inspection of a motor vehicle.

(b) A driver of a motor vehicle described in subdivision (k) of Section 545 shall comply with the duties specified in subdivision (a) of Section 5384.1 of the Public Utilities Code.

SEC. 5. Section 40000.11 of the Vehicle Code is amended to read:

40000.11. A violation of any of the following provisions is a misdemeanor, and not an infraction:

(a) Division 5 (commencing with Section 11100), relating to occupational licensing and business regulations.

(b) Section 12500, subdivision (a), relating to unlicensed drivers.

(c) Section 12515, subdivision (b), relating to persons under 21 years of age driving, and the employment of those persons to drive, vehicles engaged in interstate commerce or transporting hazardous substances or wastes.

(d) Section 12517, relating to a special driver's certificate to operate a schoolbus or school pupil activity bus.

(e) Section 12517.45, relating to a special driver's certificate and vehicle inspection for the transportation of pupils to or from school-related activities by a passenger charter-party carrier as defined in subdivision (k) of Section 545.

(f) Section 12519, subdivision (a), relating to a special driver's certificate to operate a farm labor vehicle.

(g) Section 12520, relating to a special driver's certificate to operate a tow truck.

(h) Section 12804, subdivision (d), relating to medical certificates.

(i) Section 12951, subdivision (b), relating to refusal to display license.

(j) Section 13004, relating to unlawful use of an identification card.

(k) Section 13004.1, relating to identification documents.

(*l*) Sections 14601, 14601.1, 14601.2, and 14601.5, relating to driving with a suspended or revoked driver's license.

(m) Section 14604, relating to unlawful use of a vehicle.

(n) Section 14610, relating to unlawful use of a driver's license.

(o) Section 14610.1, relating to identification documents.

(p) Section 15501, relating to use of false or fraudulent license by a minor.

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

# CHAPTER 650

An act to add Section 66205.7 to the Education Code, relating to career technical education.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) There is inherent value in career technical education.

(b) In an economy characterized by increased demands for college-educated workers and for increased skills among entry-level workers, career technical education, when combined with core academic coursework, can help prepare young people for successful transition into the workforce or for further education and training.

(c) When students apply academic subject matter in out-of-school contexts, they deepen their understanding and retention of academic concepts, and thereby increase academic achievement.

(d) A curriculum that shows how academic knowledge and skills are used in the world of work may motivate more students to persevere in the academic courses that prepare them for college. Research shows that when students combine career technical education coursework with academic preparation, their graduation and participation rates improve.

(e) It is the intent of the Legislature that on and after July 1, 2009, applications for admissions to the California State University and the University of California include an opportunity for students to record courses that do not meet the "a-g" admission requirements of the University of California, including, but not necessarily limited to, career technical education courses.

SEC. 2. Section 66205.7 is added to the Education Code, to read:

66205.7. The California State University and the University of California are requested to carry out all of the following responsibilities:

(a) If the department or another state agency develops a model career technical education curriculum that integrates academic and technical knowledge and skills, designate qualified representatives to offer their expertise in the development and establishment of that curriculum. This model curriculum shall incorporate provisions of the curriculum developed pursuant to subdivision (i) of Section 51220, as appropriate.

(b) If a school district or other local educational agency with schools maintaining kindergarten or any of grades 1 to 12, inclusive, offers

students an integrated model curriculum developed pursuant to subdivision (a), designate qualified representatives to offer their expertise to teachers and administrators in the delivery of that curriculum. School districts or other local educational agencies are also encouraged to seek the expertise of an advisory group that may include representatives from all of the following:

(1) Business and industry, related to career technical programs in kindergarten and grades 1 to 12, inclusive.

(2) Classroom teachers in career technical education.

(3) School administrators.

(4) The California State University and the University of California.

(5) Parents.

(c) On or before July 1, 2011, develop an online resource that lists the academic and technical courses offered at each of the 109 community colleges in this state that, when completed by high school students, satisfy one of the subject area requirements of the "a-g" admission requirements of the University of California, and link this information to the career technical education Web site pages created in accordance with Section 52499.66.

(d) On or before July 1, 2011, develop an online resource that posts the existence and terms of agreements made between local high schools and individual university campuses that grant university credit or advanced standing to students who complete specified high school pathway programs to study, and link this information to the career technical education Web site pages created in accordance with Section 52499.66.

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## CHAPTER 651

An act relating to state property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. (a) (1) Notwithstanding any other provision of law, until January 1, 2010, the Director of General Services, with the approval of the Adjutant General, may complete a lease to the City of Lynwood at fair market value and for a period of five years, state-owned property comprising approximately 1.03 acres, including, but not limited to, a

building consisting of approximately 10,664 square feet, located at 11398 Bullis Road, Lynwood, Los Angeles County, known as the Lynwood Armory.

(2) After completion of the term of the initial five-year lease, the Director of General Services, with the approval of the Adjutant General, may renew the lease or enter into other lease agreements at fair market value of the Lynwood Armory. The term of the leases authorized by this paragraph, separately or cumulatively, shall not exceed 25 years.

(b) (1) The City of Lynwood shall submit any proposals for improvements, including, but not limited to, modifications and refurbishments of the Lynwood Armory, to the Director of General Services and the Military Department for review and approval.

(2) The City of Lynwood may receive a reduction in the amount of the annual lease payment, upon completion of any improvement approved pursuant to paragraph (1), not to exceed the actual cost of the improvement as determined by the Military Department.

(c) Notwithstanding subdivision (g) of Section 11011 of the Government Code, the proceeds of the lease shall be deposited into the Armory Fund pursuant to subdivision (b) of Section 435 of the Military and Veterans Code.

(d) The City of Lynwood shall reimburse the Department of General Services for its actual costs in drafting, negotiating, and executing the lease documents pursuant to this section.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the lease of the Lynwood Armory authorized by Section 1 of this act may proceed at the earliest possible time, it is necessary for this act to take effect immediately.

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## CHAPTER 652

An act to add and repeal Section 35567 of the Education Code, relating to school facilities construction, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. (a) The Legislature finds and declares as follows:

(1) On November 6, 2007, residents of the north Sacramento area approved Measure B at an election held on that date for the purpose of voting on whether to reorganize four area school districts into one unified school district. The four school districts that were unified to form the new Twin Rivers Unified School District were the Del Paso Heights School District, the Grant Joint Union High School District, the North Sacramento School District, and the Rio Linda Union School District.

(2) In January 2007, the Grant Joint Union High School District entered into a construction contract to construct a grade 7 to 12, inclusive, middle and high school, the East Natomas Education Complex, which, as approved, was designed to house approximately 3,000 pupils once completed in 2010. In July 2008, the East Natomas Education Complex, which was already under construction, became the property and obligation of the recently reorganized Twin Rivers Unified School District.

(3) Under current law, a school district newly formed, reorganized, or affected by reorganization, pursuant to an election that occurred on or after November 4, 1998, is required to calculate or recalculate its existing school building capacity pursuant to regulations adopted by the State Allocation Board. Upon beginning this process and taking possession of the East Natomas Education Complex, the Twin Rivers Unified School District discovered that it shall not have sufficient eligibility to access necessary state funding to complete the entire East Natomas Education Complex project as originally proposed.

(4) Regulations adopted by the State Allocation Board require an application for new construction funding to be submitted before the date of occupancy for any classrooms included in the construction contract. Thus, the Twin Rivers Unified School District will be ineligible for new construction funding to complete the East Natomas Education Complex project if it occupies any space in the complex before submitting a new construction application for the East Natomas Education Complex to the State Allocation Board. Consequently, the Twin Rivers Unified School District finds itself with an uncompleted project that may have to be left vacant, resulting in substantial maintenance and security costs to the district.

(b) It is the intent of the Legislature in enacting this act to provide the Twin Rivers Unified School District with a temporary exemption from requirements regarding new construction eligibility in order to allow that district to establish eligibility and complete construction commenced by its predecessor high school district.

SEC. 2. Section 35567 is added to the Education Code, to read:

35567. (a) This section shall be implemented only if the State Allocation Board determines that the Twin Rivers Unified School District has insufficient eligibility for a grant of funds pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1 with which to complete the East Natomas Education Complex project as contracted by the Grant Joint Union High School District.

(b) Notwithstanding paragraph (1) of subdivision (b) of Section 17071.75 and related regulations regarding occupancy for purposes of determining eligibility for new construction funding, the Twin Rivers Unified School District may occupy a portion of the East Natomas Education Complex project without jeopardizing its future eligibility for funding, pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1, for purposes of constructing and completing the East Natomas Education Complex project. The occupancy exception set forth in this subdivision shall be limited to the number of classrooms necessary to house up to 1,000 pupils pursuant to Section 17071.25 within the footprint of the middle school as contracted by the Grant Joint Union High School District. The number of classrooms to be occupied and grade levels of pupils to be housed in the East Natomas Education Complex project pursuant to the occupancy exception authorized pursuant to this subdivision shall be specifically delineated and submitted to the State Allocation Board before the Twin Rivers Unified School District occupies any part of the East Natomas Education Complex.

(c) (1) Notwithstanding subdivision (b), eligibility for new construction funding for the East Natomas Education Complex project shall be subject to all other requirements of Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1 and implementing regulations.

(2) Once the State Allocation Board determines that the Twin Rivers Unified School District has sufficient eligibility, and grants funds pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1 with which to house up to 1,000 unhoused pupils within the middle school of the East Natomas Education Complex project as contracted by the Grant Joint Union High School District, the Twin Rivers Unified School District shall no longer be entitled to use the occupancy exception set forth in subdivision (b).

(d) If the Twin Rivers Unified School District calculates or recalculates, pursuant to subdivision (c) of Section 17071.10, its existing school building capacity on a districtwide basis, the district shall use its eligibility to complete construction of the East Natomas Education Complex project before submitting an application for other new

construction projects in the school district. If the Twin Rivers Unified School District calculates or recalculates, pursuant to subdivision (c) of Section 17071.10, its existing school building capacity on the basis of high school attendance area, the district shall use its eligibility to complete construction of the East Natomas Education Complex project before submitting an application for other new construction projects in that attendance area.

(e) This section does not exempt the district's baseline eligibility from adjustment to reflect the additional classrooms generated by the project once the project is completed.

(f) The governing board of the Twin Rivers Unified School District may initiate nullification of the occupancy exception granted by this section by submitting a board resolution, adopted at a regularly scheduled meeting of the governing board and requesting that nullification, to the State Allocation Board. Upon receipt of this written notification by the State Allocation Board, the occupancy exception granted by this section shall be nullified.

(g) This section shall become inoperative on July 1, 2015, and, as of January 1, 2016, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2016, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Due to the unique circumstances of the Twin Rivers Unified School District as set forth in Section 1 of this act regarding the formation of Twin Rivers Unified School District by the reorganization and unification of the Grant Joint Union High School District and three other school districts and the commitment of the Grant Joint Union High School District prior to that reorganization to construct the East Natomas Education Complex, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow the Twin Rivers Unified School District, in a timely manner, to establish eligibility for funds to complete the construction commenced by its predecessor high school district of a school facility and to avoid leaving the project uncompleted and vacant, which would result in substantial maintenance and security costs to the newly formed Twin Rivers Unified School District, it is necessary that this act take effect immediately.

## CHAPTER 653

An act to add Section 17282.5 to the Education Code, relating to school facilities.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 17282.5 is added to the Education Code, to read:

17282.5. (a) On or before January 1, 2010, the Division of the State Architect within the Department of General Services shall develop uniform criteria for precheck approval processes for solar design plans, including structural plans and calculations, for a school facility that comply with rules and regulations adopted pursuant to this article and building standards published in Title 24 of the California Code of Regulations. The criteria shall include provisions to ensure fire and life safety.

(b) The Department of General Services shall complete review of solar design plan applications submitted by a school district that conform with the criteria established pursuant to subdivision (a) within 45 calendar days of the receipt of a complete application. If the Department of General Services requests an applicant to submit a corrected application, the Department of General Services shall act on the corrected application within 10 calendar days of the date the applicant submits the corrected complete application to that department for approval.

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## CHAPTER 654

An act to amend Section 1775.5 of the Insurance Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 1775.5 of the Insurance Code is amended to read:

1775.5. (a) Every surplus line broker shall annually, on or before the first day of March of each year pay to the Insurance Commissioner for the use of the State of California a tax of 3 percent of the gross premiums less return premiums upon business done by him or her under authority of his or her license during the preceding calendar year, excluding any portions of premiums upon business done involving the risk finance portion of any blended finite risk product used in the financing element of state or federal Superfund environmental settlements involving remediation of soil or groundwater contamination or by the provisions of Section 1760.5. If during any calendar year 3 percent of such return premiums upon business done by a surplus line broker exceed 3 percent of the gross premiums upon such business done by him or her in that year, then he or she may either carry forward such excess to the next succeeding year and apply it as a credit against 3 percent of gross premiums on such business done by him or her in such succeeding year, or he or she may elect to receive, and thereupon be paid a refund equal to the amount of taxes theretofore paid by him or her on such excess of return premiums paid over gross premiums received.

(b) For the purpose of determining such tax, the total premium charged for all such nonadmitted insurance placed in a single transaction with one underwriter or group of underwriters, whether in one or more policies, shall be allocated to this state in such proportion as the total premium on the insured properties or operations in this state, as computed on the exposure in this state on the basis of any single standard rating method in use in all states or countries where such insurance applies, bears to the total premium so computed in all states or countries in which such nonadmitted insurance may apply. This provision shall not apply to interstate motor transit operations conducted between this and other states. With respect to such operations surplus line tax shall be payable on the entire premium charged on all nonadmitted insurance, less the following:

(1) Such portion of the premium as is determined, as herein provided, to have been charged for operations in other states taxing such premium on operations in such states of an insured maintaining its headquarters office in this state.

(2) The premium for any operations outside of this state of an insured who maintains a headquarters operating office outside of this state and a branch office in this state.

(c) A penalty of 10 percent of the amount of the payment due pursuant to this section shall be levied upon and paid by any surplus line broker who fails to make the necessary payment within the time required, plus interest at the rate of 1 percent per calendar month or fraction thereof, from March 1, the due date of the annual tax, until the date the payment

is received by the commissioner. The penalty and interest shall be applied as prescribed in Section 12636.5 of the Revenue and Taxation Code. The commissioner, upon a showing of good cause, may extend for a period not to exceed 30 days, the time for filing a tax return or paying any amount required to be paid with the return. The extension may be granted at any time, provided that a request therefor is filed with the commissioner within, or prior to, the period for which the extension may be granted.

Any surplus line broker to whom an extension is granted shall, in addition to the tax, pay interest at the rate of 1 percent per month or fraction thereof from March 1, until the date of payment. The commissioner may remit the penalty in a case where the commissioner finds, as a result of examination or otherwise, that the failure of or delay in payment arose out of excusable mistake or excusable inadvertence.

(d) For any part of a payment required by this section or by Section 1775.4 which was not made within the time required by law, when such nonpayment or late payment was due to fraud on the part of the broker, a penalty of 25 percent of the amount unpaid shall be added thereto, in addition to all other penalties otherwise imposed.

(e) For the purposes of this section these terms shall have the following meanings:

(1) "Blended finite risk product" means a contractual arrangement combining risk finance with traditional risk transfer, where a distinct portion of the program cost represents the funding of a known, existing, nonfortuitous future cost, obligation, responsibility, or liability at its discounted net present value, and another portion of the program cost represents risk transfer for losses which have yet to occur related to the cost, obligation, responsibility, or liability that is the subject of the program.

(2) "Risk financing" means that portion of any blended finite risk product which represents the funding of a known, existing, nonfortuitous future cost, obligation, responsibility, or liability.

(3) "Risk finance" or "financing element" means a method of funding for a known future cost over a long time horizon in current-value dollars using the principle of net present value discounting.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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## CHAPTER 655

An act to amend Section 52522 of the Education Code, relating to adult education.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. Section 52522 of the Education Code is amended to read:

52522. (a) The Superintendent may approve school district plans for adult education innovation and alternative instructional delivery. School districts making an application under this section shall demonstrate how the needs of adults will be addressed by programs, including, but not limited to:

(1) Worksite adult basic education skills instruction.

(2) Distance learning, as defined in Section 51865.

(3) Home-based and community-based independent study approaches using instructional technologies.

(4) Tests of alternative reimbursement approaches other than average daily attendance to determine whether they are reasonable and feasible, to the extent that there is no decrease in the number of students served nor an increase in cost to the state.

(b) School districts approved to implement demonstration programs under this section may claim and expend up to 5 percent of their adult block entitlement for implementation of approved programs.

(c) In addition to subdivision (b), a school district may claim and expend more than 5 percent, but no more than 15 percent, of its adult block entitlement if the program is approved by the Superintendent pursuant to subdivision (a).

(1) The Superintendent shall not approve a claim for a program pursuant to this subdivision unless the school district maintains the following accountability mechanisms for the program that may be verified through annual audits:

(A) The school district maintains documentation of the hours of student attendance required for apportionment purposes.

(B) Instructional resources are available to students.

(C) Measurement of academic gains in knowledge and skills may be determined.

(D) Student-to-teacher ratios for each course offered do not exceed the average statewide ratio for similar adult education programs.

(2) An application for adult education innovation and alternative instructional delivery shall include, but is not necessarily limited to, all of the following information for each course:

(A) How contact between students and teachers, including manner, frequency, and rules for submission and review of student work, is

accomplished, including, but not necessarily limited to, the form of contract to be used between students and the teacher of record.

(B) Methods of maintaining course and student data that document instructional time to ensure that claimed units of average daily attendance are based on the equivalent of 525 hours of student attendance under the supervision of the teacher of record, that shall include the manner in which the school district does all of the following:

(i) Determines beginning and ending dates of course enrollments.

(ii) Documents student-teacher meeting time.

(iii) Documents the value of student work that is not accomplished in the presence of the teacher of record.

(C) The specific instructional resources that are available to students to complete course requirements, and how those resources are provided and accessed.

(D) The methods of assessing the academic gains of each student, including pre- and post-test systems.

(E) The number of students assigned to each teacher of record, and how the planned student-to-teacher ratio will be maintained for open entry and exit course scheduling.

(d) School districts implementing programs under this section shall report expenditures to the Superintendent in an annual fiscal report, as specified in regulations adopted by the Superintendent. Funds reported under this section and approved by the Superintendent shall continue to be allocated as part of the district's adult block entitlement in subsequent fiscal years.

(e) The Superintendent shall adopt rules and regulations for the administration of this section to include:

(1) Allowable expenditures.

(2) The range of expenditures per pupil enrolled in the program.

(3) Reporting requirements.

(4) Program evaluation.

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## CHAPTER 656

An act to amend Section 35650 of the Public Resources Code, relating to ocean resources.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 35650 of the Public Resources Code is amended to read:

35650. (a) The California Ocean Protection Trust Fund is established in the State Treasury.

(b) Moneys deposited in the fund may be expended, upon appropriation by the Legislature, for both of the following:

(1) Projects and activities authorized by the council consistent with Chapter 3 (commencing with Section 35600).

(2) Upon authorization by the council, for grants or loans to public agencies, nonprofit corporations, or private entities for, or direct expenditures on, projects or activities that do one or more of the following:

(A) Eliminate or reduce threats to coastal and ocean ecosystems, habitats, and species.

(B) Improve the management of fisheries through grants or loans for the development and implementation of fishery management plans pursuant to Part 1.7 (commencing with Section 7050) of Division 6 of the Fish and Game Code, a part of the Marine Life Management Act of 1998, that promote long-term stewardship and collaboration with fishery participants to develop strategies that increase environmental and economic sustainability. Eligible projects and activities include, but are not limited to, innovative community-based or cooperative management and allocation strategies that create incentives for ecosystem improvement. Eligible expenditures include, but are not limited to, costs related to activities identified in subdivisions (a), (b), and (d) of Section 7075 of the Fish and Game Code, fishery research, monitoring, data collection and analysis to support adaptive management, and other costs related to the development and implementation of a fishery management plan developed pursuant to this subparagraph.

(C) Foster sustainable fisheries, including grants or loans for one or more of the following:

(i) Projects that encourage the development and use of more selective fishing gear.

(ii) The design of community-based or cooperative management mechanisms that promote long-term stewardship and collaboration with fishery participants to develop strategies that increase environmental and economic sustainability.

(iii) Collaborative research and demonstration projects between fishery participants, scientists, and other interested parties.

(iv) Promotion of value-added wild fisheries to offset economic losses attributable to reduced fishing opportunities.

(v) The creation of revolving loan programs for the purpose of implementing sustainable fishery projects.

(D) Improve coastal water quality.

(E) Allow for increased public access to, and enjoyment of, ocean and coastal resources, consistent with sustainable, long-term protection and conservation of those resources.

(F) Improve management, conservation, and protection of coastal waters and ocean ecosystems.

(G) Provide monitoring and scientific data to improve state efforts to protect and conserve ocean resources.

(H) Protect, conserve, and restore coastal waters and ocean ecosystems, including any of the following:

(i) Acquisition, installation, and initiation of monitoring and enforcement systems.

(ii) Acquisition from willing sellers of vessels, equipment, licenses, harvest rights, permits, and other rights and property, to reduce threats to ocean ecosystems and resources.

(I) Address coastal water contamination from biological pathogens, including collaborative projects and activities to identify the sources of pathogens and develop detection systems and treatment methods.

(J) (i) Provide funding for adaptive management, planning, coordination, monitoring, research, and other necessary activities to minimize the adverse impacts of climate change on California's ocean ecosystem, including, but not limited to, the effects of sea level rise, changes in ocean productivity, and ocean acidification on coastal and ocean habitat, wildlife, fisheries, chemistry, and other key attributes of ocean ecosystems and to increase the state's understanding of the ocean's role in carbon sequestration. Adaptive management strategies, planning, research, monitoring, or other activities shall be designed to improve the management of coastal and ocean resources or aid the state to adapt to climate change impacts.

(ii) Information or activities developed under clause (i), to the extent appropriate, shall provide guidance to the State Air Resources Board for the adoption of early action measures for the elimination or reduction of emissions from sources or categories of sources pursuant to the California Global Warming Solutions Act (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(c) Grants or loans may be made to a private entity pursuant to this section only for projects or activities that further public purposes consistent with Sections 35510 and 35515.

(d) Consistent with the purposes specified in Section 35515, and in furtherance of the findings in Sections 7059 and 7060 of the Fish and Game Code, the council, in authorizing grants or loans for projects or

expenditures pursuant to this section, shall promote coordination of state programs and activities that protect and conserve ocean resources to avoid redundancy and conflicts to ensure that the state's programs and activities are complementary.

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## CHAPTER 657

An act to amend Sections 65040.2 and 65302 of the Government Code, relating to planning.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

*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 Complete Streets Act of 2008.

SEC. 2. The Legislature finds and declares all of the following:

(a) The California Global Warming Solutions Act of 2006, enacted as Chapter 488 of the Statutes of 2006, sets targets for the reduction of greenhouse gas emissions in California to slow the onset of human-induced climate change.

(b) The State Energy Resources Conservation and Development Commission has determined that transportation represents 41 percent of total greenhouse gas emissions in California.

(c) According to the United States Department of Transportation's 2001 National Household Travel Survey, 41 percent of trips in urban areas nationwide are two miles or less in length, and 66 percent of urban trips that are one mile or less are made by automobile.

(d) Shifting the transportation mode share from single passenger cars to public transit, bicycling, and walking must be a significant part of short- and long-term planning goals if the state is to achieve the reduction in the number of vehicle miles traveled and in greenhouse gas emissions required by current law.

(e) Walking and bicycling provide the additional benefits of improving public health and reducing treatment costs for conditions associated with reduced physical activity including obesity, heart disease, lung disease, and diabetes. Medical costs associated with physical inactivity were estimated by the State Department of Health Care Services to be $28 billion in 2005.

(f) The California Blueprint for Bicycling and Walking, prepared pursuant to the Supplemental Report of the Budget Act of 2001, sets the

goal of a 50 percent increase in bicycling and walking trips in California by 2010, and states that to achieve this goal, bicycling and walking must be considered in land use and community planning, and in all phases of transportation planning and project design.

(g) In order to fulfill the commitment to reduce greenhouse gas emissions, make the most efficient use of urban land and transportation infrastructure, and improve public health by encouraging physical activity, transportation planners must find innovative ways to reduce vehicle miles traveled and to shift from short trips in the automobile to biking, walking, and use of public transit.

(h) It is the intent of the Legislature to require in the development of the circulation element of a local government's general plan that the circulation of users of streets, roads, and highways be accommodated in a manner suitable for the respective setting in rural, suburban, and urban contexts, and that users of streets, roads, and highways include bicyclists, children, persons with disabilities, motorists, movers of commercial goods, pedestrians, public transportation, and seniors.

SEC. 3. Section 65040.2 of the Government Code is amended to read:

65040.2. (a) In connection with its responsibilities under subdivision (*l*) of Section 65040, the office shall develop and adopt guidelines for the preparation of and the content of the mandatory elements required in city and county general plans by Article 5 (commencing with Section 65300) of Chapter 3. For purposes of this section, the guidelines prepared pursuant to Section 50459 of the Health and Safety Code shall be the guidelines for the housing element required by Section 65302. In the event that additional elements are hereafter required in city and county general plans by Article 5 (commencing with Section 65300) of Chapter 3, the office shall adopt guidelines for those elements within six months of the effective date of the legislation requiring those additional elements.

(b) The office may request from each state department and agency, as it deems appropriate, and the department or agency shall provide, technical assistance in readopting, amending, or repealing the guidelines.

(c) The guidelines shall be advisory to each city and county in order to provide assistance in preparing and maintaining their respective general plans.

(d) The guidelines shall contain the guidelines for addressing environmental justice matters developed pursuant to Section 65040.12.

(e) The guidelines shall contain advice including recommendations for best practices to allow for collaborative land use planning of adjacent civilian and military lands and facilities. The guidelines shall encourage enhanced land use compatibility between civilian lands and any adjacent

or nearby military facilities through the examination of potential impacts upon one another.

(f) The guidelines shall contain advice for addressing the effects of civilian development on military readiness activities carried out on all of the following:

(1) Military installations.

(2) Military operating areas.

(3) Military training areas.

(4) Military training routes.

(5) Military airspace.

(6) Other territory adjacent to those installations and areas.

(g) By March 1, 2005, the guidelines shall contain advice, developed in consultation with the Native American Heritage Commission, for consulting with California Native American tribes for all of the following:

(1) The preservation of, or the mitigation of impacts to, places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

(2) Procedures for identifying through the Native American Heritage Commission the appropriate California Native American tribes.

(3) Procedures for continuing to protect the confidentiality of information concerning the specific identity, location, character, and use of those places, features, and objects.

(4) Procedures to facilitate voluntary landowner participation to preserve and protect the specific identity, location, character, and use of those places, features, and objects.

(h) Commencing January 1, 2009, but no later than January 1, 2014, upon the next revision of the guidelines pursuant to subdivision (i), the office shall prepare or amend guidelines for a legislative body to accommodate the safe and convenient travel of users of streets, roads, and highways in a manner that is suitable to the rural, suburban, or urban context of the general plan, pursuant to subdivision (b) of Section 65302.

(1) In developing guidelines, the office shall consider how appropriate accommodation varies depending on its transportation and land use context, including urban, suburban, or rural environments.

(2) The office may consult with leading transportation experts including, but not limited to, bicycle transportation planners, pedestrian planners, public transportation planners, local air quality management districts, and disability and senior mobility planners.

(i) The office shall provide for regular review and revision of the guidelines established pursuant to this section.

SEC. 4. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth

objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan that are subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5).

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

(i) "Military readiness activities" mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in

paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(b) (1) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(2) (A) Commencing January 1, 2011, upon any substantive revision of the circulation element, the legislative body shall modify the circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel in a manner that is suitable to the rural, suburban, or urban context of the general plan.

(B) For purposes of this paragraph, "users of streets, roads, and highways" means bicyclists, children, persons with disabilities, motorists, movers of commercial goods, pedestrians, users of public transportation, and seniors.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) (1) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies, including flood management, water conservation, or groundwater agencies that have developed, served, controlled, managed, or conserved water of any type for any purpose in the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county.

(2) The conservation element may also cover all of the following:

(A) The reclamation of land and waters.

(B) Prevention and control of the pollution of streams and other waters.

(C) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(D) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(E) Protection of watersheds.

(F) The location, quantity and quality of the rock, sand and gravel resources.

(3) Upon the next revision of the housing element on or after January 1, 2009, the conservation element shall identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) (1) A noise element that shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(A) Highways and freeways.

(B) Primary arterials and major local streets.

(C) Passenger and freight on-line railroad operations and ground rapid transit systems.

(D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(E) Local industrial plants, including, but not limited to, railroad classification yards.

(F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level ($L_{dn}$). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides;

subsidence, liquefaction, and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:

(i) Flood hazard zones. As used in this subdivision, "flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency. The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage.

(ii) National Flood Insurance Program maps published by FEMA.

(iii) Information about flood hazards that is available from the United States Army Corps of Engineers.

(iv) Designated floodway maps that are available from the Central Valley Flood Protection Board.

(v) Dam failure inundation maps prepared pursuant to Section 8589.5 that are available from the Office of Emergency Services.

(vi) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.

(vii) Maps of levee protection zones.

(viii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.

(ix) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding.

(x) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities.

(xi) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for

the protection of the community from the unreasonable risks of flooding, including, but not limited to:

(i) Avoiding or minimizing the risks of flooding to new development.

(ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.

(iii) Maintaining the structural and operational integrity of essential public facilities during flooding.

(iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.

(v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.

(C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).

(3) After the initial revision of the safety element pursuant to paragraph (2), upon each revision of the housing element, the planning agency shall review and, if necessary, revise the safety element to identify new information that was not available during the previous revision of the safety element.

(4) Cities and counties that have flood plain management ordinances that have been approved by FEMA that substantially comply with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions or the flood plain ordinance, specifically showing how each requirement of this subdivision has been met.

(5) Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation, the Central Valley Flood Protection Board, if the city or county is located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, and the Office of Emergency Services for the purpose of including information known by and available to the department, the office, and the board required by this subdivision.

(6) To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city,

a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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## CHAPTER 658

An act to amend Section 66412 of the Government Code, relating to land use.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 66412 of the Government Code is amended to read:

66412. This division shall be inapplicable to any of the following:

(a) The financing or leasing of apartments, offices, stores, or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks, or trailer parks.

(b) Mineral, oil, or gas leases.

(c) Land dedicated for cemetery purposes under the Health and Safety Code.

(d) A lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, if the lot line adjustment is approved by the local agency, or advisory agency. A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances, to require the prepayment of real property taxes prior to the

approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed, which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code.

(e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.

(f) Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

(g) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a community apartment project, as defined in Section 1351 of the Civil Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 75 percent of the units in the project were occupied by record owners of the project on March 31, 1982.

(2) A final or parcel map of the project was properly recorded, if the property was subdivided, as defined in Section 66424, after January 1, 1964, with all of the conditions of that map remaining in effect after the conversion.

(3) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(4) Subject to compliance with subdivision (e) of Section 1351 of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the project as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances and other documents, a majority of owners in the project shall be required to execute the conveyances or other documents. Conveyances and other documents executed under the foregoing provisions shall be binding upon and affect the interests of all parties in the project.

(h) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a stock cooperative, as defined in Section 1351 of the Civil Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 51 percent of the units in the cooperative were occupied by stockholders of the cooperative on January 1, 1981, or individually owned by stockholders of the cooperative on January 1, 1981. As used

in this paragraph, a cooperative unit is "individually owned" if and only if the stockholder of that unit owns or partially owns an interest in no more than one unit in the cooperative.

(2) No more than 25 percent of the shares of the cooperative were owned by any one person, as defined in Section 17, including an incorporator or director of the cooperative, on January 1, 1981.

(3) A person renting a unit in a cooperative shall be entitled at the time of conversion to all tenant rights in state or local law, including, but not limited to, rights respecting first refusal, notice, and displacement and relocation benefits.

(4) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(5) Subject to compliance with subdivision (e) of Section 1351 of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the cooperative as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances and other documents, a majority of owners in the cooperative shall be required to execute the conveyances or other documents. Conveyances and other documents executed under the foregoing provisions shall be binding upon and affect the interests of all parties in the cooperative.

(i) The leasing of, or the granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a windpowered electrical generation device on the land, if the project is subject to discretionary action by the advisory agency or legislative body.

(j) The leasing or licensing of a portion of a parcel, or the granting of an easement, use permit, or similar right on a portion of a parcel, to a telephone corporation as defined in Section 234 of the Public Utilities Code, exclusively for the placement and operation of cellular radio transmission facilities, including, but not limited to, antennae support structures, microwave dishes, structures to house cellular communications transmission equipment, power sources, and other equipment incidental to the transmission of cellular communications, if the project is subject to discretionary action by the advisory agency or legislative body.

(k) Leases of agricultural land for agricultural purposes. As used in this subdivision, "agricultural purposes" means the cultivation of food or fiber, or the grazing or pasturing of livestock.

(*l*) The leasing of, or the granting of an easement to, a parcel of land or any portion or portions of the land, in conjunction with the financing, erection, and sale or lease of a solar electrical generation device on the

land, if the project is subject to review under other local agency ordinances regulating design and improvement or if the project is subject to other discretionary action by the advisory agency or legislative body.

(m) The leasing of, or the granting of an easement to, a parcel of land or any portion or portions of the land, in conjunction with a biogas project that utilizes, as part of its operation, agricultural waste or byproducts from the land where the project is located and reduces overall emissions of greenhouse gases from agricultural operations on the land, if the project is subject to review under other local agency ordinances regulating design and improvement or if the project is subject to discretionary action by the advisory agency or legislative body.

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## CHAPTER 659

An act to add Section 496e to the Penal Code, relating to theft, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 496e is added to the Penal Code, to read:

496e. Any person who buys or receives, for purposes of salvage, any part of a fire hydrant or fire department connection, including, but not limited to, bronze or brass fittings and parts, that has been stolen or obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, shall, in addition to any other penalty provided by law, be subject to a criminal fine of not more than three thousand dollars ($3,000).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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 discourage the theft of parts of fire hydrants and fire department connections, so that they are operative and immediately available to fire personnel to protect life and property from fires, it is necessary that this act take effect immediately.

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## CHAPTER 660

An act to amend Sections 44253.3, 44253.4, and 44253.7 of the Education Code, relating to teacher credentialing.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 44253.3 of the Education Code is amended to read:

44253.3. (a) The commission shall issue an authorization for a teacher to provide all of the following services to limited-English-proficient pupils:

(1) Instruction for English language development in preschool, kindergarten, grades 1 to 12, inclusive, and classes organized primarily for adults, except when the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a children's center instructional permit pursuant to Sections 8363 and 44252.7, a children's center supervision permit pursuant to Section 8363, or a designated subjects teaching credential in adult education pursuant to Section 44260.2. If the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a children's center instructional permit, or a children's center supervision permit, instruction for English language development is limited to the programs authorized by that permit. If the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a designated subjects teaching credential in adult education, instruction for English language development is limited to classes organized primarily for adults.

(2) Specially designed content instruction delivered in English in the subjects and at the levels authorized by the teacher's prerequisite credential or permit used to satisfy the requirement specified in paragraph (1) of subdivision (b).

(b) The minimum requirements for the authorization, which may be completed at the same time as the initial preparation for the prerequisite credential or at a later date, shall include all of the following:

(1) Possession of a valid California teaching credential, services credential, visiting faculty permit, children's center instructional permit, or children's center supervision permit which credential or permit authorizes the holder to provide instruction to pupils in preschool, kindergarten, any of grades 1 to 12, inclusive, or classes primarily organized for adults, except for any of the following:

(A) Emergency credentials or permits.

(B) Exchange credentials as specified in Section 44333.

(C) District intern credentials as specified in Section 44325.

(D) Sojourn certificated employee credentials as specified in Section 44856.

(E) Teacher education internship credentials as specified in Article 3 (commencing with Section 44450) of Chapter 3.

(2) Passage of one or more examinations, or by completing an approved program that consists of coursework or a combination of coursework and examinations, that the commission determines is necessary for demonstrating the knowledge and skills required for effective delivery of the services included in the authorization.

(3) Completion of at least six semester units, or nine quarter units, of coursework in a second language at a regionally accredited institution of postsecondary education. The commission shall establish minimum standards for scholarship in the required coursework. The commission also shall establish alternative ways in which the requirement can be satisfied by language-learning experience that creates an awareness of the challenges of second-language acquisition and development.

(c) Completion of coursework in human relations in accordance with the commission's standards of program quality and effectiveness that includes, at a minimum, instruction in the following:

(1) The nature and content of culture.

(2) Cross-cultural contact and interactions.

(3) Cultural diversity in the United States and California.

(4) Providing instruction responsive to the diversity of the pupil population.

(5) Recognizing and responding to behavior related to the characteristics listed in Section 220.

(6) Techniques for the peaceful resolution of conflict.

(d) The commission shall establish alternative requirements for a teacher to earn the authorization, which shall be awarded as a supplementary authorization pursuant to subdivision (e) of Section 44225.

(e) A teacher who possesses a credential or permit described in paragraph (1) of subdivision (b) and is able to present a valid out-of-state credential or certificate that authorizes the instruction of English language

learners may qualify for the authorization issued under this section by submitting an application and fee to the commission.

(f) The authorization shall remain valid as long as the prerequisite credential or permit specified in paragraph (1) of subdivision (b) remains valid.

SEC. 2. Section 44253.4 of the Education Code is amended to read:

44253.4. (a) The commission shall issue an authorization for a teacher to provide all of the following services to limited-English-proficient pupils:

(1) Instruction for English language development in preschool, kindergarten, grades 1 to 12, inclusive, and classes organized primarily for adults, except when the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a children's center instructional permit pursuant to Sections 8363 and 44252.7, a children's center supervision permit pursuant to Section 8363, or a designated subjects teaching credential in adult education pursuant to Section 44260.2. If the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a children's center instructional permit, or a children's center supervision permit, then instruction for English language development shall be limited to the programs authorized by that permit. If the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a designated subjects teaching credential in adult education, then instruction for English language development shall be limited to classes organized primarily for adults.

(2) Specially designed content instruction delivered in English in the subjects and at the levels authorized by the teacher's prerequisite credential or permit used to satisfy the requirement specified in paragraph (1) of subdivision (b).

(3) Content instruction delivered in the pupil's primary language in the subjects and at the levels authorized by the teacher's prerequisite credential or permit used to satisfy the requirement specified in paragraph (1) of subdivision (b).

(4) Instruction for primary language development in preschool, kindergarten, grades 1 to 12, inclusive, and classes organized primarily for adults, except when the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a children's center instructional permit, a children's center supervision permit, or a designated subjects teaching credential in adult education. If the requirement specified in paragraph (1) of subdivision (b) is satisfied by the possession of a children's center instructional permit or a children's center supervision permit, then instruction for primary language development is limited to the programs authorized by that permit. If the requirement specified in paragraph (1) of subdivision (b) is satisfied by

the possession of a designated subjects teaching credential in adult education, then instruction for primary language development is limited to classes organized primarily for adults.

(b) The minimum requirements for the authorization, which may be completed at the same time as the initial preparation for the prerequisite credential or at a later date, shall include both of the following:

(1) Possession of a valid California teaching credential, services credential, visiting faculty permit, children's center instructional permit, or children's center supervision permit which credential or permit authorizes the holder to provide instruction to pupils in preschool, kindergarten, any of grades 1 to 12, inclusive, or classes primarily organized for adults, except for the following:

(A) Emergency credentials or permits.

(B) Exchange credentials as specified in Section 44333.

(C) District intern credentials as specified in Section 44325.

(D) Sojourn certificated employee credentials as specified in Section 44856.

(E) Teacher education internship credentials as specified in Article 3 (commencing with Section 44450) of Chapter 3.

(2) Passage of one or more examinations, or by completing an approved program that consists of coursework or a combination of coursework and examinations, that the commission determines is necessary for demonstrating the knowledge, skills, and language proficiency required for effective delivery of the services included in the authorization.

(c) To earn the authorization, teachers who hold the authorization described in Section 44253.3, or in Article 3.5 (commencing with Section 44475) of Chapter 3, as that section and that article existed on December 31, 1992, shall not be required to pass examinations that primarily assess the skills and knowledge necessary for effective delivery of the services included in the authorizations they possess.

(d) The authorization shall remain valid as long as the prerequisite credential or permit specified in paragraph (1) of subdivision (b) remains valid.

(e) The commission initially shall issue authorizations for languages spoken by the largest numbers of limited-English-proficient pupils for which there are reasonable numbers of teachers or potential teachers who speak those languages. The commission shall explore alternative ways to make authorizations available for other languages.

SEC. 3. Section 44253.7 of the Education Code is amended to read:

44253.7. (a) The Commission on Teacher Credentialing, based upon the availability of funds, shall develop objective and verifiable standards for an authorization for bilingual-cross-cultural competence for holders

of an appropriate credential, certificate, authorization, or permit who will be serving English language learners. These authorizations may be issued to persons holding an appropriate credential or authorization issued by the commission, including, but not limited to, counselors; special education professionals, including, but not limited to, the holders of special education credentials, clinical services credentials, and school psychologist authorizations; and child development and preschool professionals.

(b) Candidates for the authorization, by oral and written examination, or by completing an approved program that consists of coursework or a combination of coursework and examinations, shall demonstrate all of the following either at the same time as the initial preparation for the prerequisite credential or at a later date:

(1) That the person is competent in both the oral and written skills of a language other than English.

(2) That the person is competent in both the oral and written skills in the English language. A passing score on the reading and writing portions of the basic skills proficiency test administered pursuant to Section 44252.5 or in accordance with Section 44252 shall satisfy the written skills portion of this requirement.

(3) That the person has both the knowledge and understanding of the cultural and historical heritage of the limited-English-proficient individuals to be served.

(4) That the person has the ability to perform the services the candidate is certified or authorized to perform in English and in a language other than English.

(c) The commission may develop rules and regulations setting forth objective and verifiable standards for approval of training programs leading to the authorizations issued pursuant to this section.

(d) For the purpose of assessing the qualifications established by the commission in accordance with this section, the commission shall develop rules, regulations, or guidelines establishing an assessment system that may include local educational agencies, institutions of higher education, and qualified nonprofit bilingual testing agencies as assessor agencies.

(e) It is not the intent of the Legislature in enacting this section that possession of any authorization established by this section be a state-mandated requirement for employment. It is the intent that this is a matter for local educational agencies to determine.

# CHAPTER 661

An act to amend Section 37710 of, and to add and repeal Section 37710.5 of, the Education Code, relating to school districts.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 37710 of the Education Code is amended to read:

37710. If a school operating on a four-day school week pursuant to Section 37710.5 or 37711 fails to achieve its Academic Performance Index growth target pursuant to Section 52052, the authority of that school to operate on a four-day school week shall be permanently revoked commencing with the beginning of the following school year.

SEC. 2. Section 37710.5 is added to the Education Code, to read:

37710.5. (a) Beginning in the 2009–10 fiscal year, the Potter Valley Community Unified School District may operate one or more schools in the school district on a four-day school week if the district complies with the instructional time requirements specified in Section 37701 and the other requirements of this chapter. The State Board of Education may waive five-consecutive-day operating requirements for any of the following programs that operate on a four-day week pursuant to this section, provided that the district meets the minimum time requirement for each program:

(1) Preschools.
(2) Before and after school programs.
(3) Independent study programs.
(4) Child nutrition and food service programs.
(5) Community day schools.
(6) Regional occupational centers or programs.
(7) Continuation high schools.

(b) If the school district operates one or more schools on a four-day week pursuant to this section, and the program for the school year provides fewer than the 180 days of instruction required under Section 46200, the Superintendent shall reduce the base revenue limit per unit of average daily attendance for that fiscal year by the amount the school district would have received for the increase received pursuant to subdivision (a) of Section 46200, as adjusted in fiscal years subsequent to the 1984–85 fiscal year. If the school district operates one or more schools on a four-day school week pursuant to this section, and the

program provides fewer than the minimum instructional minutes required under Section 46201, the Superintendent shall reduce the base revenue limit per unit of average daily attendance for that fiscal year in which the reduction occurs by the amount the school district would have received for the increase in the base revenue limit per unit of average daily attendance pursuant to subdivision (a) of Section 46201, as adjusted in the 1987–88 fiscal year and fiscal years thereafter.

(c) If the school district operates one or more schools on a four-day school week pursuant to this section, the school district shall submit a report to the department, the Senate Committee on Education and the Assembly Committee on Education on January 15, 2014. The report shall include, but not necessarily be limited to, information on the following:

(1) Programs the district offered on the fifth day and their participation rates.

(2) Whether the four-day school week schedule resulted in any fiscal savings.

(3) Impact on overall attendance of the schools operating a four-day school week.

(4) Programs for which the Superintendent waived minimum time and five-consecutive-day requirements and the operational and educational effect of the programs if they operated at less time than required.

(d) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 3. The Legislature finds and declares that, due to the unique circumstances applicable to the Potter Valley Community Unified School District, a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special law is therefore necessary.

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## CHAPTER 662

An act to amend Section 3 of Chapter 1358 of the Statutes of 1987, relating to state property.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 3 of Chapter 1358 of the Statutes of 1987, as amended by Chapter 648 of the Statutes of 1992, is amended to read:

Sec. 3. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, may sell or exchange for current market value or for any lesser consideration authorized by law and upon the terms and conditions and subject to the reservations and exceptions as the Director of General Services deems to be in the best interest of the state, all or any part of the following real property:

PARCEL 1. Approximately 5,100 square feet with a structure, known as 22879 Gold Springs Road, Columbia, County of Tuolumne.

PARCEL 2. (a) Approximately 11.65 acres, being a portion of San Buenaventura State Beach, consisting of the public pier and that portion of the land located within the existing state beach commencing at the most westerly boundary of the state beach and extending easterly to a line to be established that is approximately 50 feet easterly of the east side of the pier.

(b) The property described in subdivision (a) shall be transferred on the condition that it be used only for public recreational purposes. Upon any breach of this condition, the state may reenter the property, and upon that reentry, the interest of the transferee shall terminate and ownership shall be entirely in the state.

(c) Notwithstanding subdivision (b), upon approval by the Director of Parks and Recreation, the City of Ventura may exchange with a private party a portion of the property conveyed to the City of Ventura pursuant to subdivision (a), consisting of approximately 12,000 square feet located near Figueroa Street, for an adjacent parcel of real property located near Figueroa Street that is of equal or greater fair market value. Upon that exchange, the public recreational use condition and the state's right of reentry, as described in subdivision (b), shall terminate with respect to the property conveyed to the private party and that condition and right of reentry shall apply to the property conveyed to the City of Ventura.

PARCEL 4. Approximately two acres, consisting of a narrow strip parcel along the easterly boundary of Redondo State Beach and parallel to the Esplanade between Ruby Street and Nob Hill Avenue, Redondo Beach, County of Los Angeles.

PARCEL 5. Approximately 4,000 square feet, being a portion of Topanga State Park fronting on Paseo Miramar, located in Tract No. 10175, County of Los Angeles.

PARCEL 6. Approximately 0.063 acre, being a portion of San Clemente State Beach, consisting of a portion of Lot 114, Tract No. 961,

as shown on that certain map recorded in the Office of the County Recorder of Orange County and filed in Book 30 of Miscellaneous Maps, at page 31, and a portion of Lot 1, Tract No. 1314, as shown on that certain map recorded in the Office of the County Recorder of Orange County and filed in Book 42 of Miscellaneous Maps at page 17, City of San Clemente, County of Orange. This authorization does not include a 25-foot strip along the southerly edge of both lots directly abutting Avenida Califia, which shall be retained by the Department of Parks and Recreation for the protection of its natural, scenic, or open-space values.

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## CHAPTER 663

An act relating to surplus property.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. (a) The Chino Valley Unified School District may transfer surplus property owned by the school district, located adjacent to Chaparral Elementary School and bordered by Pomona Rincon Road and Bird Farm Road, to the City of Chino Hills, in the County of San Bernardino, pursuant to this section.

(b) The property may be transferred to the city upon payment to the district by the city in an amount specified by the school district, and the execution of an agreement between the school district and the city for development of the property into a park. The Chino Valley Unified School District shall remit to the State Allocation Board the greater of the following:

(1) Fifty percent of the amount realized from the sale of the property.

(2) An amount equal to the apportionment for site acquisition provided by the State Allocation Board pursuant to Section 17072.12 of the Education Code adjusted to the pro rata share of the property being sold by the district.

Revenues received by the Chino Valley Unified School District as a result of this property transfer shall be deposited into the capital outlay fund of the school district. Notwithstanding any other provision of law, the deed or other instrument of transfer shall provide that the property shall revert to the state if the use of the property changes to a use not consistent with parks and recreation purposes.

(c) The property was purchased by the Chino Valley Unified School District from the state at less than fair market value, pursuant to subdivision (k) of Section 11011.1 of the Government Code, with a reversion to the state if the property is not used for school purposes. If the conditions of subdivision (b) are met, then the use of the property shall be deemed to be for school purposes and shall not be subject to reversion to the state because of its use for parks and recreation purposes.

(d) The Chino Valley Unified School District is not eligible to receive an apportionment of funds that are derived from the sale of state general obligation bonds for a project involving the property transferred pursuant to this section.

SEC. 2. Due to the unique circumstances concerning the Chino Valley Unified School District and the City of Chino Hills, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Therefore, this act is necessarily applicable only to the Chino Valley Unified School District and the City of Chino Hills.

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## CHAPTER 664

An act to amend Sections 65400, 65583, 65583.2, 65584.04, 65584.05, 65588, 66427.1, and 66452.21 of, to amend and renumber Sections 66452.8 and 66452.9 of, to add Sections 66452.19 and 66452.20 to, and to repeal Sections 66452.14 and 66452.15 of, the Government Code, and to amend Sections 18029, 18031.7, 18897, 18897.2, 18897.4, 18897.6, 18897.7, 50675.14, and 50802 of, and to amend and renumber the heading of Part 2.3 (commencing with Section 18897) of Division 13 of, the Health and Safety Code, relating to housing.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation

of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

(C) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(b) The housing element portion of the annual report required under subparagraph (B) of paragraph (2) of subdivision (a) shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2).

(c) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days after the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 2. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of

housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate

that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

(i) The maximum number of beds or persons permitted to be served nightly by the facility.

(ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.

(iii) The size and location of exterior and interior onsite waiting and client intake areas.

(iv) The provision of onsite management.

(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.

(vi) The length of stay.

(vii) Lighting.

(viii) Security during hours that the emergency shelter is in operation.

(B) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(C) A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

(D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The

analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(7) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter. The need for emergency shelter shall be assessed based on annual and seasonal need. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period.

(8) An analysis of opportunities for energy conservation with respect to residential development.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis

required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment

project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.

(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:

(A) How the joint facility will meet the jurisdiction's emergency shelter need.

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

(C) The amount and source of the funding that the jurisdiction contributes to the facility.

(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.

(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for

review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

SEC. 3. Section 65583.2 of the Government Code is amended to read:

65583.2. (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the following:

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density.

(4) Sites zoned for nonresidential use that can be redeveloped for, and as necessary, rezoned for, residential use.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by parcel number or other unique reference.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) A general description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities. This information need not be identified on a site-specific basis.

(6) Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulations requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For incorporated cities within nonmetropolitan counties and for nonmetropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.

(ii) For unincorporated areas in all nonmetropolitan counties not included in clause (i): sites allowing at least 10 units per acre.

(iii) For suburban jurisdictions: sites allowing at least 20 units per acre.

(iv) For jurisdictions in metropolitan counties: sites allowing at least 30 units per acre.

(d) For purposes of this section, metropolitan counties, nonmetropolitan counties, and nonmetropolitan counties with micropolitan areas are as determined by the United States Census Bureau.

Nonmetropolitan counties with micropolitan areas include the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and such other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction is considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it is considered metropolitan. Counties, not including the City and County of San Francisco, will be considered suburban unless they are in a MSA of 2,000,000 or greater in population in which case they are considered metropolitan.

(f) A jurisdiction is considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in a MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it is considered suburban.

(g) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) and at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed-uses are not permitted.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

SEC. 4. Section 65584.04 of the Government Code is amended to read:

65584.04. (a) At least two years prior to a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall be consistent with the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (d) that will allow the development of a methodology based upon the factors established in subdivision (d).

(2) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(3) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit

information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) The market demand for housing.

(5) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.

(6) The loss of units contained in assisted housing developments, as defined in paragraph (9) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(7) High-housing cost burdens.

(8) The housing needs of farmworkers.

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

(10) Any other factors adopted by the council of governments.

(e) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (d) was incorporated into the methodology and how the methodology is consistent with subdivision (d) of Section 65584. The methodology may include numerical weighting.

(f) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation to those local governments by the council of governments or delegate subregion pursuant to Section 65584.05.

(h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of

governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion as applicable, and to the department.

SEC. 5. Section 65584.05 of the Government Code is amended to read:

65584.05. (a) At least one and one-half years prior to the scheduled revision required by Section 65588, each council of governments and delegate subregion, as applicable, shall distribute a draft allocation of regional housing needs to each local government in the region or subregion, where applicable, based on the methodology adopted pursuant to Section 65584.04. The draft allocation shall include the underlying data and methodology on which the allocation is based. It is the intent of the Legislature that the draft allocation should be distributed prior to the completion of the update of the applicable regional transportation plan. The draft allocation shall distribute to localities and subregions, if any, within the region the entire regional housing need determined pursuant to Section 65584.01 or within subregions, as applicable, the subregion's entire share of the regional housing need determined pursuant to Section 65584.03.

(b) Within 60 days following receipt of the draft allocation, a local government may request from the council of governments or the delegate subregion, as applicable, a revision of its share of the regional housing need in accordance with the factors described in paragraphs (1) to (9), inclusive, of subdivision (d) of Section 65584.04, including any information submitted by the local government to the council of governments pursuant to subdivision (b) of that section. The request for a revised share shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation.

(c) Within 60 days after the request submitted pursuant to subdivision (b), the council of governments or delegate subregion, as applicable, shall accept the proposed revision, modify its earlier determination, or indicate, based upon the information and methodology described in Section 65584.04, why the proposed revision is inconsistent with the regional housing need.

(d) If the council of governments or delegate subregion, as applicable, does not accept the proposed revised share or modify the revised share to the satisfaction of the requesting party, the local government may

appeal its draft allocation based upon either or both of the following criteria:

(1) The council of governments or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04, 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 council of governments or delegate subregion, as applicable, failed to determine its share of the regional housing need in accordance with the information described in, and the methodology established pursuant to Section 65584.04.

(e) The council of governments or delegate subregion, as applicable, shall conduct public hearings to hear all appeals within 60 days after the date established to file appeals. The local government shall be notified within 10 days by certified mail, return receipt requested, of at least one public hearing on its appeal. The date of the hearing shall be at least 30 days and not more than 35 days after the date of the notification. Before taking action on an appeal, the council of governments or delegate subregion, as applicable, shall consider all comments, recommendations, and available data based on accepted planning methodologies submitted by the appellant. The final action of the council of governments or delegate subregion, as applicable, on an appeal shall be in writing and shall include information and other evidence explaining how its action is consistent with this article. The final action on an appeal may require the council of governments or delegate subregion, as applicable, to adjust the allocation of a local government that is not the subject of an appeal.

(f) The council of governments or delegate subregion, as applicable, shall issue a proposed final allocation within 45 days after the completion of the 60-day period for hearing appeals. The proposed final allocation plan shall include responses to all comments received on the proposed draft allocation and reasons for any significant revisions included in the final allocation.

(g) In the proposed final allocation plan, the council of governments or delegate subregion, as applicable, shall adjust allocations to local governments based upon the results of the revision request process and the appeals process specified in this section. If the adjustments total 7 percent or less of the regional housing need determined pursuant to Section 65584.01, or, as applicable, total 7 percent or less of the subregion's share of the regional housing need as determined pursuant to Section 65584.03, then the council of governments or delegate subregion, as applicable, shall distribute the adjustments proportionally to all local governments. If the adjustments total more than 7 percent of the regional housing need, then the council of governments or delegate

subregion, as applicable, shall develop a methodology to distribute the amount greater than the 7 percent to local governments. In no event shall the total distribution of housing need equal less than the regional housing need, as determined pursuant to Section 65584.01, nor shall the subregional distribution of housing need equal less than its share of the regional housing need as determined pursuant to Section 65584.03. Two or more local governments may agree to an alternate distribution of appealed housing allocations between the affected local governments. If two or more local governments agree to an alternative distribution of appealed housing allocations that maintains the total housing need originally assigned to these communities, then the council of governments shall include the alternative distribution in the final allocation plan.

(h) Within 45 days after the issuance of the proposed final allocation plan by the council of governments and each delegate subregion, as applicable, the council of governments shall hold a public hearing to adopt a final allocation plan. To the extent that the final allocation plan fully allocates the regional share of statewide housing need, as determined pursuant to Section 65584.01, the council of governments shall have final authority to determine the distribution of the region's existing and projected housing need as determined pursuant to Section 65584.01. Within 60 days after adoption by the council of governments, the department shall determine whether or not the final allocation plan is consistent with the existing and projected housing need for the region, as determined pursuant to Section 65584.01. The department may revise the determination of the council of governments if necessary to obtain this consistency.

(i) Any authority of the council of governments to review and revise the share of a city or county of the regional housing need under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.

SEC. 6. Section 65588 of the Government Code is amended to read:

65588. (a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.

(3) The progress of the city, county, or city and county in implementation of the housing element.

(b) The housing element shall be revised as appropriate, but no less often than required by subdivision (e), to reflect the results of this periodic review.

(c) The review and revision of housing elements required by this section shall take into account any low- or moderate-income housing provided or required pursuant to Section 65590.

(d) The review pursuant to subdivision (c) shall include, but need not be limited to, the following:

(1) The number of new housing units approved for construction within the coastal zone after January 1, 1982.

(2) The number of housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, required to be provided in new housing developments either within the coastal zone or within three miles of the coastal zone pursuant to Section 65590.

(3) The number of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been authorized to be demolished or converted since January 1, 1982, in the coastal zone.

(4) The number of residential dwelling units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been required for replacement or authorized to be converted or demolished as identified in paragraph (3). The location of the replacement units, either onsite, elsewhere within the locality's jurisdiction within the coastal zone, or within three miles of the coastal zone within the locality's jurisdiction, shall be designated in the review.

(e) Each city, county, and city and county shall revise its housing element according to the following schedule:

(1) Local governments within the regional jurisdiction of the Southern California Association of Governments: June 30, 2006, for the fourth revision.

(2) Local governments within the regional jurisdiction of the Association of Bay Area Governments: June 30, 2007, for the fourth revision.

(3) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: June 30, 2002, for the third revision, and June 30, 2008, for the fourth revision.

(4) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: December 31, 2002, for the third revision, and June 30, 2009, for the fourth revision.

(5) Local governments within the regional jurisdiction of the San Diego Association of Governments: June 30, 2005, for the fourth revision.

(6) All other local governments: December 31, 2003, for the third revision, and June 30, 2009, for the fourth revision.

(7) Subsequent revisions shall be completed not less often than at five-year intervals following the fourth revision.

SEC. 7. Section 66427.1 of the Government Code is amended to read:

66427.1. (a) The legislative body shall not approve a final map for a subdivision to be created from the conversion of residential real property into a condominium project, a community apartment project, or a stock cooperative project, unless it finds as follows:

(1) Each tenant of the proposed condominium, community apartment project, or stock cooperative project, and each person applying for the rental of a unit in the residential real property, has received or will have received all applicable notices and rights now or hereafter required by this chapter or Chapter 3 (commencing with Section 66451).

(2) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has received or will receive each of the following notices:

(A) Written notification, pursuant to Section 66452.18, of intention to convert, provided at least 60 days prior to the filing of a tentative map pursuant to Section 66452.

(B) Ten days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, that the period for each tenant's right to purchase begins with the issuance of the final public report, and that the report will be available on request.

(C) Written notification that the subdivider has received the public report from the Department of Real Estate. This notice shall be provided within five days after the date that the subdivider receives the public report from the Department of Real Estate.

(D) Written notification within 10 days after approval of a final map for the proposed conversion.

(E) One hundred eighty days' written notice of intention to convert, provided prior to termination of tenancy due to the conversion or proposed conversion pursuant to Section 66452.19, but not before the local authority has approved a tentative map for the conversion. The notice given pursuant to this paragraph shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1, and 1941.2 of the Civil Code.

(F) Notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that the unit will be initially offered to the general public or terms more favorable to the tenant pursuant to Section 66452.20. The exclusive right to purchase shall commence on the date the subdivision public report is issued, as

provided in Section 11018.2 of the Business and Professions Code, and shall run for a period of not less than 90 days, unless the tenant gives prior written notice of his or her intention not to exercise the right.

(b) The written notices to tenants required by subparagraphs (A) and (B) of paragraph (2) of subdivision (a) shall be deemed satisfied if those notices comply with the legal requirements for service by mail.

(c) This section shall not diminish, limit, or expand, other than as provided in this section, the authority of any city, county, or city and county to approve or disapprove condominium projects.

(d) If a rental agreement was negotiated in Spanish, Chinese, Tagalog, Vietnamese, or Korean, all required written notices regarding the conversion of residential real property into a condominium project, a community apartment project, or a stock cooperative project shall be issued in that language.

SEC. 8. Section 66452.8 of the Government Code is amended and renumbered to read:

66452.17. (a) Commencing at a date not less than 60 days prior to the filing of a tentative map pursuant to Section 66452, the subdivider or his or her agent shall give notice of the filing, in the form outlined in subdivision (b), to each person applying after that date for rental of a unit of the subject property immediately prior to the acceptance of any rent or deposit from the prospective tenant by the subdivider.

(b) The notice shall be as follows:

"To the prospective occupant(s) of

_____:

(address)

The owner(s) of this building, at (address), has filed or plans to file a tentative map with the (city, county, or city and county) to convert this building to a (condominium, community apartment, or stock cooperative project). No units may be sold in this building unless the conversion is approved by the (city, county, or city and county) and until after a public report is issued by the Department of Real Estate. If you become a tenant of this building, you shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

_____

(signature of owner or owner's agent)

_____

(dated)

I have received this notice on _____.
(date)

_____
(prospective tenant's signature)"

(c) Failure by a subdivider or his or her agent to give the notice required in subdivision (a) shall not be grounds to deny the conversion. However, if the subdivider or his or her agent fails to give notice pursuant to this section, he or she shall pay to each prospective tenant who becomes a tenant and who was entitled to the notice, and who does not purchase his or her unit pursuant to subparagraph (F) of paragraph (2) of subdivision (a) of Section 66427.1, an amount equal to the sum of the following:

(1) Actual moving expenses incurred when moving from the subject property, but not to exceed one thousand one hundred dollars ($1,100).

(2) The first month's rent on the tenant's new rental unit, if any, immediately after moving from the subject property, but not to exceed one thousand one hundred dollars ($1,100).

(d) The requirements of subdivision (c) constitute a minimum state standard. However, nothing in that subdivision shall be construed to prohibit any city, county, or city and county from requiring, by ordinance or charter provision, a subdivider to compensate any tenant, whose tenancy is terminated as the result of a condominium, community apartment project, or stock cooperative conversion, in amounts or by services which exceed those set forth in paragraphs (1) and (2) of that subdivision. If that requirement is imposed by any city, county, or city and county, a subdivider who meets the compensation requirements of the local ordinance or charter provision shall be deemed to satisfy the requirements of subdivision (c).

SEC. 9. Section 66452.9 of the Government Code is amended and renumbered to read:

66452.18. (a) Pursuant to subparagraph (A) of paragraph (2) of subdivision (a) of Section 66427.1, the subdivider shall give notice 60 days prior to the filing of a tentative map pursuant to Section 66452 in the form outlined in subdivision (b), to each tenant of the subject property.

(b) The notice shall be as follows:

"To the occupant(s) of

_____:
(address)

The owner(s) of this building, at (address), plans to file a tentative map with the (city, county, or city and county) to convert this building to a (condominium, community apartment, or stock cooperative project). You shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

_____
(signature of owner or owner's agent)

_____
(date)"

The written notices to tenants required by this section shall be deemed satisfied if the notices comply with the legal requirements for service by mail.

SEC. 10. Section 66452.14 of the Government Code is repealed.

SEC. 11. Section 66452.15 of the Government Code is repealed.

SEC. 12. Section 66452.19 is added to the Government Code, to read:

66452.19. (a) Pursuant to the provisions of subparagraph (E) of paragraph (2) of subdivision (a) of Section 66427.1, the subdivider shall give written notice of the intent to convert 180 days prior to the termination of tenancy in the form outlined in subdivision (b), to each tenant of the subject property.

(b) The notice shall be as follows:

"To the occupant(s) of

_____:
(address)

The owner(s) of this building, at (address), plans to convert this building to a (condominium, community apartment, or stock cooperative project). This is a notice of the owner's intention to convert the building to a (condominium, community apartment, or stock cooperative project).

A tentative map to convert the building to a (condominium, community apartment, or stock cooperative project) was approved by the City on _____. If the City approves a final map, you may be required to vacate the premises, but that cannot happen for at least 180 days from the date this notice was served upon you.

Any future notice given to you to terminate your tenancy because of the conversion cannot be effective for at least 180 days from the date this notice was served upon you. This present notice is not a notice to

terminate your tenancy; it is not a notice that you must now vacate the premises.

_____
(signature of owner or owner's agent)

_____
(date)"

The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail.

SEC. 13. Section 66452.20 is added to the Government Code, to read:

66452.20. (a) Pursuant to subparagraph (F) of paragraph (2) of subdivision (a) of Section 66427.1, the subdivider shall give written notice within five days after receipt of the subdivision public report to each tenant of his or her exclusive right for at least 90 days after issuance of the subdivision public report to contract for the purchase of his or her respective unit in the form outlined in subdivision (b).

(b) The notice shall be as follows:

"To the occupant(s) of

_____:
(address)

The owner(s) of this building, at (address), have received the final subdivision report on the proposed conversion of this building to a (condominium, community apartment, or stock cooperative project). Commencing on the date of issuance of the subdivision public report, you have the exclusive right for 90 days to contract for the purchase of your rental unit upon the same or more favorable terms and conditions than the unit will initially be offered to the general public.

_____
(signature of owner or owner's agent)

_____
(date)"

The written notices to tenants required by this section shall be deemed satisfied if the notices comply with the legal requirements for service by mail.

SEC. 14. Section 66452.21 of the Government Code is amended to read:

66452.21. (a) The expiration date of any tentative or vesting tentative subdivision map or parcel map for which a tentative or vesting tentative map, as the case may be, has been approved that has not expired on the date that the act that added this section became effective and that will expire before January 1, 2011, shall be extended by 12 months.

(b) The extension provided by subdivision (a) shall be in addition to any extension of the expiration date provided for in Section 66452.6, 66452.11, 66452.13, or 66463.5.

(c) Any legislative, administrative, or other approval by any state agency that pertains to a development project included in a map that is extended pursuant to subdivision (a) shall be extended by 12 months if this approval has not expired on the date that the act that added this section became effective. This extension shall be in addition to any extension provided for in Section 66452.13.

(d) For purposes of this section, the determination of whether a tentative subdivision map or parcel map expires before January 1, 2011, shall count only those extensions of time pursuant to subdivision (e) of Section 66452.6 or subdivision (c) of Section 66463.5 approved on or before the date that the act that added this section became effective and any additional time in connection with the filing of a final map pursuant to subdivision (a) of Section 66452.6 for a map that was recorded on or before the date that the act that added this section became effective. The determination shall not include any development moratorium or litigation stay allowed or permitted by Section 66452.6 or 66463.5.

SEC. 15. Section 18029 of the Health and Safety Code is amended to read:

18029. (a) It is unlawful for any person to alter or convert, or cause to be altered or converted, the structural, fire safety, plumbing, heat-producing, or electrical systems and installations or equipment of a manufactured home, mobilehome, multifamily manufactured home, special purpose commercial modular, or commercial modular that bears a department insignia of approval or federal label when the manufactured home, mobilehome, multifamily manufactured home, special purpose commercial modular, or commercial modular is used, occupied, sold, or offered for sale within this state, unless its performance as altered or converted is in compliance with this chapter and applicable regulations adopted by the department. The department may adopt regulations providing requirements for alterations and conversions described in this section.

(b) (1) Any person required by this chapter or the regulations adopted pursuant to this chapter to file an application for an alteration or conversion who fails to file that application shall pay double the

application fee prescribed for the alteration or conversion by this chapter or by regulations adopted pursuant to this chapter.

(2) Any person found for a second or subsequent time within a five-year period to have failed to file an application for alteration or conversion or causing the failure to file an application for alteration or conversion for a manufactured home, mobilehome, multifamily manufactured home, special purpose commercial modular, or commercial modular shall pay 10 times the application fee prescribed in this chapter or by the regulations adopted pursuant to this chapter.

SEC. 16. Section 18031.7 of the Health and Safety Code is amended to read:

18031.7. (a) Nothing in this part shall prohibit the replacement of water heaters in manufactured homes or mobilehomes with fuel gas burning water heaters not specifically listed for use in a manufactured home or mobilehome or from having hot water supplied from an approved source within the manufactured home or mobilehome, or in the garage, in accordance with this part or Part 2.1 (commencing with Section 18200).

(b) Nothing in this part shall prohibit the replacement of appliances for comfort heating in manufactured homes, mobilehomes, or multifamily manufactured homes with fuel-gas appliances for comfort heating not specifically listed for use in a manufactured home or mobilehome within the manufactured home, mobilehome, or multifamily manufactured home in accordance with this part, Part 2.1 (commencing with Section 18200), or Part 2.3 (commencing with Section 18860).

(c) Replacement fuel gas burning water heaters shall be listed for residential use and installed within the specifications of that listing to include tiedown or bracing to prevent overturning.

(d) Replacement fuel gas burning water heaters installed in accordance with subdivision (c) shall bear a label permanently affixed in a visible location adjacent to the fuel gas inlet which reads, as applicable:

| WARNING |
| --- |
| This appliance is approved only for use with natural gas (NG). |

OR

WARNING

This appliance is approved only for use with liquefied petroleum gas (LPG).

Lettering on the label shall be black on a red background and not less than ¼ inch in height except for the word "WARNING" which shall be not less than ½ inch in height.

SEC. 16.5. Section 18031.7 of the Health and Safety Code is amended to read:

18031.7. (a) Nothing in this part shall prohibit the replacement of water heaters in manufactured homes or mobilehomes with fuel-gas-burning water heaters not specifically listed for use in a manufactured home or mobilehome or from having hot water supplied from an approved source within the manufactured home or mobilehome, or in the garage, in accordance with this part or Part 2.1 (commencing with Section 18200).

(b) Nothing in this part shall prohibit the replacement of appliances for comfort heating in manufactured homes, mobilehomes, or multifamily manufactured homes with fuel-gas appliances for comfort heating not specifically listed for use in a manufactured home or mobilehome within the manufactured home, mobilehome, or multifamily manufactured home in accordance with this part, Part 2.1 (commencing with Section 18200), or Part 2.3 (commencing with Section 18860).

(c) Replacement fuel-gas-burning water heaters shall be listed for residential use and installed within the specifications of that listing to include tiedown or bracing to prevent overturning.

(d) Replacement fuel-gas-burning water heaters installed in accordance with subdivision (c) shall bear a label permanently affixed in a visible location adjacent to the fuel gas inlet which reads, as applicable:

WARNING

This appliance is approved only for use with natural gas (NG).

OR

WARNING

This appliance is approved only for use with liquefied petroleum gas (LPG).

Lettering on the label shall be black on a red background and not less than ¼ inch in height except for the word "WARNING" which shall be not less than ½ inch in height.

(e) (1) All fuel-gas-burning water heater appliances in new manufactured homes or new multifamily manufactured homes installed in the state shall be seismically braced, anchored, or strapped pursuant to paragraph (3) and shall be completed before or at the time of installation of the homes.

(2) Any replacement fuel-gas-burning water heater appliances installed in existing mobilehomes, existing manufactured homes, or existing multifamily manufactured homes that are offered for sale, rent, or lease shall be seismically braced, anchored, or strapped pursuant to paragraph (3).

(3) On or before July 1, 2009, the department shall promulgate rules and regulations that include standards for water heater seismic bracing, anchoring, or strapping. These standards shall be substantially in accordance with either the guidelines developed pursuant to Section 19215 or the California Plumbing Code (Part 5 of Title 24 of the California Code of Regulations), and shall be applicable statewide.

(4) The dealer, or manufacturer acting as a dealer, responsible, as part of the purchase contract, for both the sale and installation of any home subject to this subdivision shall ensure all water heaters are seismically braced, anchored, or strapped in compliance with this subdivision prior to completion of installation.

(5) In the event of a sale of a home, pursuant to either paragraph (1) of subdivision (e) of Section 18035 or Section 18035.26, the homeowner or contractor responsible for the installation of the home shall ensure all fuel-gas-burning water heater appliances are seismically braced, anchored, or strapped consistent with the requirements of paragraph (3). This requirement shall be satisfied when the homeowner or responsible contractor both completes that work and signs a declaration stating each fuel-gas-burning water heater is secured as required by this section on the date the declaration is signed.

(f) All used mobilehomes, used manufactured homes, and used multifamily manufactured homes that are sold shall, on or before the date of transfer of title, have the fuel-gas-burning water heater appliance

or appliances seismically braced, anchored, or strapped consistent with the requirements of paragraph (3) of subdivision (e). This requirement shall be satisfied if, within 45 days prior to the transfer of title, the transferor signs a declaration stating that each water heater appliance in the used mobilehome, used manufactured home, or used multifamily manufactured home is secured pursuant to paragraph (3) of subdivision (e) on the date the declaration is signed.

(g) For sales of manufactured homes or mobilehomes installed on real property pursuant to subdivision (a) of Section 18551, as to real estate agents licensed pursuant to Division 4 (commencing with Section 10000) of the Business and Professions Code, the real estate licensee duty provisions of Section 8897.5 of the Government Code shall apply to this section.

SEC. 17. The heading of Part 2.3 (commencing with Section 18897) of Division 13 of the Health and Safety Code, as amended by Section 38 of Chapter 434 of the Statutes of 2001, is amended and renumbered to read:

## PART 2.4. CAMPS

SEC. 18. Section 18897 of the Health and Safety Code is amended to read:

18897. (a) "Organized camp" means a site with program and facilities established for the primary purposes of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives, for five days or more during one or more seasons of the year.

(b) The term "organized camp" does not include a motel, tourist camp, trailer park, resort, hunting camp, auto court, labor camp, penal or correctional camp and does not include a child care institution or home-finding agency.

(c) The term "organized camp" also does not include any charitable or recreational organization that complies with the rules and regulations for recreational trailer parks.

SEC. 19. Section 18897.2 of the Health and Safety Code is amended to read:

18897.2. (a) Except as provided in Section 18930, the Director of Public Health shall adopt, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, rules and regulations establishing minimum standards for organized camps and regulating the operation of organized camps that the director determines are necessary to protect the health and safety of the campers. Organized camps also shall comply with the building standards of the jurisdiction in which the camp is located, to

the extent that those standards are not contrary to, or inconsistent with, the building standards adopted by the Director of Public Health. The Director of Public Health shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section. The State Department of Public Health shall enforce building standards published in the State Building Standards Code relating to organized camps and such other rules and regulations adopted by such director pursuant to the provisions of this section as the director determines are necessary to protect the health and safety of campers. In adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 and in adopting such other rules and regulations pursuant to the provisions of this section, the Director of Public Health shall consider the Camp Standards of the American Camping Association.

(b) The Director of Public Health shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 and shall adopt such other rules and regulations pursuant to the provisions of this section establishing minimum standards for intermittent short-term organized camps operated by a city or a county as the director deems necessary to protect the health and safety of campers. For purposes of this subdivision, "intermittent short-term organized camps" means a site for camping by any group of people for a period of not more than 72 consecutive hours for that group.

SEC. 20. Section 18897.4 of the Health and Safety Code is amended to read:

18897.4. Every local health officer shall enforce within his or her jurisdiction the building standards published in the State Building Standards Code relating to organized camps and the other rules and regulations adopted by the Director of Public Health pursuant to Section 18897.2.

SEC. 21. Section 18897.6 of the Health and Safety Code is amended to read:

18897.6. Organized camps shall not be subject to regulation by any state agency other than the State Department of Public Health, California regional water quality control boards, the State Water Resources Control Board, and the State Fire Marshal; provided, that this section shall not affect the authority of the Department of Industrial Relations to regulate the wages or hours of employees of organized camps and this section shall not be construed to limit the application of building standards published in the State Building Standards Code to structures in organized camps.

SEC. 22. Section 18897.7 of the Health and Safety Code is amended to read:

18897.7. No organized camp shall be operated in this state unless each site or location in which the camp operates satisfies the minimum standards for organized camps prescribed in building standards published in the State Building Standards Code relating to organized camps, and in other rules and regulations adopted by the Director of Public Health and the State Fire Marshal. Any violation of this section or of any building standard published in the State Building Standards Code relating to organized camps or any other rule or regulation adopted pursuant to Section 18897.2 or 18897.3 in the operation of organized camps is a misdemeanor.

SEC. 23. Section 50675.14 of the Health and Safety Code is amended to read:

50675.14. (a) This section shall apply only to projects funded with funds appropriated for supportive housing projects.

(b) For purposes of this section the following terms have the following meanings:

(1) "Supportive housing" means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

(2) "Target population" means persons with low incomes having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated youth, families, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

(c) The criteria, established by the department, for selecting supportive housing projects shall give priority to the following:

(1) Supportive housing projects that house persons with disabilities who would otherwise be at high risk of homelessness, where the application for funding demonstrates collaboration with programs that meet the needs of the supportive housing residents' disabilities.

(2) Supportive housing projects that include a focus on measurable outcomes and a plan for evaluation, which evaluation shall be submitted by the borrowers, annually, to the department.

(d) The department may provide higher per-unit loan limits as reasonably necessary to provide and maintain rents that are affordable to the target population.

(e) In an evaluation or ranking of a borrower's development and ownership experience, the department shall consider experience acquired in the prior 10 years.

(f) (1) A borrower shall, beginning the second year after supportive housing project occupancy, include the following data in his or her annual report to the department. However, a borrower who submits an annual evaluation pursuant to subdivision (c) may, instead, include this information in the evaluation:

(A) The length of occupancy by each supportive housing resident for the period covered by the report.

(B) Changes in each supportive housing resident's employment status during the previous year.

(C) Changes in each supportive housing resident's source and amount of income during the previous year.

(2) The department shall include aggregate data with respect to the supportive housing projects described in this section in the report that it submits to the Legislature pursuant to Section 50675.12.

(g) The department shall consider, commencing in the second year of the funding, the feasibility and appropriateness of modifying its regulations to increase the use of funds by small projects. In doing this, the department shall consider its operational needs and prior history of funding supportive housing facilities.

SEC. 24. Section 50802 of the Health and Safety Code is amended to read:

50802. (a) The department shall ensure that not less than 20 percent of the moneys in the Emergency Housing and Assistance Fund shall be allocated to nonurban counties during any given fiscal year. If the funds designated for facilities operation that are allocated to nonurban counties are not awarded by the end of that fiscal year, then those unencumbered funds shall be allocated in the next fiscal year to urban counties. Funds for capital development that are not awarded by the end of the second fiscal year shall be awarded in the subsequent fiscal year to urban counties.

(b) The amount of funds that the department allocates from the Emergency Housing and Assistance Fund to each region, excluding funds allocated pursuant to subdivision (a), shall be based upon a formula that accords at least 20 percent weight to each of the following factors:

(1) The relative number of persons in the region below the poverty line according to the most recent federal census, updated, if possible, with an estimate by the Department of Finance, compared to the total of the urban counties.

(2) The relative number of persons unemployed within each region, based on the most recent one-year period for which data is available, compared to the total of the urban counties.

(c) Grant funds shall be disbursed as expeditiously as possible by the department.

(d) The department shall use not more than 5 percent of the amount available for funds pursuant to this chapter to defray the department's administrative costs pursuant to this chapter.

(e) Notwithstanding any other provision of this chapter, the department shall distribute funds appropriated for purposes of the activities specified in paragraph (2) of subdivision (a) of Section 50803 as grants in the form of forgivable deferred loans, subject to all of the following:

(1) Funding shall be made available to each project as a loan with a term of five years for rehabilitation, seven years for substantial rehabilitation, or 10 years for acquisition and rehabilitation or new construction. Each deferred loan shall be secured by a deed of trust and promissory note. Repayment of the loan shall be deferred as long as the project is used as an emergency shelter or transitional housing. At the completion of the specified year term, the loan shall be forgiven. If a transfer or conveyance of the project property, however, occurs prior to that time that results in the property no longer being used as an emergency shelter or transitional housing, the department shall terminate the grant and require the repayment of the deferred loan in full.

(2) Applications for funding shall be made pursuant to department-issued statewide "Notices of Funding Availability" without the need for additional regulations.

(3) The department shall set forth the criteria for evaluating applications in the "Notices of Funding Availability" and shall make deferred loans based on those applications that best meet the criteria.

(4) The department shall specify in the "Notice of Funding Availability" both maximum and minimum grant amounts that may be varied for urban and nonurban counties.

(5) Contracts for projects that have not begun construction within the initial 12-month period shall be terminated and funds reallocated. The department, however, may extend this period by a period not to exceed 12 months.

SEC. 25. (a) Section 1 of this act shall not become operative if Senate Bill 375 of the 2007–08 Regular Session is enacted and becomes effective on or before January 1, 2009, and amends Section 65400 of the Government Code.

(b) Section 2 of this act shall not become operative if Senate Bill 375 of the 2007–08 Regular Session is enacted and becomes effective on or

before January 1, 2009, and amends Section 65583 of the Government Code.

(c) Section 4 of this act shall not become operative if Senate Bill 375 of the 2007–08 Regular Session is enacted and becomes effective and amends Section 65584.04 of the Government Code.

(d) Section 6 of this act shall not become operative if Senate Bill 375 of the 2007–08 Regular Session is enacted and becomes effective and amends Section 65588 of the Government Code.

SEC. 26. Section 16.5 of this bill incorporates amendments to Section 18031.7 of the Health and Safety Code proposed by both this bill and AB 2050. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 18031.7 of the Health and Safety Code, and (3) this bill is enacted after AB 2050, in which case Section 16 of this bill shall not become operative.

SEC. 27. 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.

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## CHAPTER 665

An act to amend, repeal, and add Section 1675 of the Civil Code, relating to residential property.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 1675 of the Civil Code is amended to read:

1675. (a) As used in this section, "residential property" means real property primarily consisting of a dwelling that meets both of the following requirements:

(1) The dwelling contains not more than four residential units.

(2) At the time the contract to purchase and sell the property is made, the buyer intends to occupy the dwelling or one of its units as his or her residence.

(b) A provision in a contract to purchase and sell residential property that provides that all or any part of a payment made by the buyer shall constitute liquidated damages to the seller upon the buyer's failure to complete the purchase of the property is valid to the extent that payment in the form of cash or check, including a postdated check, is actually made if the provision satisfies the requirements of Sections 1677 and 1678 and either subdivision (c) or (d) of this section.

(c) If the amount actually paid pursuant to the liquidated damages provision does not exceed 3 percent of the purchase price, the provision is valid to the extent that payment is actually made unless the buyer establishes that the amount is unreasonable as liquidated damages.

(d) If the amount actually paid pursuant to the liquidated damages provision exceeds 3 percent of the purchase price, the provision is invalid unless the party seeking to uphold the provision establishes that the amount actually paid is reasonable as liquidated damages.

(e) For the purposes of subdivisions (c) and (d), the reasonableness of an amount actually paid as liquidated damages shall be determined by taking into account both of the following:

(1) The circumstances existing at the time the contract was made.

(2) The price and other terms and circumstances of any subsequent sale or contract to sell and purchase the same property if the sale or contract is made within six months of the buyer's default.

(f) (1) Notwithstanding either subdivision (c) or (d), for the initial sale of newly constructed attached condominium units, as defined pursuant to Section 783 that involves the sale of an attached residential condominium unit located within a structure of 10 or more residential condominium units and the amount actually paid to the seller pursuant to the liquidated damages provision exceeds 3 percent of the purchase price of the residential unit in the transaction both of the following shall occur in the event of a buyer's default:

(A) The seller shall perform an accounting of its costs and revenues related to and fairly allocable to the construction and sale of the residential unit within 60 calendar days after the final close of escrow of the sale of the unit within the structure.

(B) The accounting shall include any and all costs and revenues related to the construction and sale of the residential property and any delay caused by the buyer's default. The seller shall make reasonable efforts to mitigate any damages arising from the default. The seller shall refund to the buyer any amounts previously retained as liquidated damages in excess of the greater of either 3 percent of the originally agreed-upon purchase price of the residential property or the amount of the seller's losses resulting from the buyer's default, as calculated by the accounting.

(2) The refund shall be sent to the buyer's last known address within 90 days after the final close of escrow of the sale or lease of all the residential condominium units within the structure.

(3) If the amount retained by the seller after the accounting does not exceed 3 percent of the purchase price, the amount is valid unless the buyer establishes that the amount is unreasonable as liquidated damages pursuant to subdivision (e).

(4) Subdivision (d) shall not apply to any dispute regarding the reasonableness of any amount retained as liquidated damages pursuant to this subdivision.

(5) Notwithstanding the time periods regarding the performance of the accounting set forth in paragraph (1), if a new qualified buyer has entered into a contract to purchase the residential property in question, the seller shall perform the accounting within 60 calendar days after a new qualified buyer has entered into a contract to purchase.

(6) As used in this subdivision, "structure" means either of the following:

(A) Improvements constructed on a common foundation.

(B) Improvements constructed by the same owner that must be constructed concurrently due to the design characteristics of the improvements or physical characteristics of the property on which the improvements are located.

(7) As used in this subdivision, "new qualified buyer" means a buyer who either:

(A) Has been issued a loan commitment, which satisfies the purchase agreement loan contingency requirement, by an institutional lender to obtain a loan for an amount equal to the purchase price less any downpayment possessed by the buyer.

(B) Has contracted to pay a purchase price that is greater than or equal to the purchase price to be paid by the original buyer.

(g) (1) (A) Notwithstanding subdivision (c), (d), or (f), for the initial sale of newly constructed attached condominium units, as defined pursuant to Section 783, that involves the sale of an attached residential condominium unit described in subparagraph (B), and the amount actually paid to the seller pursuant to the liquidated damages provision exceeds 6 percent of the purchase price of the residential unit in the transaction, then both of the following shall occur in the event of a buyer's default:

(i) The seller shall perform an accounting of its costs and revenues related to and fairly allocable to the construction and sale of the residential unit within 60 calendar days after the final close of escrow of the sale of the unit within the structure.

(ii) The accounting shall include any and all costs and revenues related to the construction and sale of the residential property and any delay

caused by the buyer's default. The seller shall make reasonable efforts to mitigate any damages arising from the default. The seller shall refund to the buyer any amounts previously retained as liquidated damages in excess of the greater of either 6 percent of the originally agreed-upon purchase price of the residential property or the amount of the seller's losses resulting from the buyer's default, as calculated by the accounting.

(B) This subdivision applies to an attached residential condominium unit for which both of the following are true:

(i) The unit is located within a structure of 20 or more residential condominium units, standing over eight stories high, that is high-density infill development, as defined in paragraph (10) of subdivision (a) of Section 21159.24 of the Public Resources Code, and that is located in a city, county, or city and county with a population density of 1,900 residents per square mile or greater, as evidenced by the 2000 United States census.

(ii) The purchase price of the unit was more than one million dollars ($1,000,000).

(2) The refund shall be sent to the buyer's last known address within 90 days after the final close of escrow of the sale or lease of all the residential condominium units within the structure.

(3) If the amount retained by the seller after the accounting does not exceed 6 percent of the purchase price, the amount is valid unless the buyer establishes that the amount is unreasonable as liquidated damages pursuant to subdivision (e).

(4) Subdivision (d) shall not apply to any dispute regarding the reasonableness of any amount retained as liquidated damages pursuant to this subdivision.

(5) Notwithstanding the time periods regarding the performance of the accounting set forth in paragraph (1), if a new qualified buyer has entered into a contract to purchase the residential property in question, the seller shall perform the accounting within 60 calendar days after a new qualified buyer has entered into a contract to purchase.

(6) As used in this subdivision, "structure" means either of the following:

(A) Improvements constructed on a common foundation.

(B) Improvements constructed by the same owner that must be constructed concurrently due to the design characteristics of the improvements or physical characteristics of the property on which the improvements are located.

(7) As used in this subdivision, "new qualified buyer" means a buyer who either:

(A) Has been issued a loan commitment, which satisfies the purchase agreement loan contingency requirement, by an institutional lender to

obtain a loan for an amount equal to the purchase price less any downpayment possessed by the buyer.

(B) Has contracted to pay a purchase price that is greater than or equal to the purchase price to be paid by the original buyer.

(8) Commencing on July 1, 2010, and annually on each July 1 thereafter, the dollar amount of the minimum purchase price specified in paragraph (1) shall be adjusted. The Real Estate Commissioner shall determine the amount of the adjustment based on the change in the median price of a single family home in California, as determined by the most recent data available from the Federal Housing Finance Board. Upon determining the amount of the adjustment, the Real Estate Commissioner shall publish the current dollar amount of the minimum purchase price on the Internet Web site of the Department of Real Estate.

(9) Prior to the execution of a contract for sale of a residential condominium unit subject to this subdivision, the seller shall provide to the buyer the following notice, in at least 12-point type:

"Important Notice Regarding Your Deposit: Under California law, in a contract for the initial sale of a newly constructed attached condominium unit in a building over eight stories tall, containing 20 or more residential units, and located in a high-density infill development in a city, county, or city and county with 1,900 residents or more per square mile, where the price is more than one million dollars ($1,000,000), as adjusted by the Department of Real Estate, liquidated damages of 6 percent of the purchase price are presumed valid if the buyer defaults, unless the buyer establishes that the amount is unreasonable."

If the seller fails to provide this notice to the buyer prior to the execution of the contract, the amount of any liquidated damages shall be subject to subdivisions (c) and (d).

(h) This section shall become inoperative on July 1, 2014, and, as of January 1, 2015, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 1675 is added to the Civil Code, to read:

1675. (a) As used in this section, "residential property" means real property primarily consisting of a dwelling that meets both of the following requirements:

(1) The dwelling contains not more than four residential units.

(2) At the time the contract to purchase and sell the property is made, the buyer intends to occupy the dwelling or one of its units as his or her residence.

(b) A provision in a contract to purchase and sell residential property that provides that all or any part of a payment made by the buyer shall constitute liquidated damages to the seller upon the buyer's failure to complete the purchase of the property is valid to the extent that payment in the form of cash or check, including a postdated check, is actually made if the provision satisfies the requirements of Sections 1677 and 1678 and either subdivision (c) or (d) of this section.

(c) If the amount actually paid pursuant to the liquidated damages provision does not exceed 3 percent of the purchase price, the provision is valid to the extent that payment is actually made unless the buyer establishes that the amount is unreasonable as liquidated damages.

(d) If the amount actually paid pursuant to the liquidated damages provision exceeds 3 percent of the purchase price, the provision is invalid unless the party seeking to uphold the provision establishes that the amount actually paid is reasonable as liquidated damages.

(e) For the purposes of subdivisions (c) and (d), the reasonableness of an amount actually paid as liquidated damages shall be determined by taking into account both of the following:

(1) The circumstances existing at the time the contract was made.

(2) The price and other terms and circumstances of any subsequent sale or contract to sell and purchase the same property if the sale or contract is made within six months of the buyer's default.

(f) (1) Notwithstanding either subdivision (c) or (d), for the initial sale of newly constructed attached condominium units, as defined pursuant to Section 783, that involves the sale of an attached residential condominium unit located within a structure of 10 or more residential condominium units and the amount actually paid to the seller pursuant to the liquidated damages provision exceeds 3 percent of the purchase price of the residential unit in the transaction both of the following shall occur in the event of a buyer's default:

(A) The seller shall perform an accounting of its costs and revenues related to and fairly allocable to the construction and sale of the residential unit within 60 calendar days after the final close of escrow of the sale of the unit within the structure.

(B) The accounting shall include any and all costs and revenues related to the construction and sale of the residential property and any delay caused by the buyer's default. The seller shall make reasonable efforts to mitigate any damages arising from the default. The seller shall refund to the buyer any amounts previously retained as liquidated damages in excess of the greater of either 3 percent of the originally agreed-upon purchase price of the residential property or the amount of the seller's losses resulting from the buyer's default, as calculated by the accounting.

(2) The refund shall be sent to the buyer's last known address within 90 days after the final close of escrow of the sale or lease of all the residential condominium units within the structure.

(3) If the amount retained by the seller after the accounting does not exceed 3 percent of the purchase price, the amount is valid unless the buyer establishes that the amount is unreasonable as liquidated damages pursuant to subdivision (e).

(4) Subdivision (d) shall not apply to any dispute regarding the reasonableness of any amount retained as liquidated damages pursuant to this subdivision.

(5) Notwithstanding the time periods regarding the performance of the accounting set forth in paragraph (1), if a new qualified buyer has entered into a contract to purchase the residential property in question, the seller shall perform the accounting within 60 calendar days after a new qualified buyer has entered into a contract to purchase.

(6) As used in this subdivision, "structure" means either of the following:

(A) Improvements constructed on a common foundation.

(B) Improvements constructed by the same owner that must be constructed concurrently due to the design characteristics of the improvements or physical characteristics of the property on which the improvements are located.

(7) As used in this subdivision, "new qualified buyer" means a buyer who either:

(A) Has been issued a loan commitment, which satisfies the purchase agreement loan contingency requirement, by an institutional lender to obtain a loan for an amount equal to the purchase price less any downpayment possessed by the buyer.

(B) Has contracted to pay a purchase price that is greater than or equal to the purchase price to be paid by the original buyer.

(g) This section shall become operative on July 1, 2014.

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## CHAPTER 666

An act to add Sections 60852.1 and 60852.2 to the Education Code, relating to the high school exit examination.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 60852.1 is added to the Education Code, to read:

60852.1. (a) The Superintendent shall recommend, and the state board shall select, members of a panel that will convene to make recommendations regarding alternative means for eligible pupils with disabilities to demonstrate that they have achieved the same level of academic achievement in the content standards in English language arts or mathematics, or both, required for passage of the high school exit examination.

(1) The panel shall be composed of educators and other individuals who have experience with the population of pupils with disabilities eligible for alternative means of demonstrating academic achievement, as defined in Section 60852.2, and educators and other individuals who have expertise with multiple forms of assessment. The panel shall consult with experts in other states that offer alternative means for pupils with disabilities to demonstrate academic achievement. A majority of the panel shall be classroom teachers.

(2) The panel shall make findings and recommendations regarding all of the following:

(A) Specific options for alternative assessments, submission of evidence, or other alternative means by which eligible pupils with disabilities may demonstrate that they have achieved the same level of academic achievement in the content standards in English language arts or mathematics, or both, required for passage of the high school exit examination.

(B) Scoring or other evaluation systems designed to ensure that the pupil has achieved the same competence in the content standards required for passage of the high school exit examination.

(C) Processes to ensure that the form, content, and scoring of assessments, evidence, or other means of demonstrating academic achievement are applied uniformly across the state.

(D) Estimates of one-time or ongoing costs, and whether each option should be implemented on a statewide or regional basis, or both.

(3) The panel shall present its options and make its findings and recommendations to the Superintendent and to the state board by October 1, 2009.

(b) By October 1, 2010, for those portions of, or those academic content standards assessed by, the high school exit examination for which the state board determines it is feasible to create alternative means by which eligible pupils with disabilities may demonstrate the same level of academic achievement required for passage of the high school exit

examination, the state board, taking into consideration the findings and recommendations of the panel, shall adopt regulations for alternative means by which eligible pupils with disabilities, as defined in Section 60952.2, may demonstrate that they have achieved the same level of academic achievement in the content standards required for passage of the high school exit examination. The regulations shall include appropriate timelines and the manner in which pupils and school districts shall be timely notified of the results.

SEC. 2. Section 60852.2 is added to the Education Code, to read:

60852.2. (a) For purposes of this chapter, "eligible pupil with a disability" means a pupil who meets all of the following criteria:

(1) The pupil has an operative individualized education program adopted pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794 (a)) that indicates that the pupil has an anticipated graduation date and is scheduled to receive a high school diploma on or after January 1, 2011.

(2) The pupil has not passed the high school exit examination.

(3) The school district or state special school certifies that the pupil has satisfied or will satisfy all other state and local requirements for the receipt of a high school diploma on or after January 1, 2011.

(4) The pupil has attempted to pass those sections not yet passed of the high school exit examination at least twice after grade 10, including at least once during the current enrollment of the pupil in grade 12, with the accommodations or modifications, if any, specified in the individualized education program or the Section 504 plan of the pupil.

(b) Commencing January 1, 2011, an eligible pupil with a disability may participate in the alternative means of demonstrating the level of academic achievement in the content standards required for passage of the high school exit examination in the manner prescribed by the regulations adopted pursuant to Section 60852.1. The state board may, by regulation, extend this date by up to two years if it determines that an extension is necessary for the appropriate implementation of the regulations adopted pursuant to Section 60852.1.

(c) An eligible pupil with a disability shall be deemed to have satisfied the requirements of Section 60851 for those parts of the high school exit examination that the pupil has not passed if the school district in which the pupil is enrolled is notified that the pupil has successfully demonstrated the same level of academic achievement in the statewide content standards as the level of academic achievement that is necessary to pass the high school exit examination through one or more of the alternative means prescribed in the regulations adopted pursuant to Section 60852.1.

SEC. 3. The funds appropriated pursuant to Provision 23 of Item 6110-001-0890 of the Budget Act of 2008 shall be allocated by the Superintendent of Public Instruction in the following manner:

(a) Two hundred thousand dollars ($200,000) to support the work of the panel established pursuant to Section 60952.1 of the Education Code.

(b) The balance of the one million fifty thousand dollars ($1,050,000) shall be used pursuant to an expenditure plan developed by the State Department of Education and approved by the Director of Finance to implement the requirements of Sections 60852.1 and 60852.2 of the Education Code.

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## CHAPTER 667

An act to add Section 2302 to the Fish and Game Code, relating to invasive aquatic species.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The introduction and spread of nonnative dreissenid mussel species threaten the California water system and the ecological health of California waterways.

(b) Nonnative dreissenid mussel species are fast-growing mollusks that can rapidly grow into dense barnacle-like clusters and completely cover and clog critical water supply infrastructure.

(c) Nonnative dreissenid mussel species have been shown to disrupt the ecological balance in watersheds, lakes, and reservoirs by devouring massive amounts of food and nutrients and starving native species.

(d) Nonnative dreissenid mussel species reproduce quickly. A single mussel may release over 40,000 eggs in a reproductive cycle and up to 1,000,000 eggs in a spawning season.

(e) Nonnative dreissenid mussel species spread easily. The microscopic larval stage of the mussels can be suspended in water and move downstream to other water bodies or can be carried in plants, boats, motors, trailers, and recreational equipment.

(f) Zebra and quagga mussels, both of which are nonnative dreissenid mussel species, have recently been discovered in California. Since early 2007, nonnative quagga mussels have been found in the Colorado River and the Colorado River Aqueduct, and at least 10 reservoirs in Nevada,

Arizona, and southern California. In January 2008, nonnative zebra mussels were first discovered in northern California and in the San Justo Reservoir in San Benito County.

(g) Wherever nonnative dreissenid mussels have invaded, water system costs have risen dramatically to provide for cleaning of facilities, additional treatment, and construction of additional water supply intakes. The Department of Water Resources estimates the cost to control mussels in the State Water Project to be forty million dollars ($40,000,000) annually.

(h) Working to prevent the spread of dreissenid mussels in California is a serious problem and requires the combined effort of federal, state, and local entities.

(i) The state is implementing an early detection monitoring program that involves the monitoring of high-priority water bodies throughout the state, including California waters, rivers, and the Sacramento-San Joaquin Delta, for the presence of dreissenid mussels.

(j) The combined effort of federal, state, and local entities is needed to address this serious threat at reservoirs throughout the state.

SEC. 2. Section 2302 is added to the Fish and Game Code, to read:

2302. (a) Any person, or federal, state, or local agency, district, or authority that owns or manages a reservoir, as defined in Section 6004.5 of the Water Code, where recreational, boating, or fishing activities are permitted, except a privately owned reservoir that is not open to the public, shall do both of the following:

(1) Assess the vulnerability of the reservoir for the introduction of nonnative dreissenid mussel species.

(2) Develop and implement a program designed to prevent the introduction of nonnative dreissenid mussel species.

(b) The program shall include, at a minimum, all of the following:

(1) Public education.

(2) Monitoring.

(3) Management of those recreational, boating, or fishing activities that are permitted.

(c) Any person, or federal, state, or local agency, district, or authority, that owns or manages a reservoir, as defined in Section 6004.5 of the Water Code, where recreation, boating, or fishing activities of any kind are not permitted, except a privately owned reservoir that is not open to the public, shall, based on its available resources and staffing, include visual monitoring for the presence of mussels as part of its routine field activities.

(d) Any entity that owns or manages a reservoir, as defined in Section 6004.5 of the Water Code, except a privately owned reservoir that is not open to the public for recreational, boating, or fishing activities, may

refuse the planting of fish in that reservoir by the department unless the department can demonstrate that the fish are not known to be infected with nonnative dreissenid mussels.

(e) Except as specifically set forth in this section, this section applies both to reservoirs that are owned or managed by governmental entities and reservoirs that are owned or managed by private persons or entities.

(f) Violation of this section is not subject to the sanctions set forth in Section 12000. In lieu of any other penalty provided by law, a person who violates this section shall, instead, be subject to a civil penalty, in an amount not to exceed one thousand dollars ($1,000) per violation, that is imposed administratively by the department. To the extent that sufficient funds and personnel are available to do so, the department may adopt regulations establishing procedures to implement this subdivision and enforce this section.

(g) This section shall not apply to a reservoir in which nonnative dreissenid mussels have been detected.

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## CHAPTER 668

An act to add Part 9 (commencing with Section 22980) to Division 5 of Title 2 of the Government Code, relating to state employees' health benefits.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Part 9 (commencing with Section 22980) is added to Division 5 of Title 2 of the Government Code, to read:

### PART 9. HEALTH BENEFITS FOR DEPENDENTS OF STATE EMPLOYEES

22980. (a) If a correctional officer who was injured as a result of an incident at a state prison and subsequently retired from state employment and sustained an injury as the result of a work-related event that arose out of and in the course of his or her official duties as a correctional officer at a state prison, before January 1, 1984, and that meets the definition of a bloodborne infectious disease contained in Section 3212.8 of the Labor Code, and a dependent or former dependent of that person contracts the bloodborne infectious disease from that correctional officer,

the dependent or former dependent may elect to receive health care benefits sufficient to cover all medically necessary health care costs associated with the disease, for the duration of the disease. The state shall contribute the cost of providing that benefit coverage from the General Fund, upon appropriation by the Legislature. The dependent's or former dependent's health care coverage shall cease if that person is subsequently employed by an agency that provides health care coverage under the Public Employees' Retirement System.

(b) If the dependent or former dependent elects to receive benefits pursuant to this section that do not already exist, his or her election shall constitute the sole and exclusive remedy of the dependent or former dependent against the employer of the employee or former employer of the annuitant and the dependent or former dependent may not bring a civil action against the state.

(c) If the dependent or former dependent does not elect to receive benefits pursuant to this section, as specified in subdivision (a), the dependent or former dependent shall retain the right to pursue all civil remedies otherwise allowed by law, and shall not be subject to a defense that the dependent's or former dependent's claim is barred by this section.

(d) For purposes of this section, "former dependent" means a person who was diagnosed with a bloodborne infectious disease, on or after January 1, 1990, which was contracted from a correctional officer who comes within the description of subdivision (a) and is covered under Section 3212.8 of the Labor Code while a dependent of that person, but the dependency relationship has terminated.

(e) For purposes of this section, "dependent" has the meaning provided by Section 17056 of the Revenue and Taxation Code.

(f) It is the intent of the Legislature that this section apply retroactively.

(g) The Board of Directors of the State Compensation Insurance Fund shall administer this benefit.

(h) This section shall become operative on July 1, 2009.

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## CHAPTER 669

An act to amend Section 410 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 410 of the Streets and Highways Code is amended to read:

410. (a) Route 110 is from 9th Street in San Pedro to Glenarm Street in Pasadena.

(b) The relinquished former portion of Route 110 that is located between Glenarm Street and Colorado Boulevard in Pasadena is not a state highway and is not eligible for adoption under Section 81.

(c) (1) Notwithstanding subdivision (a), the commission may relinquish to the City of Los Angeles the portion of Route 110 located within the city limits from Route 47 to 9th Street pursuant to the terms of a cooperative agreement between the city and the department, upon a determination by the commission that the relinquishment is in the best interests of the state.

(2) A relinquishment under this subdivision shall become effective immediately following the recordation by the county recorder of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, all of the following shall occur:

(A) The portion of Route 110 relinquished under this subdivision shall cease to be a state highway.

(B) The portion of Route 110 relinquished under this subdivision may not be considered for future adoption under Section 81.

(C) Route 110 shall be from Route 47 in San Pedro to Glenarm Street in Pasadena.

(4) For the portion of Route 110 that is relinquished under this subdivision, the city shall maintain within its jurisdiction signs directing motorists to the continuation of Route 110.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to enable the relinquishment of the portion of State Highway Route 110 described in Section 1 of this act to the City of Los Angeles to occur at the earliest possible time, it is necessary that this act take effect immediately.

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# CHAPTER 670

An act to add Section 10782 to the Water Code, relating to groundwater.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 10782 is added to the Water Code, to read:

10782. (a) On or before June 1, 2009, the state board shall do both of the following:

(1) Identify and recommend to the Legislature funding options to extend, until January 1, 2024, the comprehensive monitoring program established in accordance with Section 10781.

(2) Make recommendations to enhance the public accessibility of information on groundwater conditions.

(b) On or before January 1, 2012, the state board, in consultation with the State Department of Public Health, the Department of Water Resources, the Department of Pesticide Regulation, the Office of Environmental Health Hazard Assessment, and any other agencies as appropriate, shall submit to the Legislature a report that does all of the following:

(1) Identifies communities that rely on contaminated groundwater as a primary source of drinking water.

(2) Identifies in the groundwater sources for the communities described in paragraph (1) the principal contaminants and other constituents of concern, as identified by the state board, affecting that groundwater and contamination levels.

(3) Identifies potential solutions and funding sources to clean up or treat groundwater or to provide alternative water supplies to ensure the provision of safe drinking water to communities identified in paragraph (1).

(c) The state board shall provide an opportunity for public comment on the report required pursuant to subdivision (b), prior to finalizing the report and submitting it to the Legislature.

# CHAPTER 671

An act to add and repeal Article 2 (commencing with Section 78910) of Chapter 7 of Part 48 of Division 7 of Title 3 of the Education Code, relating to community colleges.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Open education resources are learning materials or resources whose copyrights have expired, or that have been released with an intellectual property license that permits their free use or repurposing by others without the permission of the original authors or creators. Open education resources include items such as courses, course materials, textbooks, streaming video of classroom lectures, tests, software, and any other tools, materials, or techniques used to transmit knowledge that have an impact on teaching and learning.

(b) Community colleges need to take greater advantage of open education resources, especially for basic skills and general education classes, including, but not limited to, algebra, that use course content that remains generally unchanged over time.

SEC. 2. Article 2 (commencing with Section 78910) is added to Chapter 7 of Part 48 of Division 7 of Title 3 of the Education Code, to read:

## Article 2. Open Education Resources Centers

78910. (a) The Board of Governors of the California Community Colleges is authorized to establish a pilot program to provide faculty and staff from community college districts around the state with the information, methods, and instructional materials to establish open education resources centers. Community colleges participating in the pilot program shall support program costs through existing state funds appropriated for purposes consistent with this program, or through federal and private funding. The Chancellor of the California Community Colleges may designate a lead community college district to coordinate the planning and development of the pilot program.

(b) For purposes of this article, "open education resources" are learning materials or resources, including, but not necessarily limited to, books, course materials, video materials, tests, or software, the

copyrights of which have expired, or have been released with an intellectual property license that permits their free use or repurposing by others without the permission of the original authors or creators of the learning materials or resources.

(c) The lead community college district specified in subdivision (a) shall be selected from community college district applicants based upon a demonstration of its ability to accomplish all of the following:

(1) Develop and implement a model for the creation of open education resources (OER) course content that is pedagogically sound and fully accessible, in compliance with the federal Americans With Disabilities Act (Public Law 101-336), by students with varying learning styles and disabilities.

(2) Develop community college model OER courses and instructional materials that meet the requirements of the Intersegmental General Education Transfer Curriculum (IGETC) or of basic skills education courses in English, English as a second language, or mathematics, or that meet the requirements of both the IGETC and the basic skills education courses.

(3) Develop a community college professional development course that introduces faculty, staff, and college course developers to the concept, creation, content, and production methodologies that enable OER to be offered to students in community college classes, including, but not necessarily limited to, all of the following:

(A) Substitutes for textbooks.

(B) Addressing issues relating to copyright, the obtaining of permission for use of material, and other intellectual property concepts.

(C) Accessibility for students with disabilities.

(D) Delivery options that incorporate multiple learning styles and strategies.

(4) Create an OER information repository to serve as the single point of contact for information about community college OER, the public domain, OER courses and course materials, research and production processes, and professional resources for creating and repurposing OER.

(5) Identifying sources of adequate funding to accomplish paragraphs (1) to (4), inclusive.

(d) Participating districts shall report to the Chancellor's office of the California Community Colleges, upon request, on all of the following:

(1) The number of faculty and students who use OER in their courses.

(2) The quality of faculty and student experiences with OER compared to traditional courses.

(3) The grades earned in OER courses.

(4) The cost of OER course materials compared to non-OER materials.

(e) The Chancellor's office of the California Community Colleges shall report findings made pursuant to subdivision (d) to the Governor and the Legislature on or before January 1, 2012.

(f) No additional state appropriation shall be requested or provided for purposes of the section.

78910.5. This article 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.

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## CHAPTER 672

An act to amend Sections 400 and 21714 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 400 of the Vehicle Code is amended to read:

400. (a) A "motorcycle" is a motor vehicle having a seat or saddle for the use of the rider, designed to travel on not more than three wheels in contact with the ground.

(b) A motor vehicle that has four wheels in contact with the ground, two of which are a functional part of a sidecar, is a motorcycle if the vehicle otherwise comes within the definition of subdivision (a).

(c) A farm tractor is not a motorcycle.

(d) A three-wheeled motor vehicle that otherwise meets the requirements of subdivision (a), has a partially or completely enclosed seating area for the driver and passenger, is used by local public agencies for the enforcement of parking control provisions, and is operated at slow speeds on public streets, is not a motorcycle. However, a motor vehicle described in this subdivision shall comply with the applicable sections of this code imposing equipment installation requirements on motorcycles.

SEC. 2. Section 21714 of the Vehicle Code is amended to read:

21714. The driver of a vehicle described in subdivision (f) of Section 27803 shall not operate the vehicle in either of the following areas:

(a) On, or immediately adjacent to, the striping or other markers designating adjacent traffic lanes.

(b) Between two or more vehicles that are traveling in adjacent traffic lanes.

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.

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## CHAPTER 673

An act to amend Section 49561 of, and to add Section 49562 to, the Education Code, and to amend Section 14100.2 of the Welfare and Institutions Code, relating to school meals.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Studies have shown that children who receive meals at school tend to perform better on academic tests, are less likely to be tardy or absent from school, and are more likely to get key nutrients needed for good health.

(b) The Medi-Cal program in California provides health care to low-income children throughout the state. With considerable state investment in this program, the Legislature recognizes that it has an interest in ensuring that these children receive proper nutrition in order to avoid the costly health consequences of an inadequate diet.

(c) Most children participating in the Medi-Cal program are eligible for free or reduced price school meals yet some are not enrolled. Many more are enrolled, but have had to fill out substantial paperwork at school to prove that they are in need of a free or reduced price meal, even though they have already provided substantial information to demonstrate need to the Medi-Cal program. This redundant paperwork can be a burden for families and for schools.

(d) Chapter 361 of the Statutes of 2005 required the State Department of Education to create a computerized data-matching system using databases from the department and from the State Department of Health Care Services to directly certify participants in the Food Stamp Program and CalWORKs program for enrollment in the National School Breakfast

Program and the National School Lunch Program. The Medi-Cal program was not included at that time.

(e) In California, this computerized matching system is now in place and successfully has been enrolling children from the Food Stamp Program and CalWORKs program into the school meal program. Other states have successfully tested the use of Medicaid data for verifying eligibility for school meals. California can be the first state to test the use of Medicaid data for directly enrolling Medicaid recipient children into school meal programs.

(f) Therefore, it is the intent of the Legislature to seek to expand direct certification for school meals by establishing a process to use Medi-Cal data for automatically enrolling needy children into free and reduced price school meal programs.

SEC. 2. 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 Care 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.

(b) The department shall design a process using an existing agency database that will conform with data from the State Department of Health Care 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 federal 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. The State Department of Health Care Services shall conduct the data match of local school records and return a list to the department, including only the data fields submitted by the department and an indicator of program eligibility, as required by federal law.

(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. To the extent permitted by state and federal law, the

department and the State Department of Health Care Services may review the data only for the purposes of improving the effectiveness of the data matches made pursuant to this section and Section 49562.

(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 Care 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. 3. Section 49562 is added to the Education Code, to read:

49562. (a) The department, in consultation with the State Department of Health Care Services, shall develop and implement a process to use participation data from the Medi-Cal program administered pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, to verify income as established in the federal Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265) and, to the extent permitted under federal law, directly certify children whose families meet the applicable income criteria into the school meal program.

(b) In the operation of this process, the department shall limit the information needed from the State Department of Health Care Services to identify families whose income falls below the eligibility cutoff for free or reduced price meals, and the least amount of information needed to facilitate a match of local school records. The State Department of Health Care Services shall conduct the data match of local school records and return a list to the department, including only the data fields submitted by the department and an indicator of program eligibility, as required by federal law.

(c) The department and the State Department of Health Care Services shall design this process to maintain pupil privacy and the privacy of Medi-Cal recipients by establishing privacy and confidentiality procedures consistent with all applicable state and federal laws. To the extent permitted by state and federal law, the department and the State Department of Health Care Services may review the data only for the

purposes of improving the effectiveness of the data matches made pursuant to this section and Section 49561.

(d) The department specifically shall ensure that the process conforms to the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) by using strategies employed by other states in Medicaid verification projects or by developing a new strategy that ensures conformity.

(e) The department shall seek all necessary approvals to establish this process and shall apply for available federal funds to support the work of this process.

(f) This section shall become operative upon the receipt of federal funds to assist the state in implementing the provisions of this section.

SEC. 4. Section 14100.2 of the Welfare and Institutions Code is amended to read:

14100.2. (a) Except as provided in subdivision (i), all types of information, whether written or oral, concerning a person, made or kept by any public officer or agency in connection with the administration of any provision of this chapter, Chapter 8 (commencing with Section 14200), or Chapter 8.7 (commencing with Section 14520) and for which a grant-in-aid is received by this state from the United States government pursuant to Title XIX of the Social Security Act shall be confidential, and shall not be open to examination other than for purposes directly connected with the administration of the Medi-Cal program. However, in the context of a petition for the appointment of a conservator for a person with respect to whom this information is made or kept, and in the context of a criminal prosecution for a violation of Section 368 of Penal Code with respect to such a person, all of the following shall apply:

A public officer or employee of any such agency may answer truthfully, at any proceeding related to the petition or prosecution, when asked if he or she is aware of information that he or she believes is related to the legal mental capacity of that aid recipient or the need for a conservatorship for that aid recipient. If the officer or employee states that he or she is aware of this information, the court may order the officer or employee to testify about his or her observations and to disclose any relevant agency records if the court has an other independent reason to believe that the officer or employee has information that would facilitate the resolution of the matter.

(b) Except as provided in this section, and to the extent permitted by federal law or regulation, all information about applicants and recipients as provided for in subdivision (a) to be safeguarded includes, but is not limited to, names and addresses, medical services provided, social and economic conditions or circumstances, agency evaluation of personal

information, and medical data, including diagnosis and past history of disease or disability.

(c) Purposes directly connected with the administration of the Medi-Cal program, Chapter 8 (commencing with Section 14200), or Chapter 8.7 (commencing with Section 14520) encompass those administrative activities and responsibilities in which the department and its agents are required to engage to insure effective program operations. These activities include, but are not limited to: establishing eligibility and methods of reimbursement; determining the amount of medical assistance; providing services for recipients; conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the Medi-Cal program; and conducting or assisting a legislative investigation or audit related to the administration of the Medi-Cal program.

(d) Any officer, agent, or employee of the department or of any public agency shall provide the Joint Legislative Audit Committee and the State Auditor with any and all the information described in subdivision (b) within a reasonable period of time as determined by the committee in consultation with the department, after receipt of a request from the committee approved by a majority of the members of the committee. The Joint Legislative Audit Committee and the State Auditor may use that information only for the purpose of investigating or auditing the administration of the Medi-Cal program, Chapter 8 (commencing with Section 14200), or Chapter 8.7 (commencing with Section 14520), and shall not use that information for commercial or political purposes. In any case where disclosure of information is authorized by this section, the Joint Legislative Audit Committee or the State Auditor shall not disclose the identity of any applicant or recipient, except in the case of a criminal or civil proceeding conducted in connection with the administration of the Medi-Cal program.

(e) The access to information provided in subdivision (d) shall be permitted only to the extent and under the conditions provided by federal law and regulations governing the release of such information.

(f) The department may make rules and regulations governing the custody, use, and preservation of all records, papers, files, and communications pertaining to the administration of the laws relating to the Medi-Cal program, Chapter 8 (commencing with Section 14200), or Chapter 8.7 (commencing with Section 14520). The rules and regulations shall be binding on all departments, officials, and employees of the state, or of any political subdivision of the state and may provide for giving information to or exchanging information with agencies, public, or political subdivisions of the state, and may provide for giving information to or exchanging information with agencies, public or private,

which are engaged in planning, providing, or securing such services for or in behalf of recipients or applicants; and for making case records available for research purposes, provided that that research will not result in the disclosure of the identity of applicants for or recipients of those services.

(g) Upon request, the department shall release to the negotiator established pursuant to Article 2.6 (commencing with Section 14081) all computer tapes and any modifications thereto, including paid claims, connected with the administration of the Medi-Cal program which are in the possession or under the control of the department, including tapes prepared prior to the effective date of this section.

To ensure compliance with federal law and regulations, the department shall make the minimum necessary modifications to its computer tapes prior to releasing the tapes to the negotiator in order to assure the confidentiality of the identity of all applicants for, or recipients of, those services. The department shall not make any modifications to paid claims tapes that affect information regarding beneficiaries' aid categories or counties of origin.

(h) Any person who knowingly releases or possesses confidential information concerning persons who have applied for or who have been granted any form of Medi-Cal benefits or benefits under Chapter 8 (commencing with Section 14200) or Chapter 8.7 (commencing with Section 14520) for which state or federal funds are made available in violation of this section is guilty of a misdemeanor.

(i) (1) To the extent federal funds are made available from the United States Department of Agriculture, the department may do both of the following:

(A) To the extent permitted by federal law, exercise its option under Section 1396a(a)(7)(B) of Title 42 of the United States Code, in coordination with the State Department of Education, to exchange the information necessary to perform direct verification of the eligibility of children for free or reduced price meals.

(B) To the extent permitted by federal law, in coordination with the State Department of Education, exchange the information necessary to perform direct certification for enrolling children to receive free or reduced price meals.

(2) To the extent permitted by state and federal law, the department and the State Department of Education may review the data only for the purposes of improving the effectiveness of the data matches made pursuant to Sections 49561 and 49562 of the Education Code.

## CHAPTER 674

An act to add Section 13002.1 to the Vehicle Code, relating to identification cards.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 13002.1 is added to the Vehicle Code, to read:

13002.1. (a) The director shall establish by January 1, 2011, a program that permits the renewal of identification cards by mail or through the department's Internet Web site.

(b) The initial application for the identification card shall be pursuant to Section 13000. The first renewal for a person 62 years of age or older shall be for a 10-year period with a maximum of one renewal by mail or through the department's Internet Web site. All other renewals shall be for a six-year period with a maximum of two renewals by mail or through the department's Internet Web site.

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## CHAPTER 675

An act to amend Sections 2878.9, 4521.1, 7396.5, and 7403 of, and to add Sections 2879, 4522, 4845, 4845.5, 7526.1, 7564.1, 8572, 8623, 9884.21, and 9884.22 to, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 2878.9 of the Business and Professions Code is amended to read:

2878.9. (a) The board may issue an initial license on probation, with specific terms and conditions, to any applicant who has violated any term of this chapter, but who has met all other requirements for licensure and who has successfully completed the examination for licensure within four years of the date of issuance of the initial license.

(b) Specific terms and conditions may include, but are not limited to, the following:

(1) Continuing medical, psychiatric, or psychological treatment.

(2) Ongoing participation in a specified rehabilitation program.

(3) Abstention from the use of alcohol or drugs.

(4) Compliance with all provisions of this chapter.

(c) (1) Notwithstanding any other provision of law, and for purposes of this section, when deciding whether to issue a probationary license, the board shall request that an applicant with a dismissed conviction provide proof of that dismissal and shall give special consideration to applicants whose convictions have been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.

(2) The board shall also take into account and consider any other reasonable documents or individual character references provided by the applicant that may serve as evidence of rehabilitation as deemed appropriate by the board.

(d) The board may modify or terminate the terms and conditions imposed on the probationary license upon receipt of a petition from the applicant or licensee.

(e) For purposes of issuing a probationary license to qualified new applicants, the board shall develop standard terms of probation that shall include, but not be limited to, the following:

(1) A three-year limit on the individual probationary license.

(2) A process to obtain a standard license for applicants who were issued a probationary license.

(3) Supervision requirements.

(4) Compliance and quarterly reporting requirements.

SEC. 2. Section 2879 is added to the Business and Professions Code, to read:

2879. (a) Notwithstanding Section 2878 or any other provision of law, the board may revoke, suspend, or deny at any time a license under this chapter on any of the grounds for disciplinary action provided in this chapter. The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(b) The board may deny a license to an applicant on any of the grounds specified in Section 480.

(c) In addition to the requirements provided in Sections 485 and 486, upon denial of an application for a license, the board shall provide a statement of reasons for the denial that does the following:

(1) Evaluates evidence of rehabilitation submitted by the applicant, if any.

(2) Provides the board's criteria relating to rehabilitation, formulated pursuant to Section 482, that takes into account the age and severity of

the offense, and the evidence relating to participation in treatment or other rehabilitation programs.

(3) If the board's decision was based on the applicant's prior criminal conviction, justifies the board's denial of a license and conveys the reasons why the prior criminal conviction is substantially related to the qualifications, functions, or duties of a licensed vocational nurse.

(d) Commencing July 1, 2009, all of the following shall apply:

(1) If the denial of a license is due at least in part to the applicant's state or federal criminal history record, the board shall, in addition to the information provided pursuant to paragraph (3) of subdivision (c), provide to the applicant a copy of his or her criminal history record if the applicant makes a written request to the board for a copy, specifying an address to which it is to be sent.

(A) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(B) The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the applicant's criminal history record and the criminal history record shall not be made available by the board to any employer.

(C) The board shall retain a copy of the applicant's written request and a copy of the response sent to the applicant, which shall include the date and the address to which the response was sent.

(2) The board shall make this information available upon request by the Department of Justice or the Federal Bureau of Investigation.

(e) Notwithstanding Section 487, the board shall conduct a hearing of a license denial within 90 days of receiving an applicant's request for a hearing. For all other hearing requests, the board shall determine when the hearing shall be conducted.

SEC. 3. Section 4521.1 of the Business and Professions Code is amended to read:

4521.1. (a) The board may issue an initial license on probation, with specific terms and conditions, to any applicant who has violated any term of this chapter, but who has met all other requirements for licensure and who has successfully completed the examination for licensure within four years of the date of issuance of the initial license.

(b) Specific terms and conditions may include, but are not limited to, the following:

(1) Continuing medical, psychiatric, or psychological treatment.

(2) Ongoing participation in a specified rehabilitation program.

(3) Abstention from the use of alcohol or drugs.

(4) Compliance with all provisions of this chapter.

(c) (1) Notwithstanding any other provision of law, and for purposes of this section, when deciding whether to issue a probationary license, the board shall request that an applicant with a dismissed conviction provide proof of that dismissal and shall give special consideration to applicants whose convictions have been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.

(2) The board shall also take into account and consider any other reasonable documents or individual character references provided by the applicant that may serve as evidence of rehabilitation as deemed appropriate by the board.

(d) The board may modify or terminate the terms and conditions imposed on the probationary license upon receipt of a petition from the applicant or licensee.

(e) For purposes of issuing a probationary license to qualified new applicants, the board shall develop standard terms of probation that shall include, but not be limited to, the following:

(1) A three-year limit on the individual probationary license.

(2) A process to obtain a standard license for applicants who were issued a probationary license.

(3) Supervision requirements.

(4) Compliance and quarterly reporting requirements.

SEC. 4. Section 4522 is added to the Business and Professions Code, to read:

4522. (a) Notwithstanding Section 4521 or any other provision of law, the board may revoke, suspend, or deny at any time a license under this chapter on any of the grounds for disciplinary action provided in this chapter. The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(b) The board may deny a license to an applicant on any of the grounds specified in Section 480.

(c) In addition to the requirements provided in Sections 485 and 486, upon denial of an application for a license, the board shall provide a statement of reasons for the denial that does the following:

(1) Evaluates evidence of rehabilitation submitted by the applicant, if any.

(2) Provides the board's criteria relating to rehabilitation, formulated pursuant to Section 482, that takes into account the age and severity of the offense, and the evidence relating to participation in treatment or other rehabilitation programs.

(3) If the board's decision was based on the applicant's prior criminal conviction, justifies the board's denial of a license and conveys the

reasons why the prior criminal conviction is substantially related to the qualifications, functions, or duties of a licensed psychiatric technician.

(d) Commencing July 1, 2009, all of the following shall apply:

(1) If the denial of a license is due at least in part to the applicant's state or federal criminal history record, the board shall, in addition to the information provided pursuant to paragraph (3) of subdivision (c), provide to the applicant a copy of his or her criminal history record if the applicant makes a written request to the board for a copy, specifying an address to which it is to be sent.

(A) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(B) The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the applicant's criminal history record and the criminal history record shall not be made available by the board to any employer.

(C) The board shall retain a copy of the applicant's written request and a copy of the response sent to the applicant, which shall include the date and the address to which the response was sent.

(2) The board shall make that information available upon request by the Department of Justice or the Federal Bureau of Investigation.

(e) Notwithstanding Section 487, the board shall conduct a hearing of a license denial within 90 days of receiving an applicant's request for a hearing. For all other hearing requests, the board shall determine when the hearing shall be conducted.

SEC. 5. Section 4845 is added to the Business and Professions Code, to read:

4845. (a) Notwithstanding any other provision of law, the board may, in its sole discretion, issue a probationary registration to an applicant subject to terms and conditions deemed appropriate by the board, including, but not limited to, the following:

(1) Continuing medical, psychiatric, or psychological treatment.

(2) Ongoing participation in a specified rehabilitation program.

(3) Abstention from the use of alcohol or drugs.

(4) Compliance with all provisions of this chapter.

(b) (1) Notwithstanding any other provision of law, and for purposes of this section, when deciding whether to issue a probationary registration, the board shall request that an applicant with a dismissed conviction provide proof of that dismissal and shall give special consideration to applicants whose convictions have been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.

(2) The board shall also take into account and consider any other reasonable documents or individual character references provided by

the applicant that may serve as evidence of rehabilitation as deemed appropriate by the board.

(c) The board may modify or terminate the terms and conditions imposed on the probationary registration upon receipt of a petition from the applicant or registrant.

(d) For purposes of issuing a probationary license to qualified new applicants, the board shall develop standard terms of probation that shall include, but not be limited to, the following:

(1) A three-year limit on the individual probationary registration.

(2) A process to obtain a standard registration for applicants who were issued a probationary registration.

(3) Supervision requirements.

(4) Compliance and quarterly reporting requirements.

SEC. 6. Section 4845.5 is added to the Business and Professions Code, to read:

4845.5. (a) Notwithstanding Sections 4837 and 4842.6 or any other provision of law, the board may revoke, suspend, or deny at any time a registration under this article on any of the grounds for disciplinary action provided in this article. The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(b) The board may deny a registration to an applicant on any of the grounds specified in Section 480.

(c) In addition to the requirements provided in Sections 485 and 486, upon denial of an application for registration, the board shall provide a statement of reasons for the denial that does the following:

(1) Evaluates evidence of rehabilitation submitted by the applicant, if any.

(2) Provides the board's criteria relating to rehabilitation, formulated pursuant to Section 482, that takes into account the age and severity of the offense, and the evidence relating to participation in treatment or other rehabilitation programs.

(3) If the board's decision was based on the applicant's prior criminal conviction, justifies the board's denial of a registration and conveys the reasons why the prior criminal conviction is substantially related to the qualifications, functions, or duties of a registered veterinary technician.

(d) Commencing July 1, 2009, all of the following shall apply:

(1) If the denial of a registration is due at least in part to the applicant's state or federal criminal history record, the board shall, in addition to the information provided pursuant to paragraph (3) of subdivision (c), provide to the applicant a copy of his or her criminal history record if

the applicant makes a written request to the board for a copy, specifying an address to which it is to be sent.

(A) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(B) The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the applicant's criminal history record and the criminal history record shall not be made available by the board to any employer.

(C) The board shall retain a copy of the applicant's written request and a copy of the response sent to the applicant, which shall include the date and the address to which the response was sent.

(2) The board shall make that information available upon request by the Department of Justice or the Federal Bureau of Investigation.

(e) Notwithstanding Section 487, the board shall conduct a hearing of a registration denial within 90 days of receiving an applicant's request for a hearing. For all other hearing requests, the board shall determine when the hearing shall be conducted.

SEC. 7. Section 7396.5 of the Business and Professions Code is amended to read:

7396.5. (a) Notwithstanding any other provision of law, the board may, in its sole discretion, issue a probationary license to an applicant subject to terms and conditions deemed appropriate by the board, including, but not limited to, the following:

(1) Continuing medical, psychiatric, or psychological treatment.

(2) Ongoing participation in a specified rehabilitation program.

(3) Abstention from the use of alcohol or drugs.

(4) Compliance with all provisions of this chapter.

(b) (1) Notwithstanding any other provision of law, and for purposes of this section, when deciding whether to issue a probationary license, the board shall request that an applicant with a dismissed conviction provide proof of that dismissal and shall give special consideration to applicants whose convictions have been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.

(2) The board shall also take into account and consider any other reasonable documents or individual character references provided by the applicant that may serve as evidence of rehabilitation as deemed appropriate by the board.

(c) The board may modify or terminate the terms and conditions imposed on the probationary license upon receipt of a petition from the applicant or licensee.

(d) For purposes of issuing a probationary license to qualified new applicants, the board shall develop standard terms of probation that shall include, but not be limited to, the following:

(1) A three-year limit on the individual probationary license.

(2) A process to obtain a standard license for applicants who were issued a probationary license.

(3) Supervision requirements.

(4) Compliance and quarterly reporting requirements.

SEC. 8. Section 7403 of the Business and Professions Code is amended to read:

7403. (a) Notwithstanding any other provision of law, the board may revoke, suspend, or deny at any time any license required by this chapter on any of the grounds for disciplinary action provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(b) The board may deny a license to an applicant on any of the grounds specified in Section 480.

(c) In addition to the requirements provided in Sections 485 and 486, upon denying a license to an applicant, the board shall provide a statement of reasons for the denial that does the following:

(1) Evaluates evidence of rehabilitation submitted by the applicant, if any.

(2) Provides the board's criteria relating to rehabilitation, formulated pursuant to Section 482, that takes into account the age and severity of the offense, and the evidence relating to participation in treatment or other rehabilitation programs.

(3) If the board's decision was based on the applicant's prior criminal conviction, justifies the board's denial of a license and conveys the reasons why the prior criminal conviction is substantially related to the qualifications, functions, or duties of a barber or cosmetologist.

(d) Commencing July 1, 2009, all of the following shall apply:

(1) If the denial of a license is due at least in part to the applicant's state or federal criminal history record, the board shall, in addition to the information provided pursuant to paragraph (3) of subdivision (c), provide to the applicant a copy of his or her criminal history record if the applicant makes a written request to the board for a copy, specifying an address to which it is to be sent.

(A) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(B) The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the applicant's criminal history record and the criminal history record shall not be made available by the board to any employer.

(C) The board shall retain a copy of the applicant's written request and a copy of the response sent to the applicant, which shall include the date and the address to which the response was sent.

(2) The board shall make this information available upon request by the Department of Justice or the Federal Bureau of Investigation.

(e) Notwithstanding Section 487, the board shall conduct a hearing of a license denial within 90 days of receiving an applicant's request for a hearing. For all other hearing requests, the board shall determine when the hearing shall be conducted.

(f) In any case in which the administrative law judge recommends that the board revoke, suspend or deny a license, the administrative law judge may, upon presentation of suitable proof, order the licensee to pay the board the reasonable costs of the investigation and adjudication of the case. For purposes of this section, "costs" include charges by the board for investigating the case, charges incurred by the office of the Attorney General for investigating and presenting the case, and charges incurred by the Office of Administrative Hearings for hearing the case and issuing a proposed decision.

(g) The costs to be assessed shall be fixed by the administrative law judge and shall not, in any event, be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

(h) The board may enforce the order for payment in the superior court in the county where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

(i) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(j) Notwithstanding any other provision of law, all costs recovered under this section shall be deposited in the board's contingent fund as a scheduled reimbursement in the fiscal year in which the costs are actually recovered.

SEC. 9. Section 7526.1 is added to the Business and Professions Code, to read:

7526.1. (a) Notwithstanding any other provision of law, the director may, in his or her sole discretion, grant a probationary license to an

applicant subject to terms and conditions deemed appropriate by the director, including, but not limited to, the following:

(1) Continuing medical, psychiatric, or psychological treatment.

(2) Ongoing participation in a specified rehabilitation program.

(3) Abstention from the use of alcohol or drugs.

(4) Compliance with all provisions of this chapter.

(b) (1) Notwithstanding any other provision of law, and for purposes of this section, when deciding whether to grant a probationary license, the director shall request that an applicant with a dismissed conviction provide proof of that dismissal and shall give special consideration to applicants whose convictions have been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.

(2) The director shall also take into account and consider any other reasonable documents or individual character references provided by the applicant that may serve as evidence of rehabilitation as deemed appropriate by the director.

(c) The director may modify or terminate the terms and conditions imposed on the probationary license upon receipt of a petition from the applicant or licensee.

(d) For purposes of granting a probationary license to qualified new applicants, the director shall develop standard terms of probation that shall include, but not be limited to, the following:

(1) A three-year limit on the individual probationary license.

(2) A process to obtain a standard license for applicants who were issued a probationary license.

(3) Supervision requirements.

(4) Compliance and quarterly reporting requirements.

SEC. 10. Section 7564.1 is added to the Business and Professions Code, to read:

7564.1. (a) Notwithstanding Sections 7561.1 and 7561.4 or any other provision of law, the director may revoke, suspend, or deny at any time a license under this chapter on any of the grounds for disciplinary action provided in this chapter. The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

(b) The director may deny a license to an applicant on any of the grounds specified in Section 480.

(c) In addition to the requirements provided in Sections 485 and 486, upon denial of an application for a license, the director shall provide a statement of reasons for the denial that does the following:

(1) Evaluates evidence of rehabilitation submitted by the applicant, if any.

(2) Provides the director's criteria relating to rehabilitation, formulated pursuant to Section 482, that takes into account the age and severity of the offense, and the evidence relating to participation in treatment or other rehabilitation programs.

(3) If the director's decision was based on the applicant's prior criminal conviction, justifies the director's denial of a license and conveys the reasons why the prior criminal conviction is substantially related to the qualifications, functions, or duties of a licensed private investigator.

(d) Commencing July 1, 2009, all of the following shall apply:

(1) If the denial of a license is due at least in part to the applicant's state or federal criminal history record, the director shall, in addition to the information provided pursuant to paragraph (3) of subdivision (c), provide to the applicant a copy of his or her criminal history record if the applicant makes a written request to the director for a copy, specifying an address to which it is to be sent.

(A) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(B) The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the applicant's criminal history record and the criminal history record shall not be made available by the director to any employer.

(C) The director shall retain a copy of the applicant's written request and a copy of the response sent to the applicant, which shall include the date and the address to which the response was sent.

(2) The director shall make that information available upon request by the Department of Justice or the Federal Bureau of Investigation.

(e) Notwithstanding Section 487, the director shall conduct a hearing of a license denial within 90 days of receiving an applicant's request for a hearing. For all other hearing requests, the director shall determine when the hearing shall be conducted.

SEC. 11. Section 8572 is added to the Business and Professions Code, to read:

8572. (a) Notwithstanding any other provision of law, the board may, in its sole discretion, issue a probationary license to an applicant subject to terms and conditions deemed appropriate by the board, including, but not limited to, the following:

(1) Continuing medical, psychiatric, or psychological treatment.

(2) Ongoing participation in a specified rehabilitation program.

(3) Abstention from the use of alcohol or drugs.

(4) Compliance with all provisions of this chapter.

(b) (1) Notwithstanding any other provision of law, and for purposes of this section, when deciding whether to issue a probationary license,

the board shall request that an applicant with a dismissed conviction provide proof of that dismissal and shall give special consideration to applicants whose convictions have been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.

(2) The board shall also take into account and consider any other reasonable documents or individual character references provided by the applicant that may serve as evidence of rehabilitation as deemed appropriate by the board.

(c) The board may modify or terminate the terms and conditions imposed on the probationary license upon receipt of a petition from the applicant or licensee.

(d) For purposes of issuing a probationary license to qualified new applicants, the board shall develop standard terms of probation that shall include, but not be limited to, the following:

(1) A three-year limit on the individual probationary license.

(2) A process to obtain a standard license for applicants who were issued a probationary license.

(3) Supervision requirements.

(4) Compliance and quarterly reporting requirements.

SEC. 12. Section 8623 is added to the Business and Professions Code, to read:

8623. (a) Notwithstanding Section 8620 or any other provision of law, the board may revoke, suspend, or deny at any time a license under this chapter on any of the grounds for disciplinary action provided in this chapter. The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(b) The board may deny a license to an applicant on any of the grounds specified in Section 480.

(c) In addition to the requirements provided in Sections 485 and 486, upon denial of an application for a license, the board shall provide a statement of reasons for the denial that does the following:

(1) Evaluates evidence of rehabilitation submitted by the applicant, if any.

(2) Provides the board's criteria relating to rehabilitation, formulated pursuant to Section 482, that takes into account the age and severity of the offense, and the evidence relating to participation in treatment or other rehabilitation programs.

(3) If the board's decision was based on the applicant's prior criminal conviction, justifies the board's denial of a license and conveys the reasons why the prior criminal conviction is substantially related to the

qualifications, functions, or duties of a licensed structural pest control operator.

(d) Commencing July 1, 2009, all of the following shall apply:

(1) If the denial of a license is due at least in part to the applicant's state or federal criminal history record, the board shall, in addition to the information provided pursuant to paragraph (3) of subdivision (c), provide to the applicant a copy of his or her criminal history record if the applicant makes a written request to the board for a copy, specifying an address to which it is to be sent.

(A) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(B) The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the applicant's criminal history record and the criminal history record shall not be made available by the board to any employer.

(C) The board shall retain a copy of the applicant's written request and a copy of the response sent to the applicant, which shall include the date and the address to which the response was sent.

(2) The board shall make that information available upon request by the Department of Justice or the Federal Bureau of Investigation.

(e) Notwithstanding Section 487, the board shall conduct a hearing of a license denial within 90 days of receiving an applicant's request for a hearing. For all other hearing requests, the board shall determine when the hearing shall be conducted.

SEC. 13. Section 9884.21 is added to the Business and Professions Code, to read:

9884.21. (a) Notwithstanding any other provision of law, the director may, in his or her sole discretion, issue a probationary registration to an applicant subject to terms and conditions deemed appropriate by the director, including, but not limited to, the following:

(1) Continuing medical, psychiatric, or psychological treatment.

(2) Ongoing participation in a specified rehabilitation program.

(3) Abstention from the use of alcohol or drugs.

(4) Compliance with all provisions of this chapter.

(b) (1) Notwithstanding any other provision of law, and for purposes of this section, when deciding whether to issue a probationary registration, the director shall request that an applicant with a dismissed conviction provide proof of that dismissal and shall give special consideration to applicants whose convictions have been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.

(2) The director shall also take into account and consider any other reasonable documents or individual character references provided by

the applicant that may serve as evidence of rehabilitation as deemed appropriate by the director.

(c) The director may modify or terminate the terms and conditions imposed on the probationary registration upon receipt of a petition from the applicant or registrant.

(d) For purposes of issuing a probationary registration to qualified new applicants, the director shall develop standard terms of probation that shall include, but not be limited to, the following:

(1) A three-year limit on the individual probationary registration.

(2) A process to obtain a standard registration for applicants who were issued a probationary registration.

(3) Supervision requirements.

(4) Compliance and quarterly reporting requirements.

SEC. 14. Section 9884.22 is added to the Business and Professions Code, to read:

9884.22. (a) Notwithstanding any other provision of law, the director may revoke, suspend, or deny at any time any registration required by this article on any of the grounds for disciplinary action provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

(b) The director may deny a registration to an applicant on any of the grounds specified in Section 480.

(c) In addition to the requirements provided in Sections 485 and 486, upon denial of an application for registration to an applicant, the director shall provide a statement of reasons for the denial that does the following:

(1) Evaluates evidence of rehabilitation submitted by the applicant, if any.

(2) Provides the director's criteria relating to rehabilitation, formulated pursuant to Section 482, that takes into account the age and severity of the offense, and the evidence relating to participation in treatment or other rehabilitation programs.

(3) If the director's decision was based on the applicant's prior criminal conviction, justifies the director's denial of a registration and conveys the reasons why the prior criminal conviction is substantially related to the qualifications, functions, or duties of a registered automotive repair dealer.

(d) Commencing July 1, 2009, all of the following shall apply:

(1) If the denial of a registration is due at least in part to the applicant's state or federal criminal history record, the director shall, in addition to the information provided pursuant to paragraph (3) of subdivision (c), provide to the applicant a copy of his or her criminal history record if

the applicant makes a written request to the director for a copy, specifying an address to which it is to be sent.

(A) The state or federal criminal history record shall not be modified or altered from its form or content as provided by the Department of Justice.

(B) The criminal history record shall be provided in such a manner as to protect the confidentiality and privacy of the applicant's criminal history record and the criminal history record shall not be made available by the director to any employer.

(C) The director shall retain a copy of the applicant's written request and a copy of the response sent to the applicant, which shall include the date and the address to which the response was sent.

(2) The director shall make that information available upon request by the Department of Justice or the Federal Bureau of Investigation.

(e) Notwithstanding Section 487, the director shall conduct a hearing of a registration denial within 90 days of receiving an applicant's request for a hearing. For all other hearing requests, the director shall determine when the hearing shall be conducted.

SEC. 15. Sections 5 and 6 of this act shall become operative only if Senate Bill 1584 of the 2007–08 Regular Session is also enacted and becomes operative.

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## CHAPTER 676

An act to amend Sections 626.10 and 12556 of the Penal Code, relating to weapons.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 626.10 of the Penal Code is amended to read:

626.10. (a) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, knife having a blade longer than 2½ inches, folding

knife with a blade that locks into place, a razor with an unguarded blade, a taser, or a stun gun, as defined in subdivision (a) of Section 244.5, any instrument that expels a metallic projectile such as a BB or a pellet, through the force of air pressure, $CO_2$ pressure, or spring action, or any spot marker gun, upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison.

(b) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, or knife having a fixed blade longer than 2½ inches upon the grounds of, or within, any private university, the University of California, the California State University, or the California Community Colleges is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison.

(c) Subdivisions (a) and (b) do not apply to any person who brings or possesses a knife having a blade longer than 2½ inches or a razor with an unguarded blade upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college at the direction of a faculty member of the private university, state university, or community college, or a certificated or classified employee of the school for use in a private university, state university, community college, or school-sponsored activity or class.

(d) Subdivisions (a) and (b) do not apply to any person who brings or possesses an ice pick, a knife having a blade longer than 2½ inches, or a razor with an unguarded blade upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college for a lawful purpose within the scope of the person's employment.

(e) Subdivision (b) does not apply to any person who brings or possesses an ice pick or a knife having a fixed blade longer than 2½ inches upon the grounds of, or within, any private university, state university, or community college for lawful use in or around a residence

or residential facility located upon those grounds or for lawful use in food preparation or consumption.

(f) Subdivision (a) does not apply to any person who brings an instrument that expels a metallic projectile such as a BB or a pellet, through the force of air pressure, $CO_2$ pressure, or spring action, or any spot marker gun upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, if the person has the written permission of the school principal or his or her designee.

(g) Any certificated or classified employee or school peace officer of a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, may seize any of the weapons described in subdivision (a), and any certificated or classified employee or school peace officer of any private university, state university, or community college may seize any of the weapons described in subdivision (b), from the possession of any person upon the grounds of, or within, the school if he or she knows, or has reasonable cause to know, the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.

(h) As used in this section, "dirk" or "dagger" means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death.

(i) Any person who, without the written permission of the college or university president or chancellor or his or her designee, brings or possesses a less lethal weapon, as defined in Section 12601, or a stun gun, as defined in Section 12650, upon the grounds of or within, a public or private college or university campus is guilty of a misdemeanor.

SEC. 2. Section 12556 of the Penal Code is amended to read:

12556. (a) No person may openly display or expose any imitation firearm, as defined in Section 12550, in a public place.

(b) Violation of this section, except as provided in subdivision (c), is an infraction punishable by a fine of one hundred dollars ($100) for the first offense, and three hundred dollars ($300) for a second offense.

(c) A third or subsequent violation of this section is punishable as a misdemeanor.

(d) Subdivision (a) shall not apply to the following, when the imitation firearm is:

(1) Packaged or concealed so that it is not subject to public viewing.

(2) Displayed or exposed in the course of commerce, including commercial film or video productions, or for service, repair, or restoration of the imitation firearm.

(3) Used in a theatrical production, a motion picture, video, television, or stage production.

(4) Used in conjunction with a certified or regulated sporting event or competition.

(5) Used in conjunction with lawful hunting, or lawful pest control activities.

(6) Used or possessed at certified or regulated public or private shooting ranges.

(7) Used at fairs, exhibitions, expositions, or other similar activities for which a permit has been obtained from a local or state government.

(8) Used in military, civil defense, or civic activities, including flag ceremonies, color guards, parades, award presentations, historical reenactments, and memorials.

(9) Used for public displays authorized by public or private schools or displays that are part of a museum collection.

(10) Used in parades, ceremonies, or other similar activities for which a permit has been obtained from a local or state government.

(11) Displayed on a wall plaque or in a presentation case.

(12) Used in areas where the discharge of a firearm is lawful.

(13) A device where the entire exterior surface of the device is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern, or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device's complete contents. Merely having an orange tip as provided in federal law and regulations does not satisfy this requirement. The entire surface must be colored or transparent or translucent.

(e) For purposes of this section, the term "public place" means an area open to the public and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, front yards, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those that serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings. For purposes of this section, the term "public place" also means a public or private college or university.

(f) Nothing in this section shall be construed to preclude prosecution for a violation of Section 171b, 171.5, or 626.10.

SEC. 2.5. Section 12556 of the Penal Code is amended to read:

12556. (a) No person may openly display or expose any imitation firearm, as defined in Section 12550, in a public place.

(b) Violation of this section, except as provided in subdivision (c), is an infraction punishable by a fine of one hundred dollars ($100) for the first offense, and three hundred dollars ($300) for a second offense.

(c) A third or subsequent violation of this section is punishable as a misdemeanor.

(d) Subdivision (a) shall not apply to the following, when the imitation firearm is:

(1) Packaged or concealed so that it is not subject to public viewing.

(2) Displayed or exposed in the course of commerce, including commercial film or video productions, or for service, repair, or restoration of the imitation firearm.

(3) Used in a theatrical production, a motion picture, video, television, or stage production.

(4) Used in conjunction with a certified or regulated sporting event or competition.

(5) Used in conjunction with lawful hunting, or lawful pest control activities.

(6) Used or possessed at certified or regulated public or private shooting ranges.

(7) Used at fairs, exhibitions, expositions, or other similar activities for which a permit has been obtained from a local or state government.

(8) Used in military, civil defense, or civic activities, including flag ceremonies, color guards, parades, award presentations, historical reenactments, and memorials.

(9) Used for public displays authorized by public or private schools or displays that are part of a museum collection.

(10) Used in parades, ceremonies, or other similar activities for which a permit has been obtained from a local or state government.

(11) Displayed on a wall plaque or in a presentation case.

(12) Used in areas where the discharge of a firearm is lawful.

(13) A device where the entire exterior surface of the device is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern, or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device's complete contents. Merely having an orange tip as provided in federal law and regulations does not satisfy this requirement. The entire surface must be colored or transparent or translucent.

(e) For purposes of this section, the term "public place" means an area open to the public and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, front yards, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those that serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings, and shall include public schools and a public or private college or university.

(f) Nothing in this section shall be construed to preclude prosecution for a violation of Section 171b, 171.5, or 626.10.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 12556 of the Penal Code proposed by both this bill and AB 352. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 12556 of the Penal Code, and (3) this bill is enacted after AB 352, in which case Section 2 of this bill shall not become operative.

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## CHAPTER 677

An act to add Chapter 5.8 (commencing with Section 40610) to Part 3 of Division 26 of the Health and Safety Code, relating to air quality.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Chapter 5.8 (commencing with Section 40610) is added to Part 3 of Division 26 of the Health and Safety Code, to read:

### Chapter 5.8. San Joaquin Valley Clean Air Attainment Program

40610. The Legislature finds and declares as follows:

(a) Residents of the San Joaquin Valley suffer some of the worst air quality in the world. This poor air quality poses a significant threat to public health, the environment, and the economy of the valley.

(b) The extreme difficulty for the valley to meet state and federal ambient air quality standards requires an urgent and unified program that combines more strict clean air rules and regulations and ongoing funding to clean up those sources that cannot be regulated effectively.

(c) The purpose of this chapter is to establish a program for the San Joaquin Valley to achieve state and federal ambient air quality standards by the earliest practicable date.

40612. (a) In order to provide funding for air pollution control programs needed to achieve and maintain state and federal air quality, the district may do both of the following:

(1) Notwithstanding the limits on the amount of the motor vehicle fee specified in Sections 44223 and 44225, increase the fee established pursuant to these sections to up to, but not exceeding, thirty dollars ($30) per motor vehicle per year for the purposes of establishing and implementing incentive-based programs to achieve surplus emissions reductions that the district determines are needed to remediate air pollution harms created by motor vehicles on which the fee is imposed and that are intended to achieve and maintain state and federal ambient air quality standards required by the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.). Except for the amount of the fee, any increase shall be subject to Chapter 7 (commencing with Section 44220) of Part 5, including, but not limited to, the adoption of a resolution providing for both the fee increase and a corresponding program for expenditure of the moneys raised by the increased fees for the reduction of mobile source emissions.

(2) Notwithstanding Section 40717.9, adopt rules and regulations to reduce vehicle trips in order to reduce air pollution from vehicular sources.

(b) Fees adopted pursuant to this section are in addition to any other fees imposed by the district, and may be charged in any of fiscal years 2009–10 to 2023–24, inclusive. Fees may be assessed after the 2012–13 fiscal year only if the United States Environmental Protection Agency approves the district's proposed reclassification of its nonattainment status for ozone from severe to extreme. The fees adopted pursuant to this section are for the district portion of the total amount needed to achieve and maintain state and federal ambient air quality standards. At least ten million dollars ($10,000,000) shall be used to mitigate the impacts of air pollution on public health and the environment in disproportionately impacted environmental justice communities in the San Joaquin Valley. The district board shall convene an environmental justice advisory committee, selected from a list given to the board by environmental justice groups from the San Joaquin Valley, to recommend the neighborhoods in the district that constitute environmental justice communities, and how to expend funds within these communities.

(c) (1) The fees adopted pursuant to this section shall become effective after the state board makes both of the following findings:

(A) The district has undertaken all feasible measures to reduce nonattainment air pollutants from sources within the district's jurisdiction and regulatory control.

(B) The district has notified the state board that fees have been adopted pursuant to this section and provided the state board with an estimate of the total funds that will be provided annually by each of those fees.

(2) The state board shall file a written copy of its findings made pursuant to this subdivision with the Secretary of State within two days of its determination.

(3) The fees adopted pursuant to this section shall be collected nine months after the requirements of paragraph (2) are met.

40613. The state board shall assess the district's progress in using any fees assessed pursuant to Section 40612 to achieve and maintain state and federal ambient air quality standards every two years that the fee is assessed, and shall submit these assessments to the Legislature within two weeks of their completion.

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## CHAPTER 678

An act to amend Section 1720.4 of the Labor Code, relating to public works, and making an appropriation therefor.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 1720.4 of the Labor Code is amended to read:

1720.4. (a) This chapter shall not apply to any of the following work:

(1) Any work performed by a volunteer. For purposes of this section, "volunteer" means an individual who performs work for civic, charitable, or humanitarian reasons for a public agency or corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, without promise, expectation, or receipt of any compensation for work performed.

(A) An individual shall be considered a volunteer only when his or her services are offered freely and without pressure and coercion, direct or implied, from an employer.

(B) An individual may receive reasonable meals, lodging, transportation, and incidental expenses or nominal nonmonetary awards without losing volunteer status if, in the entire context of the situation, those benefits and payments are not a substitute form of compensation for work performed.

(C) An individual shall not be considered a volunteer if the person is otherwise employed for compensation at any time (i) in the construction,

alteration, demolition, installation, repair, or maintenance work on the same project, or (ii) by a contractor, other than a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, that is receiving payment to perform construction, alteration, demolition, installation, repair, or maintenance work on the same project.

(2) Any work performed by a volunteer coordinator. For purposes of this section, "volunteer coordinator" means an individual paid by a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, to oversee or supervise volunteers. An individual may be considered a volunteer coordinator even if the individual performs some nonsupervisory work on a project alongside the volunteers, so long as the individual's primary responsibility on the project is to oversee or supervise the volunteers rather than to perform nonsupervisory work.

(3) Any work performed by members of the California Conservation Corps or of Community Conservation Corps certified by the California Conservation Corps pursuant to Section 14507.5 of the Public Resources Code.

(b) This section shall apply retroactively to otherwise covered work concluded on or after January 1, 2002, to the extent permitted by law.

(c) On or before January 1, 2011, the director shall submit a written report to the Legislature that does both of the following:

(1) Describes the number and the nature of complaints received and investigations conducted involving the use of volunteers on public works projects subject to this chapter, that are projects as described in Section 21190 of the Public Resources Code.

(2) Provides an estimate of each of the following as they relate to public works projects that involve the acquisition, presentation, or restoration of natural areas, including parks or ecological reserves, or other public works projects that have one or more of the purposes, as described in Section 21190 of the Public Resources Code:

(A) The number of hours per year that volunteers work on public works projects.

(B) The cost per year of public works projects, that are projects as described in Section 21190 of the Public Resources Code, and the percentage of work performed by volunteers.

(C) The types of work done by volunteers on public works projects, that are projects as described in Section 21190 of the Public Resources Code.

(d) The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the Environmental License Plate Fund for the purposes of funding the report required pursuant to subdivision (c).

(e) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2012, deletes or extends that date.

SEC. 2. The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature that public works projects should never undermine the wage base in a community.

(b) The Legislature finds that the requirement, that workers on public works projects be paid the prevailing rate of per diem wages, ensures that the local wage base is not lowered.

(c) It is the intent of the Legislature that this act shall not apply to the work of state and local public sector employees.

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## CHAPTER 679

An act to amend Sections 6980, 6980.10, 6980.12, 6980.13, 6980.22, 6980.26, 6980.33, 6980.48, 6980.53, 6980.59, 6980.60, 6980.64, and 6980.65 of, to add Section 6980.54 to, to repeal Section 6980.36 of, and to repeal and add Section 6980.14 of, the Business and Professions Code, relating to locksmiths.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 6980 of the Business and Professions Code is amended to read:

6980. The following terms as used in this chapter have the meaning expressed in this article:

(a) "Branch office" means any additional physical location, other than the principal place of business of a licensee, where any locksmith service is provided. Branch office includes the California office of any out-of-state business conducting, directing, dispatching, or managing a locksmith business, service, or service providers in California. A telephone answering service or a telephone call-forwarding device, for routing calls within the immediate geographic area, shall not be deemed to be a branch office.

(b) "Bureau" means the Bureau of Security and Investigative Services.

(c) "Chief" means the Chief of the Bureau of Security and Investigative Services.

(d) "Department" means the Department of Consumer Affairs.

(e) "Director" means the Director of the Department of Consumer Affairs.

(f) "Employer" means a person who employs an individual for wages or salary, lists the individual on the employer's payroll records, and withholds all legally required deductions and contributions.

(g) "Employee" means an individual who works for an employer, is listed on the employer's payroll records, and is under the employer's direction and control. An independent contractor is not an employee pursuant to this chapter.

(h) "Employer-employee relationship" means an individual who works for another and where the individual's name appears on the payroll records of the employer.

(i) "Licensee" means a business entity, whether an individual, partnership, or corporation, licensed under this chapter.

(j) "Locksmith" means any person who, for any consideration or compensation whatsoever, engages, directly or indirectly and as a primary or secondary object, in the business of rekeying, installing, repairing, opening, modifying locks, or who originates keys for locks, including, but not limited to, electronic cloning of transponder keys and any other electronic programming of automotive keys and electronic operating devices, such as key fobs, door and ignition key devices, and successive electronic and other high-security key technology. A "locksmith" does not mean a person whose activities are limited to making a duplicate key from an existing key.

(k) "Person" means any individual, firm, company, association, organization, partnership, or corporation.

(*l*) "Registrant" means an employee registered pursuant to the provisions of this chapter.

(m) "Lock" means any mechanical, electromechanical, electronic, or electromagnetic device, or similar device, including any peripheral hardware, that is designed to control access from one area to another, or that is designed to control the use of a device, including, but not limited to, a safe, vault, or safe deposit box.

(n) "Recombination" means changing the combination of any combination-actuated lock.

(o) "Master key system" means any system in which a lock is rekeyed so that the lock can be operated by its own individual key and can also be operated by a key that can operate other locks if the other locks cannot be operated with the lock's individual key.

(p) "Key duplication machine" means any tool whose only capability is to manufacture a new key by using an existing key as a guide, which includes, but is not limited to, any of the following:

(1) Standard key duplication machines that are limited to duplication of a metallic key from an existing metallic key, standard single- or double-sided key, including a plastic "credit card" emergency key.

(2) High-security key machines that include the duplication of restricted keys, such as sidewinders and laser cut styles of machines.

(3) Transponder cloning and reprogramming machines that transfer electronic codes and signals and successive technology to keys, fobs, and door and ignition operating devices.

(q) "Key blank" means a key that has not been altered or cut and does not include depth keys.

(r) "Pin kit" means a container that holds only the following lock parts and materials:

(1) Bottom pins.

(2) Top pins (not including master pins).

(3) Springs.

(4) Plug follower.

(5) Proprietary tools, provided by a lock manufacturer, designed for the purpose of rekeying a lock.

(s) "Locksmith tool" means (1) any tool designed for the purpose of opening, bypassing, altering, rekeying, servicing, or repairing any lock, or (2) any burglar tool, as described in Section 466 of the Penal Code.

(t) "Motor service vehicle" means any vehicle, as defined in Section 6161 of the Vehicle Code, or other mode of transportation, that is used in the business of rekeying, installing, repairing, opening, or modifying locks, or originating keys for locks.

SEC. 2. Section 6980.10 of the Business and Professions Code is amended to read:

6980.10. (a) No person shall engage within this state in the activities of a locksmith as defined in subdivision (j) of Section 6980, unless the person holds a valid locksmith license, is registered pursuant to the provisions of this chapter, or is exempt from the provisions of this chapter.

(b) Any person who does any of the following is guilty of a misdemeanor, punishable by a fine of ten thousand dollars ($10,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment:

(1) Acts as or represents himself or herself to be a licensee under this chapter when that person is not a licensee under this chapter.

(2) Falsely represents that he or she is employed by a licensee under this chapter when he or she is not employed by a licensee under this chapter.

(3) Carries a badge, identification card, or business card, indicating that he or she is a licensee under this chapter when he or she is not a licensee under this chapter.

(4) Uses a letterhead or other written or electronically generated materials indicating that he or she is a licensee under this chapter when he or she is not a licensee under this chapter.

(5) Advertises that he or she is a licensee under this chapter when he or she is not a licensee under this chapter.

(c) A proceeding to impose the fine specified in subdivision (b) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, the city prosecutor in any city or city and county having a full-time city prosecutor for the jurisdiction in which the violation occurred. If the action is brought by the district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. 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. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

SEC. 3. Section 6980.12 of the Business and Professions Code is amended to read:

6980.12. This chapter does not apply to the following persons:

(a) Any person, or his or her agent or employee, who is the manufacturer of a product, other than locks and keys, and who installs, repairs, opens, or modifies locks or who makes keys for the locks of that product as a normal incident to its marketing.

(b) Employees who are industrial or institutional locksmiths, provided that the employees provide locksmith services only to a single employer that does not provide locksmith services for hire to the public for any consideration or compensation whatsoever.

(c) Tow truck operators who do not originate keys for locks and whose locksmith services are limited to opening motor vehicles.

(d) Any person employed exclusively and regularly by a state correctional institution, or other state or federal agency, and who does not provide locksmith services for hire to the public for any consideration or compensation whatsoever.

(e) Any person registered with the bureau pursuant to Chapter 11 (commencing with Section 7500) if the duties of that person's position that constitute locksmithing are ancillary to the primary duties and functions of that person's position.

(f) Any agent or employee of a retail establishment that has a primary business other than providing locksmith services, providing all of the following criteria are met:

(1) The services provided by the retail establishment are limited to rekeying and recombination of locks.

(2) All rekeying, recombination, and installation of locks must take place on the premises of the retail establishment.

(3) All rekeying, recombination, and installation services provided by the retail establishment subject to this chapter are limited to locks purchased on the retail establishment's premises and are conducted prior to purchasers taking possession of the locks.

(4) No unlicensed agent or employee of the retail establishment shall advertise or represent himself or herself to be licensed under this chapter, and no agent or employee of the retail establishment shall advertise or represent himself or herself to be a locksmith.

(5) No agent or employee of the retail establishment shall design or implement a master key system, as defined in subdivision (o) of Section 6980.

(6) No agent or employee of the retail establishment shall rekey, change the combination of, alter, or install any automotive locks.

(7) The retail establishment shall not have on its premises any locksmith tool, as defined in subdivision (s) of Section 6980, other than the following:

(A) Standard key duplication machines.

(B) Key blanks.

(C) Pin kits.

(g) Any law enforcement officer employed by any city, county, city and county, state, or federal law enforcement agency, if all services are performed during the course of the officer's professional duties.

(h) Firefighters or emergency medical personnel employed by any city, county, city and county, district, or state agency, if all services are performed during the course of duties as a firefighter or emergency medical person.

(i) A new motor vehicle dealer, as defined in Section 426 of the Vehicle Code, and employees of a new motor vehicle dealer acting within the scope of employment at a dealership.

SEC. 4. Section 6980.13 of the Business and Professions Code is amended to read:

6980.13. (a) Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, or who knowingly engages a nonexempt or unlicensed locksmith after being notified in writing by the bureau of the individual's unlicensed status with the bureau, is guilty of a misdemeanor, punishable by a fine

of ten thousand dollars ($10,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment, except as otherwise provided in this chapter.

(b) A proceeding to impose the fine specified in subdivision (a) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, the city prosecutor in any city or city and county having a full-time city prosecutor for the jurisdiction in which the violation occurred. If the action is brought by the district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. 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. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

(c) Any person who is convicted of a violation of this section or Section 6980.10 shall not be issued a license for a period of one year following a first conviction and shall not be issued a license for a period of five years following a second or subsequent conviction of this section or Section 6980.10 or any combination of those sections.

(d) It is the intent of the Legislature that the prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within his or her jurisdiction.

SEC. 5. Section 6980.14 of the Business and Professions Code is repealed.

SEC. 6. Section 6980.14 is added to the Business and Professions Code, to read:

6980.14. (a) The superior court in and for the county where any person has engaged or is about to engage in any act that constitutes a violation of this chapter, or where any person engages in the business of a locksmith after the revocation or expiration of any license or during the period of suspension of any license, may, upon application of the chief or any person licensed under these provisions or any association representing those licensees or any member of the general public, issue an injunction or other appropriate order restraining this conduct and may impose civil fines not exceeding ten thousand dollars ($10,000). The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that there shall be no requirement to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable injury.

(b) During the period of revocation, expiration, or suspension, any business telephone number used to conduct, direct, operate, dispatch, manage, or utilize an illegal, nonexempt, or unlicensed locksmith business, locksmith service, service provider, or related activity, may be disconnected by ruling of the chief.

(c) The superior court for the county in which any person has engaged in any act that constitutes a violation of this chapter may, upon a petition filed by the chief with the approval of the director, order this person to make restitution to persons injured as a result of the violation.

(d) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a), or subject to an order requiring restitution pursuant to subdivision (c), to reimburse the bureau for expenses incurred by the bureau in its investigation related to its petition.

(e) A proceeding to impose the fine specified in subdivision (a) and enjoin the unlicensed operation may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, the city prosecutor in any city or city and county having a full-time city prosecutor for the jurisdiction in which the violation occurred. If the action is brought by the district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. 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. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.

(f) The remedy provided for by this section shall be in addition to any other remedy provided for in this chapter.

SEC. 7. Section 6980.22 of the Business and Professions Code is amended to read:

6980.22. No new or original license shall be issued to any applicant pending final disposition of any disciplinary action previously filed against the person or applicant or partner, or officer of the applicant, or pending final disposition of any disciplinary action related to the locksmith business previously filed in another state against the person or applicant or partner, or officer of the applicant.

SEC. 8. Section 6980.26 of the Business and Professions Code is amended to read:

6980.26. (a) Each locksmith license, together with the current renewal certificate, if any, shall at all times be conspicuously displayed at the place of business, each branch office, and in each mobile service vehicle for which the license is issued.

(b) The director may assess a fine of two hundred fifty dollars ($250) per violation of subdivision (a). These fines shall be deposited in the Private Security Services Fund.

SEC. 9. Section 6980.33 of the Business and Professions Code is amended to read:

6980.33. A licensee, or a partner or officer of a licensee, shall carry a valid pocket identification card, issued by the bureau pursuant to Section 6980.23, and either a valid driver's license issued pursuant to Section 12811 of the Vehicle Code or a valid identification card issued pursuant to Section 13000 of the Vehicle Code, at all times the licensee, or partner or officer, is engaged in the work of a locksmith, as defined in this chapter, whether on or off the premises of the licensee's place of business. Every person, while engaged in any activity for which licensure is required, shall display his or her valid pocket card, and driver's license or identification card, as provided by regulation.

SEC. 10. Section 6980.36 of the Business and Professions Code is repealed.

SEC. 11. Section 6980.48 of the Business and Professions Code is amended to read:

6980.48. (a) Upon determining that the applicant is qualified for registration pursuant to this chapter, the bureau shall issue a pocket registration card to the employee. The applicant may request to be issued an enhanced pocket card that shall be composed of durable material and may incorporate technologically advanced security features. The bureau may charge a fee sufficient to reimburse the department for costs for furnishing the enhanced pocket card. The fee charged may not exceed the actual cost for system development, maintenance, and processing necessary to provide the service, and may not exceed six dollars ($6). If the applicant does not request an enhanced card, the department shall issue a standard card at no cost to the applicant.

(b) The registrant shall carry a valid registration card issued by the bureau under this section, and either a valid driver's license issued pursuant to Section 12811 of the Vehicle Code or a valid identification card issued pursuant to Section 13000 of the Vehicle Code, at all times the registrant is engaged in the work of a locksmith whether on or off the premises of the licensee's place of business. Every person, while engaged in any activity for which licensure is required, shall display his or her valid pocket card, and driver's license or identification card, as provided by regulation.

SEC. 12. Section 6980.53 of the Business and Professions Code is amended to read:

6980.53. A locksmith licensed by the bureau shall be subject to the provisions of Sections 466.6 and 466.8 of the Penal Code requiring

verification of identification of clients and maintenance of work orders containing required client information. A copy of each work order completed pursuant to Sections 466.6 and 466.8 of the Penal Code shall be retained for two years, shall include the name and license number of the locksmith performing the service, and shall be open to inspection by the bureau or any peace officer during business hours or submitted to the bureau upon request.

SEC. 13. Section 6980.54 is added to the Business and Professions Code, to read:

6980.54. (a) A locksmith licensed by the bureau shall be subject to the provisions of Section 466.6 of the Penal Code, and shall be able to duplicate any key for any vehicle from another key.

(b) A locksmith licensed by the bureau shall be subject to the provisions of Section 466.8 of the Penal Code, and shall be able to duplicate any key for a residence, commercial establishment, or personal property from another key, except as follows:

(1) Duplication is prohibited when a key is stamped, imprinted, marked, or incised with the wording "Do Not Duplicate" or "Unlawful To Duplicate" and includes the originator's company name and telephone number.

(2) Duplication is prohibited when a key is a Restricted Key or a High Security Key and includes the originator's company name and telephone number or registration number.

SEC. 14. Section 6980.59 of the Business and Professions Code is amended to read:

6980.59. (a) A licensee shall notify the bureau within 30 days of any change of its officers required to be named pursuant to Section 6980.21 and of the addition of any new partners. Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may deny the application of a new officer or partner if the director determines that the officer or partner has committed any act which constitutes grounds for the denial of a license pursuant to Section 6980.71.

(b) A Notice of Warning shall be issued for the first violation of this section. Thereafter, the director shall assess a fine of five hundred dollars ($500) for each subsequent violation of this section.

SEC. 15. Section 6980.60 of the Business and Professions Code is amended to read:

6980.60. No licensee or employee shall conduct business from any location other than the location for which a license or branch office registration was issued.

SEC. 16. Section 6980.64 of the Business and Professions Code is amended to read:

6980.64. (a) Every advertisement by a licensee soliciting or advertising business shall contain his or her business name, business address, or business telephone number, and license number as they appear in the records of the bureau.

(b) For the purpose of this section, "advertisement" includes any business card, stationery, brochure, flyer, circular, newsletter, fax form, printed or published paid advertisement in any media form, directory listing, or telephone book listing.

(c) The director may assess a fine of five hundred dollars ($500) for the first violation of this section and one thousand dollars ($1,000) for each subsequent violation. These fines shall be deposited in the Private Security Services Fund.

SEC. 17. Section 6980.65 of the Business and Professions Code is amended to read:

6980.65. No licensee or person shall aid and abet an unlicensed or nonexempt locksmith in any activity for which a license is required. For purposes of this section, to aid or abet includes, but is not limited to, the falsification of documents or facilitation of the acquisition of locksmith tools. Any licensee or person found in violation of this section shall be subject to Section 6980.14. A person shall not be subject to this section if he or she reasonably relied on a copy of a license, registration, pocket registration, or pocket identification card.

SEC. 18. 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.

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## CHAPTER 680

An act to amend Sections 124977, 124991, and 125002 of the Health and Safety Code, relating to public health.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 124977 of the Health and Safety Code is amended to read:

124977. (a) It is the intent of the Legislature that, unless otherwise specified, the genetic disease testing program carried out pursuant to this chapter be fully supported from fees collected for services provided by the program.

(b) (1) The department shall charge a fee to all payers for any tests or activities performed pursuant to this chapter. The amount of the fee shall be established by regulation and periodically adjusted by the director in order to meet the costs of this chapter. Notwithstanding any other provision of law, any fees charged for prenatal screening and followup services provided to persons enrolled in the Medi-Cal program, health care service plan enrollees, or persons covered by health insurance policies, shall be paid in full and deposited in the Genetic Disease Testing Fund or the Birth Defects Monitoring Fund consistent with this section, subject to all terms and conditions of each enrollee's or insured's health care service plan or insurance coverage, whichever is applicable, including, but not limited to, copayments and deductibles applicable to these services, and only if these copayments, deductibles, or limitations are disclosed to the subscriber or enrollee pursuant to the disclosure provisions of Section 1363.

(2) The department shall expeditiously undertake all steps necessary to implement the fee collection process, including personnel, contracts, and data processing, so as to initiate the fee collection process at the earliest opportunity.

(3) Effective for services provided on and after July 1, 2002, the department shall charge a fee to the hospital of birth, or, for births not occurring in a hospital, to families of the newborn, for newborn screening and followup services. The hospital of birth and families of newborns born outside the hospital shall make payment in full to the Genetic Disease Testing Fund. The department shall not charge or bill Medi-Cal beneficiaries for services provided under this chapter.

(4) (A) The department shall charge a fee for prenatal screening to support the pregnancy blood sample storage, testing, and research activities of the Birth Defects Monitoring Program.

(B) The prenatal screening fee for activities of the Birth Defects Monitoring Program shall be ten dollars ($10).

(5) The department shall set guidelines for invoicing, charging, and collecting from approved researchers the amount necessary to cover all expenses associated with research application requests made under this section, data linkage, retrieval, data processing, data entry, reinventory,

and shipping of blood samples or their components and related data management.

(6) The only funds from the Genetic Disease Testing Fund that may be used for the purpose of supporting the pregnancy blood sample storage, testing, and research activities of the Birth Defects Monitoring Program are those prenatal screening fees assessed and collected prior to the creation of the Birth Defects Monitoring Program Fund specifically to support those Birth Defects Monitoring Program activities.

(7) The Birth Defects Monitoring Program Fund is hereby created as a special fund in the State Treasury. Fee revenues that are collected pursuant to paragraph (4) shall be deposited into the fund and shall be available upon appropriation by the Legislature to support the pregnancy blood sample storage, testing, and research activities of the Birth Defects Monitoring Program. Notwithstanding Section 16305.7 of the Government Code, interest earned on funds in the Birth Defects Monitoring Program Fund shall be deposited as revenue into the fund to support the Birth Defects Monitoring Program.

(c) (1) The Legislature finds that timely implementation of changes in genetic screening programs and continuous maintenance of quality statewide services requires expeditious regulatory and administrative procedures to obtain the most cost-effective electronic data processing, hardware, software services, testing equipment, and testing and followup services.

(2) The expenditure of funds from the Genetic Disease Testing Fund for these purposes shall not be subject to Section 12102 of, and Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of, the Public Contract Code, or to Division 25.2 (commencing with Section 38070). The department shall provide the Department of Finance with documentation that equipment and services have been obtained at the lowest cost consistent with technical requirements for a comprehensive high-quality program.

(3) The expenditure of funds from the Genetic Disease Testing Fund for implementation of the Tandem Mass Spectrometry screening for fatty acid oxidation, amino acid, and organic acid disorders, and screening for congenital adrenal hyperplasia may be implemented through the amendment of the Genetic Disease Branch Screening Information System contracts and shall not be subject to Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code, Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, and any policies, procedures, regulations or manuals authorized by those laws.

(4) The expenditure of funds from the Genetic Disease Testing Fund for the expansion of the Genetic Disease Branch Screening Information

System to include cystic fibrosis and biotinidase may be implemented through the amendment of the Genetic Disease Branch Screening Information System contracts, and shall not be subject to Chapter 2 (commencing with Section 10290) or Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code, Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, or Sections 4800 to 5180, inclusive, of the State Administrative Manual as they relate to approval of information technology projects or approval of increases in the duration or costs of information technology projects. This paragraph shall apply to the design, development, and implementation of the expansion, and to the maintenance and operation of the Genetic Disease Branch Screening Information System, including change requests, once the expansion is implemented.

(d) (1) The department may adopt emergency regulations to implement and make specific this chapter in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law. Notwithstanding Sections 11346.1 and 11349.6 of the Government Code, the department shall submit these regulations directly to the Secretary of State for filing. The regulations shall become effective immediately upon filing by the Secretary of State. Regulations shall be subject to public hearing within 120 days of filing with the Secretary of State and shall comply with Sections 11346.8 and 11346.9 of the Government Code or shall be repealed.

(2) The Office of Administrative Law shall provide for the printing and publication of these regulations in the California Code of Regulations. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the regulations adopted pursuant to this chapter shall not be repealed by the Office of Administrative Law and shall remain in effect until revised or repealed by the department.

(3) The Legislature finds and declares that the health and safety of California newborns is in part dependent on an effective and adequately staffed genetic disease program, the cost of which shall be supported by the fees generated by the program.

SEC. 2. Section 124991 of the Health and Safety Code is amended to read:

124991. (a) (1) The Birth Defects Monitoring Program, within the State Department of Public Health, shall collect and store any umbilical cord blood samples it receives from hospitals for storage and research. For purposes of ensuring financial stability, the Birth Defects Monitoring Program shall ensure that the following conditions, alone or in combination, are met:

(A) The fees paid by researchers pursuant to subdivision (c) shall be used for, and be sufficient to cover the cost of, collecting and storing blood samples, including umbilical cord blood samples.

(B) The department receives confirmation that a researcher has requested umbilical cord blood samples from the Birth Defects Monitoring Program for research or has requested umbilical cord blood samples to be included within a request for pregnancy or newborn blood samples through the program and has provided satisfactory evidence that adequate funding will be provided to the department from the fees paid by the researcher for the request.

(C) The department receives federal grant moneys to pay for initial startup costs for the collection and storage of umbilical cord blood samples.

(2) The department may limit the number of umbilical cord blood samples the program collects each year.

(b) (1) All information relating to umbilical cord blood samples collected and utilized by the department shall be confidential, and shall be used solely for the purposes of the program, or, if approved by the department, research. Access to confidential information shall be limited to authorized persons who agree, in writing, to maintain the confidentiality of that information. Notwithstanding any other provision of law, when the blood samples specified in subdivision (c), including those samples with any information identifying the person from whom the samples were obtained, are stored, processed, analyzed, or otherwise shared for research purposes with nondepartment staff, those samples may be shared by the program with department-authorized researchers for research purposes, and department representatives approved by the department, subject to the confidentiality and security requirements for confidential information established in this section and in Section 103850.

(2) The department shall maintain an accurate record of all persons who are given confidential information pursuant to this section, and any disclosure of confidential information shall be made only upon written agreement that the information will be kept confidential, used for its approved purpose, and not be further disclosed.

(3) Any person who, in violation of a written agreement to maintain confidentiality, discloses any information provided pursuant to this section, or who uses information provided pursuant to this section in a manner other than as approved pursuant to this section may be denied further access to any confidential information maintained by the department, and shall be subject to a civil penalty not exceeding one thousand dollars ($1,000). The penalty provided in this section shall not be construed as to limit or otherwise restrict any remedy, provisional or otherwise, provided by law for the benefit of the department or any other person covered by this section.

(c) In order to implement this section, the department shall establish fees in an amount that shall not exceed the costs of administering the program and the collection and storage of these samples, which the department shall collect from researchers who have been approved by the department and who seek to use the following types of blood samples for research:

(1) Umbilical cord blood.

(2) Pregnancy blood collected by the Genetic Disease Screening Program, and stored by the Birth Defects Monitoring Program.

(3) Newborn blood collected by the Genetic Disease Screening Program.

(d) Fees collected pursuant to subdivision (c) shall be collected by the department and deposited into the Birth Defects Monitoring Program Fund, the Genetic Disease Testing Fund, created pursuant to Section 124996, or the Cord Blood Banking Fund, which is hereby created as a special fund in the State Treasury. The amount of fees deposited into each of these funds shall be based on the program that is providing those pregnancy blood samples, and the purpose for which the blood sample was obtained. Notwithstanding any other provision of law, the moneys in the Birth Defects Monitoring Program Fund, the Genetic Disease Testing Fund, and the Cord Blood Banking Fund that are collected pursuant to subdivision (c), may be used by the department, upon appropriation by the Legislature, for the purposes specified in subdivision (e).

(e) Moneys in those funds shall be used for the costs related to data management, including data linkage and entry, and blood collection, storage, retrieval, processing, inventory, and shipping.

(f) The department shall comply with the existing requirements in the Birth Defects Monitoring Program, as set forth in Chapter 1 (commencing with Section 103825) of Part 2 of Division 102.

(g) The department, any entities approved by the department, and researchers shall maintain the confidentiality of patient information and blood samples in accordance with existing law and in the same manner

as other medical record information with patient identification that they possess, and shall use the information only for the following purposes:

(1) Research to identify risk factors for children's and women's diseases.

(2) Research to develop and evaluate screening tests.

(3) Research to develop and evaluate prevention strategies.

(4) Research to develop and evaluate treatments.

(h) (1) For purposes of ensuring the security of a donor's personal information, before any blood samples are released pursuant to this section for research purposes, the State Committee for the Protection of Human Subjects (CPHS) shall determine if all of the following criteria have been met:

(A) The department, contractors, researchers, or other entities approved by the department have provided a plan sufficient to protect personal information from improper use and disclosures, including sufficient administrative, physical, and technical safeguards to protect personal information from reasonable anticipated threats to the security or confidentiality of the information.

(B) The department, contractors, researchers, or other entities approved by the department have provided a sufficient plan to destroy or return all personal information as soon as it is no longer needed for the research activity, unless the program contractors, researchers, or other entities approved by the department have demonstrated an ongoing need for the personal information for the research activity and have provided a long-term plan sufficient to protect the confidentiality of that information.

(C) The department, contractors, researchers, or other entities approved by the department have provided sufficient written assurances that the personal information will not be reused or disclosed to any other person or entity, or used in any manner not approved in the research protocol, except as required by law or for authorized oversight of the research activity.

(2) As part of its review and approval of the research activity for the purpose of protecting personal information held in agency databases, CPHS shall accomplish at least all of the following:

(A) Determine whether the requested personal information is needed to conduct the research.

(B) Permit access to personal information only if it is needed for the research activity.

(C) Permit access only to the minimum necessary personal information needed for the research activity.

(D) Require the assignment of unique subject codes that are not derived from personal information in lieu of social security numbers if the research can still be conducted without social security numbers.

(E) If feasible, and if cost, time, and technical expertise permit, require the agency to conduct a portion of the data processing for the researcher to minimize the release of personal information.

(i) In addition to the fees described in subdivision (c), the department may bill a researcher for the costs associated with the department's process of protecting personal information, including, but not limited to, the department's costs for conducting a portion of the data processing for the researcher, removing personal information, encrypting or otherwise securing personal information, or assigning subject codes.

(j) Nothing in this section shall prohibit the department from using its existing authority to enter into written agreements to enable other institutional review boards to approve research activities, projects or classes of projects for the department, provided the data security requirements set forth in this section are satisfied.

SEC. 3. Section 125002 of the Health and Safety Code is amended to read:

125002. (a) In order to align closely related programs and in order to facilitate research into the causes of, and treatment for, birth defects, the Birth Defects Monitoring Program provided for pursuant to Chapter 1 (commencing with Section 103825) of Part 2 of Division 102 shall become part of the Maternal, Child, and Adolescent Health program provided for in Article 1 (commencing with Section 123225) of Chapter 1 of Part 2 of Division 106.

(b) It is the intent of the Legislature that pregnancy blood samples, taken for prenatal screening, shall be stored and made available to any researcher who is approved by the department for the following purposes:

(1) Research to identify risk factors for children's and women's diseases.

(2) Research to develop and evaluate screening tests.

(3) Research to develop and evaluate prevention strategies.

(4) Research to develop and evaluate treatments.

(c) Before any pregnancy blood samples are released for research purposes, all of the following conditions must be met:

(1) Individual consent at the time the sample is drawn to allow confidential use of the sample for research purposes by the department or the department's approved researchers.

(2) Protocol review for scientific merit by the department or another entity authorized by the department.

(3) Protocol review by the State Committee for the Protection of Human Subjects.

(d) Since the pregnancy blood samples described in this section will be stored by the California Birth Defects Monitoring Program or another entity authorized by the department, the storage, analysis, and sharing

of pregnancy blood samples for research purposes shall be done in compliance with Section 103850, pertaining to confidentiality of information.

(e) The department shall adopt regulations specifying the protocols and conditions under which blood samples will be released for research purposes, in accordance with the procedures set forth in subdivision (d) of Section 124977.

(f) Until such time that regulations are adopted by the department pursuant to subdivision (e), the Genetic Disease Screening Program and the Birth Defects Monitoring Program shall release blood samples to only those researchers who meet the requirements of this section, including all of the following:

(1) The research project was approved by the State Committee for the Protection of Human Subjects.

(2) The research project's protocol was approved by the State Committee for the Protection of Human Subjects, and specifically included a description of the number and type of blood samples requested from the Genetic Disease Screening Program or the Maternal, Child, and Adolescent Health Program, including the Birth Defects Monitoring Program for the project.

(3) There is written documentation that the Genetic Disease Screening Program or the Maternal, Child, and Adolescent Health Program, including the Birth Defects Monitoring Program, approved a request for the blood samples for the research project approved by the State Committee for the Protection of Human Subjects.

(4) The researcher has agreed to pay fees to the department to pay reasonable costs for processing the samples and information, including, but not limited to, costs of data management, including data linkage and entry, and costs of blood collection, storage, retrieval, inventory, and shipping.

(g) Subdivision (f) shall become inoperative on the date that the department adopts regulations specifying the protocols and conditions for release of the blood samples for research purposes.

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## CHAPTER 681

An act to add Section 52372.5 to the Education Code, relating to career technical education.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 52372.5 is added to the Education Code, to read:

52372.5. (a) For purposes of this section, a "multiple pathway program" is a program that is all of the following:

(1) A multiyear, comprehensive high school program of integrated academic and technical study that is organized around a broad theme, interest area, or industry sector, including, but not necessarily limited to, the industry sectors identified in the model standards adopted by the state board pursuant to Section 51226.

(2) A program that ensures that all pupils have curriculum choices that will prepare them for career entry and a full range of postsecondary options, including two- and four-year college, apprenticeship, and formal employment training.

(3) A program that is comprised, at a minimum, of the following components:

(A) An integrated core curriculum that meets the eligibility requirements for admission to the University of California and the California State University and is delivered through project-based learning and other engaging instructional strategies that intentionally bring real-world context and relevance to the curriculum where broad themes, interest areas, and career technical education are emphasized.

(B) An integrated technical core of a sequence of at least four related courses, that may reflect career technical education standards-based courses, that provide pupils with career skills, that are aligned to and underscore academic principles, and to the extent possible fulfill the academic core requirements listed in subparagraph (A).

(C) A series of work-based learning opportunities that begin with mentoring and job shadowing and evolve into intensive internships, school-based enterprises, or virtual apprenticeships.

(D) Support services, including supplemental instruction in reading and mathematics, that help pupils master the advanced academic and technical content that is necessary for success in college and career.

(b) The Superintendent, in conjunction with the Office of the Secretary for Education, the California Community Colleges, the University of California, the California State University, the Employment Development Department, both houses of the California Legislature, teachers, chamber organizations, industry representatives, research centers, parents, school administrators, representatives of regional occupational centers and programs, community-based organizations, labor organizations, and others deemed appropriate by the Superintendent, shall develop a report that explores the feasibility of establishing and expanding additional

multiple pathway programs in California, including the costs and merits associated with expansion of these programs. Multiple pathway programs created for high schools may include, but are not limited to, California partnership academies, regional occupational centers and programs, charter schools, academies, small learning communities, and other career-themed small schools.

(c) The report described in subdivision (b) shall do all of the following:

(1) Identify regulations, policies, and practices that need to be added, deleted, or amended in order to promote the development and expansion of multiple pathway programs.

(2) Set forth a reasonable timeline for the development and expansion of multiple pathway programs.

(3) Include at least all of the following components:

(A) Assessment of the current capacity of the department for the purpose of maximizing the development of these programs.

(B) Identifying the possible roles and responsibilities of other departments or agencies to assist in developing or expanding multiple pathway programs.

(C) An assessment of the appropriateness of school districts fulfilling the requirements set forth in subdivisions (a) and (b) of Section 51228 by developing industry-focused multiple pathway programs, including those described in this section.

(D) Methods for developing and sharing models of integrated curriculum and instruction.

(E) Strategies for increasing the course options and instructional time for pupils in high school.

(F) Plans for increasing opportunities for high-quality learning based on real-world applications in industry and careers.

(G) Methods for improving alignment of curriculum between middle schools and high schools with career instruction, exploration, and counseling for middle school pupils.

(H) Methods for improving coordination and articulation between high schools and postsecondary institutions, including, but not limited to, California Community Colleges, the California State University, and the University of California.

(I) Recommendations for increasing the supply of teachers who can teach effectively in a pathway setting that aims to prepare pupils for a full range of postsecondary options. Necessary specialized skills include, but are not limited to, the abilities to design interdisciplinary projects and use project-based learning as an instructional strategy, work with other teachers in a team-teaching arrangement, develop curriculum that effectively integrates academic and technical content, design and utilize

high-quality work-based learning to reinforce lessons in both academic and technical courses, and develop authentic pupil assessments.

(J) Recommendations for increasing the supply of schoolsite and district administrators who can effectively create and manage schools that are implementing one or more industry focused pathway programs. Necessary specialized skills include, but are not limited to, the abilities to develop and sustain partnerships with industry partners, recruit and retain uniquely qualified teachers, guide development of integrated curriculum, understand needs for and provide teacher professional development, guide development of comprehensive guidance systems that integrate college advising and career counseling, guide development of a coordinated and sequenced work-based learning component, and utilize data to assess pupil readiness for college and career.

(K) Recommendations for supporting regional coalitions in planning and developing programs.

(L) Evaluation of current pathway programs, including partnership academies, regional occupational centers or programs and postsecondary pathway programs, including middle colleges and early college models.

(M) Recommendations for increasing and improving in-school support services.

(N) Recommendations for incorporating new measures into the state's accountability system to better assess the results of these programs.

(O) Assessment of the budgetary implications of offering all pupils access to these programs.

(d) For purposes of completing the report described in subdivision (b), the Superintendent is authorized to use existing state resources and federal funds. If state or federal funds are not available or sufficient, the Superintendent may apply for and accept grants and receive donations, and other financial support from public or private sources for purposes of this section.

(e) In developing the report, the Superintendent may accept support including, but not necessarily limited to, financial and technical support, from high school reform advocates, teachers, chamber organizations, industry representatives, research centers, parents, and pupils.

(f) The Superintendent shall report to the Legislature as to the status of completing the report and any preliminary recommendations no later than July 1, 2009.

(g) The Superintendent shall submit a final report with recommendations to the Legislature and the Governor no later than December 1, 2009.

# CHAPTER 682

An act to amend Sections 50260 and 54701.12 of the Government Code, to amend Sections 679.71, 679.72, 699.5, 10141, 11628, and 12095 of the Insurance Code, to amend Section 4600.6 of the Labor Code, and to amend Sections 103 and 14200.1 of the Welfare and Institutions Code, relating to discrimination.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 50260 of the Government Code is amended to read:

50260. The purpose of this article is to promote the establishment in counties and cities and counties throughout the state of commissions designed to foster peaceful relations in the interest of preserving the public peace among residents of different races, religions, national origins, and the other characteristics listed or defined in Section 11135.

SEC. 2. Section 54701.12 of the Government Code is amended to read:

54701.12. A local agency shall require that contractors and subcontractors engaged in construction financed under this chapter shall provide equal opportunity for employment, without discrimination as to any characteristic listed or defined in Section 12926 or 12926.1. All contracts and subcontracts for construction financed under this chapter shall be let without discrimination as to any of those characteristics.

SEC. 3. Section 679.71 of the Insurance Code is amended to read:

679.71. No admitted insurer that is licensed to issue any policy of insurance covered by this chapter shall fail or refuse to accept an application for, or to issue a policy to an applicant for, that insurance (unless the insurance is to be issued to the applicant by another insurer under the same management and control), or cancel that insurance, under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code; nor shall any of those characteristics, of itself, constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for that insurance.

SEC. 4. Section 679.72 of the Insurance Code is amended to read:

679.72. No application for insurance specified in this chapter or insurance investigation report furnished by an insurer to its agents or

employees for use in determining the insurability of an applicant shall carry any identification, or any requirement therefor, of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code with respect to the applicant.

SEC. 5. Section 699.5 of the Insurance Code is amended to read:

699.5. (a) The ownership or financial control, in part, direct or indirect, of any domestic, foreign, or alien insurer, by any state of the United States or by a foreign government or by any political subdivision of either, or by an agency of any other state, government, or subdivision thereof, shall not, provided the insurer complies with all other requirements for issuance, renewal, or continuation of a license, restrict the commissioner from issuing, renewing, or continuing in effect the license of that insurer to transact in this state the kinds of insurance business for which that insurer is otherwise qualified under the provisions of this chapter and under its charter, unless the commissioner finds that any of the following is true:

(1) The insurer is subject to any form of subsidy that would enable it to compete unfairly with domestic insurers.

(2) The insurer is subject to governmental practices that discriminate on the basis of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code.

(3) The ownership or financial control will create the presence of any sovereign immunity in the insurer.

(4) Appropriate measures and controls do not exist to avoid security problems resulting from an insurer's access to confidential information and data of its insured.

(5) The ownership or financial control results in substantial or undue influence being asserted over the insurer.

(b) The failure by any applicant for a license to submit the information requested by the commissioner for the purposes of determining whether to make a finding pursuant to subdivision (a) shall be sufficient to deny the application.

(c) Nothing in the amendments to this section enacted during the 1994 portion of the 1993–94 Regular Session of the Legislature shall be interpreted to authorize the issuance of a license to an insurer wholly owned by any governmental entity described in subdivision (a).

SEC. 6. Section 10141 of the Insurance Code is amended to read:

10141. No application for insurance or insurance investigation report furnished by such an insurer to its agents or employees for use in determining the insurability of the applicant shall carry any identification, or any requirement therefor, of the applicant's race, color, religion, ancestry, national origin, or sexual orientation.

SEC. 7. Section 11628 of the Insurance Code is amended to read:

11628. (a) (1) No admitted insurer that is licensed to issue and issuing motor vehicle liability policies, as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for that insurance, to issue that insurance to an applicant therefor, or issue or cancel that insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, including, but not limited to, language, or persons of the same geographic area; nor shall any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, including, but not limited to, language, or location within a geographic area, of itself, constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for that insurance.

(2) As used in this section "geographic area" means a portion of this state of not less than 20 square miles defined by description in the rating manual of an insurer or in the rating manual of a rating bureau of which the insurer is a member or subscriber. In order that geographic areas used for rating purposes may reflect homogeneity of loss experience, a record of loss experience for the geographic area shall include the breakdown of actual loss experience statistics by ZIP Code area (as designated by the United States Postal Service) within each geographic area for family owned private passenger motor vehicles and lightweight commercial motor vehicles, under 1 ½-ton load capacity, used for local service or retail delivery, normally within a 50-mile radius of garaging, and that are not part of a fleet of five or more motor vehicles under one ownership. A record of loss experience for the geographic area, including that statistical data by ZIP Code area, shall be submitted annually to the commissioner for examination by each insurer licensed to issue and issuing motor vehicle liability policies, motor vehicle physical damage policies, or both. Loss experience shall include separate loss data for each type of coverage, including liability or physical damage coverage, underwritten. That report shall include the insurer's statewide loss ratio, loss adjustment expense ratio, expense ratio, and combined ratio on its assigned-risk business. An insurer may satisfy its obligation to report statistical data under this subdivision by providing its loss experience data and statewide expense ratio and combined ratio on its assigned-risk business to a rating or advisory organization for submission to the commissioner. This data shall be made available to the public by the commissioner annually after examination. However, the data shall be released in aggregate form by ZIP Code in order that no individual insurer's loss experience for any specific geographic area be revealed. Differentiation in rates between geographical areas shall not constitute unfair discrimination.

(3) All information reported to the department pursuant to this subdivision shall be confidential.

(4) As used in this section:

(A) "Language" means the inability to speak, read, write, or comprehend the English language.

(B) "Dependents" shall include, but not be limited to, issue regardless of generation.

(C) "Spouse" shall be determined without regard to current marital status.

(b) The commissioner may require insurers with combined ratios on statewide assigned-risk business that are 10 percent above the mean combined ratio for all plan participants to also report the following:

(1) The reason for the excessive ratio.

(2) A plan for reducing the ratio, and when the reduction can be expected to occur. The commissioner may require insurers subject to this subdivision to provide periodic reports on the progress in reducing the combined ratio.

(c) (1) No admitted insurer, licensed to issue and issuing motor vehicle liability insurance policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for that insurance, refuse to issue that insurance to an applicant therefor, or cancel that insurance solely for the reason that the applicant for that insurance or any insured is employed in a specific occupation, or is on active duty service in the Armed Forces of the United States.

(2) Nothing in this section shall prohibit an insurer from doing any of the following:

(A) Considering the occupation of the applicant or insured as a condition or risk for which a higher rate or discounted rate may be required or offered for coverage in the course and scope of his or her occupation.

(B) Charging a deviated rate to any classification of risks involving a specific occupation, or grouping thereof, if the rate meets the requirements of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1 and is based upon actuarial data which demonstrates a significant actual historical differential between past losses or expenses attributable to the specific occupation, or grouping thereof, and the past losses or expenses attributable to other classification of risks. For purposes of compiling that actuarial data for a specific occupation or grouping thereof, a person shall be deemed employed in the occupation in which that data is compiled if any of the following is true:

(i) The majority of his or her employment during the previous year was in the occupation.

(ii) The majority of his or her aggregate earnings for the immediate preceding three-year period were derived from the occupation.

(iii) The person is a member in good standing of a union that is an authorized collective bargaining agent for persons engaged in the occupation.

(3) Nothing in this section shall be construed to include in the definition of "occupation" any status or activity that does not result in remuneration for work done or services performed, or self-employment in a business operated out of an applicant's or insured's place of residence or persons engaged in the renting, leasing, selling, repossessing, rebuilding, wrecking, or salvaging of motor vehicles.

(d) Nothing in this section shall limit or restrict the ability of an insurer to refuse to accept an application for or refuse to issue or cancel insurance for the reason that it is a commercial vehicle or based upon the consideration of a vehicle's size, weight, design, or intended use.

(e) It is the intent of the Legislature that actuarial data by occupation may be examined for credibility by the commissioner on the same basis as any other automobile insurance data which he or she is empowered to examine.

(f) (1) Except as provided in Article 4 (commencing with Section 11620), nothing in this section or in Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1 or in any other provision of this code, shall prohibit an insurer from limiting the issuance or renewal of insurance, as defined in subdivision (a) of Section 660, to persons who engage in, or have formerly engaged in, governmental or military service or segments of categories thereof, and their spouses, dependents, direct descendants, and former dependents or spouses.

(2) The term "military service" includes, but is not limited to, officers, warrant officers, and enlisted persons, officer and warrant officer candidates, cadets or midshipmen at a service academy, cadets or midshipmen in advance Reserve Officer Training Corps programs or on Reserve Officer Training Corps program scholarships, National Guard officer candidates, students in government-sponsored precommissioning programs, and foreign military officers while on temporary duty in the United States.

(g) Any person subject to regulation by the commissioner pursuant to this code who fails to comply with a data call required by the department pursuant to subdivision (a) shall be liable to the state for a civil penalty in an amount not exceeding five thousand dollars ($5,000) for each 30-day period that the person is not in compliance, unless the failure to comply is willful, in which case the civil penalty shall be in an amount not to exceed ten thousand dollars ($10,000) for each 30-day period that the person is not in compliance, but not to exceed an aggregate

amount of one hundred thousand dollars ($100,000). The commissioner shall collect the amount so payable and may bring an action in the name of the people of the State of California to enforce collection. These penalties shall be in addition to other penalties provided by law.

(h) This section shall be known and may be cited as the "Rosenthal Auto Insurance Nondiscrimination Law."

SEC. 8. Section 12095 of the Insurance Code is amended to read:

12095. No insurer admitted in this state to issue surety insurance shall fail or refuse to accept an application for a contractor's license or performance bond, or to issue such a bond to an applicant therefor, or refuse or cancel such a bond, under conditions less favorable to the obligor than in other comparable cases, except for reasons applicable alike to persons of every characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, or persons of every geographical area; nor shall any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, or location within a county, of itself, constitute a condition or risk for which a greater rate, premium, charge, guaranty, or collateral may be required of the applicant for such a bond.

SEC. 9. Section 4600.6 of the Labor Code is amended to read:

4600.6. Any workers' compensation insurer, third-party administrator, or other entity seeking certification as a health care organization under subdivision (e) of Section 4600.5 shall be subject to the following rules and procedures:

(a) Each application for authorization as an organization under subdivision (e) of Section 4600.5 shall be verified by an authorized representative of the applicant and shall be in a form prescribed by the administrative director. The application shall be accompanied by the prescribed fee and shall set forth or be accompanied by each and all of the following:

(1) The basic organizational documents of the applicant, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents and all amendments thereto.

(2) A copy of the bylaws, rules, and regulations, or similar documents regulating the conduct of the internal affairs of the applicant.

(3) A list of the names, addresses, and official positions of the persons who are to be responsible for the conduct of the affairs of the applicant, which shall include, among others, all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers, each shareholder with over 5 percent interest in the case of a corporation, and all partners or members in the

case of a partnership or association, and each person who has loaned funds to the applicant for the operation of its business.

(4) A copy of any contract made, or to be made, between the applicant and any provider of health care, or persons listed in paragraph (3), or any other person or organization agreeing to perform an administrative function or service for the plan. The administrative director by rule may identify contracts excluded from this requirement and make provision for the submission of form contracts. The payment rendered or to be rendered to the provider of health care services shall be deemed confidential information that shall not be divulged by the administrative director, except that the payment may be disclosed and become a public record in any legislative, administrative, or judicial proceeding or inquiry. The organization shall also submit the name and address of each provider employed by, or contracting with, the organization, together with his or her license number.

(5) A statement describing the organization, its method of providing for health services, and its physical facilities. If applicable, this statement shall include the health care delivery capabilities of the organization, including the number of full-time and part-time physicians under Section 3209.3, the numbers and types of licensed or state-certified health care support staff, the number of hospital beds contracted for, and the arrangements and the methods by which health care will be provided, as defined by the administrative director under Sections 4600.3 and 4600.5.

(6) A copy of the disclosure forms or materials that are to be issued to employees.

(7) A copy of the form of the contract that is to be issued to any employer, insurer of an employer, or a group of self-insured employers.

(8) Financial statements accompanied by a report, certificate, or opinion of an independent certified public accountant. However, the financial statements from public entities or political subdivisions of the state need not include a report, certificate, or opinion by an independent certified public accountant if the financial statement complies with any requirements that may be established by regulation of the administrative director.

(9) A description of the proposed method of marketing the organization and a copy of any contract made with any person to solicit on behalf of the organization or a copy of the form of agreement used and a list of the contracting parties.

(10) A statement describing the service area or areas to be served, including the service location for each provider rendering professional services on behalf of the organization and the location of any other organization facilities where required by the administrative director.

(11) A description of organization grievance procedures to be utilized as required by this part, and a copy of the form specified by paragraph (3) of subdivision (j).

(12) A description of the procedures and programs for internal review of the quality of health care pursuant to the requirements set forth in this part.

(13) Evidence of adequate insurance coverage or self-insurance to respond to claims for damages arising out of the furnishing of workers' compensation health care.

(14) Evidence of adequate insurance coverage or self-insurance to protect against losses of facilities where required by the administrative director.

(15) Evidence of adequate workers' compensation coverage to protect against claims arising out of work-related injuries that might be brought by the employees and staff of an organization against the organization.

(16) Evidence of fidelity bonds in such amount as the administrative director prescribes by regulation.

(17) Other information that the administrative director may reasonably require.

(b) (1) An organization, solicitor, solicitor firm, or representative may not use or permit the use of any advertising or solicitation that is untrue or misleading, or any form of disclosure that is deceptive. For purposes of this chapter:

(A) A written or printed statement or item of information shall be deemed untrue if it does not conform to fact in any respect that is or may be significant to an employer or employee, or potential employer or employee.

(B) A written or printed statement or item of information shall be deemed misleading whether or not it may be literally true, if, in the total context in which the statement is made or the item of information is communicated, the statement or item of information may be understood by a person not possessing special knowledge regarding health care coverage, as indicating any benefit or advantage, or the absence of any exclusion, limitation, or disadvantage of possible significance to an employer or employee, or potential employer or employee.

(C) A disclosure form shall be deemed to be deceptive if the disclosure form taken as a whole and with consideration given to typography and format, as well as language, shall be such as to cause a reasonable person, not possessing special knowledge of workers' compensation health care, and the disclosure form therefor, to expect benefits, service charges, or other advantages that the disclosure form does not provide or that the organization issuing that disclosure form does not regularly make available to employees.

(2) An organization, solicitor, or representative may not use or permit the use of any verbal statement that is untrue, misleading, or deceptive or make any representations about health care offered by the organization or its cost that does not conform to fact. All verbal statements are to be held to the same standards as those for printed matter provided in paragraph (1).

(c) It is unlawful for any person, including an organization, subject to this part, to represent or imply in any manner that the person or organization has been sponsored, recommended, or approved, or that the person's or organization's abilities or qualifications have in any respect been passed upon, by the administrative director.

(d) (1) An organization may not publish or distribute, or allow to be published or distributed on its behalf, any advertisement unless (A) a true copy thereof has first been filed with the administrative director, at least 30 days prior to any such use, or any shorter period as the administrative director by rule or order may allow, and (B) the administrative director by notice has not found the advertisement, wholly or in part, to be untrue, misleading, deceptive, or otherwise not in compliance with this part or the rules thereunder, and specified the deficiencies, within the 30 days or any shorter time as the administrative director by rule or order may allow.

(2) If the administrative director finds that any advertisement of an organization has materially failed to comply with this part or the rules thereunder, the administrative director may, by order, require the organization to publish in the same or similar medium, an approved correction or retraction of any untrue, misleading, or deceptive statement contained in the advertising.

(3) The administrative director by rule or order may classify organizations and advertisements and exempt certain classes, wholly or in part, either unconditionally or upon specified terms and conditions or for specified periods, from the application of subdivision (a).

(e) (1) The administrative director shall require the use by each organization of disclosure forms or materials containing any information regarding the health care and terms of the workers' compensation health care contract that the administrative director may require, so as to afford the public, employers, and employees with a full and fair disclosure of the provisions of the contract in readily understood language and in a clearly organized manner. The administrative director may require that the materials be presented in a reasonably uniform manner so as to facilitate comparisons between contracts of the same or other types of organizations. The disclosure form shall describe the health care that is required by the administrative director under Sections 4600.3 and 4600.5, and shall provide that all information be in concise and specific terms,

relative to the contract, together with any additional information as may be required by the administrative director, in connection with the organization or contract.

(2) All organizations, solicitors, and representatives of a workers' compensation health care provider organization shall, when presenting any contract for examination or sale to a prospective employee, provide the employee with a properly completed disclosure form, as prescribed by the administrative director pursuant to this section for each contract so examined or sold.

(3) In addition to the other disclosures required by this section, every organization and any agent or employee of the organization shall, when representing an organization for examination or sale to any individual purchaser or the representative of a group consisting of 25 or fewer individuals, disclose in writing the ratio of premium cost to health care paid for contracts with individuals and with groups of the same or similar size for the organization's preceding fiscal year. An organization may report that information by geographic area, provided the organization identifies the geographic area and reports information applicable to that geographic area.

(4) Where the administrative director finds it necessary in the interest of full and fair disclosure, all advertising and other consumer information disseminated by an organization for the purpose of influencing persons to become members of an organization shall contain any supplemental disclosure information that the administrative director may require.

(f) When the administrative director finds it necessary in the interest of full and fair disclosure, all advertising and other consumer information disseminated by an organization for the purpose of influencing persons to become members of an organization shall contain any supplemental disclosure information that the administrative director may require.

(g) (1) An organization may not refuse to enter into any contract, or may not cancel or decline to renew or reinstate any contract, because of the age or any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code of any contracting party, prospective contracting party, or person reasonably expected to benefit from that contract as an employee or otherwise.

(2) The terms of any contract shall not be modified, and the benefits or coverage of any contract shall not be subject to any limitations, exceptions, exclusions, reductions, copayments, coinsurance, deductibles, reservations, or premium, price, or charge differentials, or other modifications because of the age or any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code of any contracting party, potential contracting party, or person reasonably expected to benefit from that contract as an employee or otherwise; except that

premium, price, or charge differentials because of the sex or age of any individual when based on objective, valid, and up-to-date statistical and actuarial data are not prohibited. Nothing in this section shall be construed to permit an organization to charge different rates to individual employees within the same group solely on the basis of the employee's sex.

(3) It shall be deemed a violation of subdivision (a) for any organization to utilize marital status, living arrangements, occupation, gender, beneficiary designation, ZIP Codes or other territorial classification, or any combination thereof for the purpose of establishing sexual orientation. Nothing in this section shall be construed to alter in any manner the existing law prohibiting organizations from conducting tests for the presence of human immunodeficiency virus or evidence thereof.

(4) This section shall not be construed to limit the authority of the administrative director to adopt or enforce regulations prohibiting discrimination because of sex, marital status, or sexual orientation.

(h) (1) An organization may not use in its name any of the words "insurance," "casualty," "health care service plan," "health plan," "surety," "mutual," or any other words descriptive of the health plan, insurance, casualty, or surety business or use any name similar to the name or description of any health care service plan, insurance, or surety corporation doing business in this state unless that organization controls or is controlled by an entity licensed as a health care service plan or insurer pursuant to the Health and Safety Code or the Insurance Code and the organization employs a name related to that of the controlled or controlling entity.

(2) Section 2415 of the Business and Professions Code, pertaining to fictitious names, does not apply to organizations certified under this section.

(3) An organization or solicitor firm may not adopt a name style that is deceptive, or one that could cause the public to believe the organization is affiliated with or recommended by any governmental or private entity unless this affiliation or endorsement exists.

(i) Each organization shall meet the following requirements:

(1) All facilities located in this state, including, but not limited to, clinics, hospitals, and skilled nursing facilities, to be utilized by the organization shall be licensed by the State Department of Health Services, if that licensure is required by law. Facilities not located in this state shall conform to all licensing and other requirements of the jurisdiction in which they are located.

(2) All personnel employed by or under contract to the organization shall be licensed or certified by their respective board or agency, where that licensure or certification is required by law.

(3) All equipment required to be licensed or registered by law shall be so licensed or registered and the operating personnel for that equipment shall be licensed or certified as required by law.

(4) The organization shall furnish services in a manner providing continuity of care and ready referral of patients to other providers at any time as may be appropriate and consistent with good professional practice.

(5) All health care shall be readily available at reasonable times to all employees. To the extent feasible, the organization shall make all health care readily accessible to all employees.

(6) The organization shall employ and utilize allied health manpower for the furnishing of health care to the extent permitted by law and consistent with good health care practice.

(7) The organization shall have the organizational and administrative capacity to provide services to employees. The organization shall be able to demonstrate to the department that health care decisions are rendered by qualified providers, unhindered by fiscal and administrative management.

(8) All contracts with employers, insurers of employers, and self-insured employers and all contracts with providers, and other persons furnishing services, equipment, or facilities to or in connection with the workers' compensation health care organization, shall be fair, reasonable, and consistent with the objectives of this part.

(9) Each organization shall provide to employees all workers' compensation health care required by this code. The administrative director shall not determine the scope of workers' compensation health care to be offered by an organization.

(j) (1) Every organization shall establish and maintain a grievance system approved by the administrative director under which employees may submit their grievances to the organization. Each system shall provide reasonable procedures in accordance with regulations adopted by the administrative director that shall ensure adequate consideration of employee grievances and rectification when appropriate.

(2) Every organization shall inform employees upon enrollment and annually thereafter of the procedures for processing and resolving grievances. The information shall include the location and telephone number where grievances may be submitted.

(3) Every organization shall provide forms for complaints to be given to employees who wish to register written complaints. The forms used by organizations shall be approved by the administrative director in advance as to format.

(4) The organization shall keep in its files all copies of complaints, and the responses thereto, for a period of five years.

(k) Every organization shall establish procedures in accordance with regulations of the administrative director for continuously reviewing the quality of care, performance of medical personnel, utilization of services and facilities, and costs. Notwithstanding any other provision of law, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person who participates in quality of care or utilization reviews by peer review committees that are composed chiefly of physicians, as defined by Section 3209.3, for any act performed during the reviews if the person acts without malice, has made a reasonable effort to obtain the facts of the matter, and believes that the action taken is warranted by the facts, and neither the proceedings nor the records of the reviews shall be subject to discovery, nor shall any person in attendance at the reviews be required to testify as to what transpired thereat. Disclosure of the proceedings or records to the governing body of an organization or to any person or entity designated by the organization to review activities of the committees shall not alter the status of the records or of the proceedings as privileged communications.

The above prohibition relating to discovery or testimony does not apply to the statements made by any person in attendance at a review who is a party to an action or proceeding the subject matter of which was reviewed, or to any person requesting hospital staff privileges, or in any action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits, or to the administrative director in conducting surveys pursuant to subdivision (o).

This section shall not be construed to confer immunity from liability on any workers' compensation health care organization. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against an organization, the cause of action shall exist notwithstanding the provisions of this section.

(*l*) Nothing in this chapter shall be construed to prevent an organization from utilizing subcommittees to participate in peer review activities, nor to prevent an organization from delegating the responsibilities required by subdivision (i) as it determines to be appropriate, to subcommittees including subcommittees composed of a majority of nonphysician health care providers licensed pursuant to the Business and Professions Code, as long as the organization controls the scope of authority delegated and may revoke all or part of this authority at any time. Persons who participate in the subcommittees shall be entitled to the same immunity from monetary liability and actions for civil damages as persons who participate in organization or provider peer review committees pursuant to subdivision (i).

(m) Every organization shall have and shall demonstrate to the administrative director that it has all of the following:

(1) Adequate provision for continuity of care.

(2) A procedure for prompt payment and denial of provider claims.

(n) Every contract between an organization and an employer or insurer of an employer, and every contract between any organization and a provider of health care, shall be in writing.

(o) (1) The administrative director shall conduct periodically an onsite medical survey of the health care delivery system of each organization. The survey shall include a review of the procedures for obtaining health care, the procedures for regulating utilization, peer review mechanisms, internal procedures for assuring quality of care, and the overall performance of the organization in providing health care and meeting the health needs of employees.

(2) The survey shall be conducted by a panel of qualified health professionals experienced in evaluating the delivery of workers' compensation health care. The administrative director shall be authorized to contract with professional organizations or outside personnel to conduct medical surveys. These organizations or personnel shall have demonstrated the ability to objectively evaluate the delivery of this health care.

(3) Surveys performed pursuant to this section shall be conducted as often as deemed necessary by the administrative director to assure the protection of employees, but not less frequently than once every three years. Nothing in this section shall be construed to require the survey team to visit each clinic, hospital, office, or facility of the organization.

(4) Nothing in this section shall be construed to require the medical survey team to review peer review proceedings and records conducted and compiled under this section or in medical records. However, the administrative director shall be authorized to require onsite review of these peer review proceedings and records or medical records where necessary to determine that quality health care is being delivered to employees. Where medical record review is authorized, the survey team shall ensure that the confidentiality of the physician-patient relationship is safeguarded in accordance with existing law and neither the survey team nor the administrative director or the administrative director's staff may be compelled to disclose this information except in accordance with the physician-patient relationship. The administrative director shall ensure that the confidentiality of the peer review proceedings and records is maintained. The disclosure of the peer review proceedings and records to the administrative director or the medical survey team shall not alter the status of the proceedings or records as privileged and confidential communications.

(5) The procedures and standards utilized by the survey team shall be made available to the organizations prior to the conducting of medical surveys.

(6) During the survey, the members of the survey team shall offer such advice and assistance to the organization as deemed appropriate.

(7) The administrative director shall notify the organization of deficiencies found by the survey team. The administrative director shall give the organization a reasonable time to correct the deficiencies, and failure on the part of the organization to comply to the administrative director's satisfaction shall constitute cause for disciplinary action against the organization.

(8) Reports of all surveys, deficiencies, and correction plans shall be open to public inspection, except that no surveys, deficiencies or correction plans shall be made public unless the organization has had an opportunity to review the survey and file a statement of response within 30 days, to be attached to the report.

(p) (1) All records, books, and papers of an organization, management company, solicitor, solicitor firm, and any provider or subcontractor providing medical or other services to an organization, management company, solicitor, or solicitor firm shall be open to inspection during normal business hours by the administrative director.

(2) To the extent feasible, all the records, books, and papers described in paragraph (1) shall be located in this state. In examining those records outside this state, the administrative director shall consider the cost to the organization, consistent with the effectiveness of the administrative director's examination, and may upon reasonable notice require that these records, books, and papers, or a specified portion thereof, be made available for examination in this state, or that a true and accurate copy of these records, books, and papers, or a specified portion thereof, be furnished to the administrative director.

(q) (1) The administrative director shall conduct an examination of the administrative affairs of any organization, and each person with whom the organization has made arrangements for administrative, or management services, as often as deemed necessary to protect the interest of employees, but not less frequently than once every five years.

(2) The expense of conducting any additional or nonroutine examinations pursuant to this section, and the expense of conducting any additional or nonroutine medical surveys pursuant to subdivision (o) shall be charged against the organization being examined or surveyed. The amount shall include the actual salaries or compensation paid to the persons making the examination or survey, the expenses incurred in the course thereof, and overhead costs in connection therewith as fixed by the administrative director. In determining the cost of examinations or

surveys, the administrative director may use the estimated average hourly cost for all persons performing examinations or surveys of workers' compensation health care organizations for the fiscal year. The amount charged shall be remitted by the organization to the administrative director.

(3) Reports of all examinations shall be open to public inspection, except that no examination shall be made public, unless the organization has had an opportunity to review the examination report and file a statement or response within 30 days, to be attached to the report.

SEC. 10. Section 103 of the Welfare and Institutions Code is amended to read:

103. (a) Persons acting as a CASA shall be individuals who have demonstrated an interest in children and their welfare. Each CASA shall participate in a training course conducted under the rules and regulations adopted by the Judicial Council and in ongoing training and supervision throughout his or her involvement in the program. Each CASA shall be evaluated before and after initial training to determine his or her fitness for these responsibilities. Ongoing training shall be provided at least monthly.

(b) Each CASA shall commit a minimum of one year of service to a child until a permanent placement is achieved for the child or until relieved by the court, whichever is first. At the end of each year of service, the CASA, with the approval of the court, may recommit for an additional year.

(c) A CASA shall have no associations that create a conflict of interest with his or her duties as a CASA.

(d) An adult otherwise qualified to act as a CASA shall not be discriminated against based upon marital status, socioeconomic factors, or because of any characteristic listed or defined in Section 11135 of the Government Code.

(e) Each CASA is an officer of the court, with the relevant rights and responsibilities that pertain to that role and shall act consistently with the local rules of court pertaining to CASAs.

(f) Each CASA shall be sworn in by a superior court judge or commissioner before beginning his or her duties.

(g) A judge may appoint a CASA when, in the opinion of the judge, a child requires services which can be provided by the CASA, consistent with the local rules of court.

(h) To accomplish the appointment of a CASA, the judge making the appointment shall sign an order, which may grant the CASA the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating

to the child, to the same extent as any other officer of the court appointed to investigate proceedings on behalf of the court.

SEC. 11. Section 14200.1 of the Welfare and Institutions Code is amended to read:

14200.1. The purpose of this chapter is to afford persons eligible to receive benefits under Chapter 7 (commencing with Section 14000) of this part the opportunity to enroll as regular subscribers in prepaid health plans, without reference to marital status or any characteristic listed or defined in Section 11135 of the Government Code.

SEC. 12. 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.

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## CHAPTER 683

An act to add Part 1.8 (commencing with Section 442) to Division 1 of the Health and Safety Code, relating to end-of-life care.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Palliative and hospice care are invaluable resources for terminally ill Californians in need of comfort and support at the end of life.

(b) Palliative care and conventional medical treatment for terminally ill patients should be thoroughly integrated rather than viewed as separate entities.

(c) Even though Californians with a prognosis of six months or less to live are eligible for hospice care, nearly two-thirds of them receive hospice services for less than one month.

(d) Many terminally ill patients benefit from being referred to hospice care earlier, where they receive better pain and symptom management and have an improved quality of life.

(e) Significant information gaps may exist between health care providers and their patients on end-of-life care options potentially leading to delays in, or lack of referrals to, hospice care for terminally ill patients. The sharing of important information regarding specific treatment options in a timely manner by health care providers with terminally ill patients

is a key component of quality end-of-life care. Information that is helpful to patients and their families includes, but is not limited to, the availability of hospice care, the efficacy and potential side effects of continued disease-targeted treatment, and withholding or withdrawal of life-sustaining treatments.

(f) Terminally ill and dying patients rely on their health care providers to give them timely and informative data. Research shows a lack of communication between health care providers and their terminally ill patients can cause problems, including poor availability of, and lack of clarity regarding, advance health care directives and patients' end-of-life care preferences. This lack of information and poor adherence to patient choices can result in "bad deaths" that cause needless physical and psychological suffering to patients and their families.

(g) Those problems are complicated by social issues, such as cultural and religious pressures on the providers, patients, and their family members. A recent survey found that providers that object to certain practices are less likely than others to believe they have an obligation to present all of the options to patients and refer patients to other providers, if necessary.

(h) Every medical school in California is required to include end-of-life care issues in its curriculum and every physician in California is required to complete continuing education courses in end-of-life care.

(i) Palliative care is not a one-size-fits-all approach. Patients have a range of diseases and respond differently to treatment options. A key benefit of palliative care is that it customizes treatment to meet the needs of each individual person.

(j) Informed patient choices will help terminally ill patients and their families cope with one of life's most challenging situations.

SEC. 2. Part 1.8 (commencing with Section 442) is added to Division 1 of the Health and Safety Code, to read:

## PART 1.8. END-OF-LIFE CARE

442. For the purposes of this part, the following definitions shall apply:

(a) "Actively dying" means the phase of terminal illness when death is imminent.

(b) "Disease-targeted treatment" means treatment directed at the underlying disease or condition that is intended to alter its natural history or progression, irrespective of whether or not a cure is a possibility.

(c) "Health care provider" means an attending physician and surgeon. It also means a nurse practitioner or physician assistant practicing in accordance with standardized procedures or protocols developed and

approved by the supervising physician and surgeon and the nurse practitioner or physician assistant.

(d) "Hospice" means a specialized form of interdisciplinary health care that is designed to provide palliative care, alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of life due to the existence of a terminal disease, and provide supportive care to the primary caregiver and the family of the hospice patient, and that meets all of the criteria specified in subdivision (b) of Section 1746.

(e) "Palliative care" means medical treatment, interdisciplinary care, or consultation provided to a patient or family members, or both, that has as its primary purpose the prevention of, or relief from, suffering and the enhancement of the quality of life, rather than treatment aimed at investigation and intervention for the purpose of cure or prolongation of life as described in subdivision (b) of Section 1339.31. In some cases, disease-targeted treatment may be used in palliative care.

(f) "Refusal or withdrawal of life-sustaining treatment" means forgoing treatment or medical procedures that replace or support an essential bodily function, including, but not limited to, cardiopulmonary resuscitation, mechanical ventilation, artificial nutrition and hydration, dialysis, and any other treatment or discontinuing any or all of those treatments after they have been used for a reasonable time.

442.5. When a health care provider makes a diagnosis that a patient has a terminal illness, the health care provider shall, upon the patient's request, provide the patient with comprehensive information and counseling regarding legal end-of-life care options pursuant to this section. When a terminally ill patient is in a health facility, as defined in Section 1250, the health care provider, or medical director of the health facility, if the patient's health care provider is not available, may refer the patient to a hospice provider or private or public agencies and community-based organizations that specialize in end-of-life care case management and consultation to receive comprehensive information and counseling regarding legal end-of-life care options.

(a) If the patient indicates a desire to receive the information and counseling, the comprehensive information shall include, but not be limited to, the following:

(1) Hospice care at home or in a health care setting.

(2) A prognosis with and without the continuation of disease-targeted treatment.

(3) The patient's right to refusal of or withdrawal from life-sustaining treatment.

(4) The patient's right to continue to pursue disease-targeted treatment, with or without concurrent palliative care.

(5) The patient's right to comprehensive pain and symptom management at the end of life, including, but not limited to, adequate pain medication, treatment of nausea, palliative chemotherapy, relief of shortness of breath and fatigue, and other clinical treatments useful when a patient is actively dying.

(6) The patient's right to give individual health care instruction pursuant to Section 4670 of the Probate Code, which provides the means by which a patient may provide written health care instruction, such as an advance health care directive, and the patient's right to appoint a legally recognized health care decisionmaker.

(b) The information described in subdivision (a) may, but is not required to be, in writing. Health care providers may utilize information from organizations specializing in end-of-life care that provide information on factsheets and Internet Web sites to convey the information described in subdivision (a).

(c) Counseling may include, but not be limited to, discussions about the outcomes for the patient and his or her family, based on the interest of the patient. Information and counseling as described in subdivision (a) may occur over a series of meetings with the health care provider or others who may be providing the information and counseling based on the patient's needs.

(d) The information and counseling sessions may include a discussion of treatment options in a manner that the patient and his or her family can easily understand. If the patient requests information on the costs of treatment options, including the availability of insurance and eligibility of the patient for coverage, the patient shall be referred to the appropriate entity for that information.

442.7. If a health care provider does not wish to comply with his or her patient's request for information on end-of-life options, the health care provider shall do both of the following:

(a) Refer or transfer a patient to another health care provider that shall provide the requested information.

(b) Provide the patient with information on procedures to transfer to another health care provider that shall provide the requested information.

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## CHAPTER 684

An act to amend Section 31720.7 of the Government Code, and to amend Section 3212.8 of the Labor Code, relating to public safety personnel.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. Section 31720.7 of the Government Code is amended to read:

31720.7. (a) If a safety member, a firefighter, a county probation officer, or a member in active law enforcement develops a blood-borne infectious disease or a methicillin-resistant Staphylococcus aureus skin infection, the disease or skin infection so developing or manifesting itself in those cases shall be presumed to arise out of, and in the course of, employment. The blood-borne infectious disease or methicillin-resistant Staphylococcus aureus skin infection so developing or manifesting itself in those cases shall in no case be attributed to any disease or skin infection existing prior to that development or manifestation.

(b) Any safety member, firefighter, county probation officer, or member active in law enforcement described in subdivision (a) permanently incapacitated for the performance of duty as a result of a blood-borne infectious disease or methicillin-resistant Staphylococcus aureus skin infection shall receive a service-connected disability retirement.

(c) (1) The presumption described in subdivision (a) is rebuttable by other evidence. Unless so rebutted, the board is bound to find in accordance with the presumption.

(2) The blood-borne infectious disease presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(3) Notwithstanding paragraph (2), the methicillin-resistant Staphylococcus aureus skin infection presumption shall be extended to a member following termination of service for a period of 90 days commencing with the last day actually worked in the specified capacity.

(d) "Blood-borne infectious disease," for purposes of this section, means a disease caused by exposure to pathogenic microorganisms that are present in human blood that can cause disease in humans, including, but not limited to, those pathogenic microorganisms defined as blood-borne pathogens by the Department of Industrial Relations.

(e) "Member in active law enforcement," for purposes of this section, means members employed by a sheriff's office, by a police or fire department of a city, county, city and county, district, or by another public or municipal corporation or political subdivision or who are

described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code or who are employed by any county forestry or firefighting department or unit, except any of those members whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement services or active firefighting services, such as stenographers, telephone operators, and other office workers, and includes a member engaged in active law enforcement who is not classified as a safety member.

SEC. 2. Section 3212.8 of the Labor Code is amended to read:

3212.8. (a) In the case of members of a sheriff's office, of police or fire departments of cities, counties, cities and counties, districts, or other public or municipal corporations or political subdivisions, or individuals described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, whether those persons are volunteer, partly paid, or fully paid, and in the case of active firefighting members of the Department of Forestry and Fire Protection, or of any county forestry or firefighting department or unit, whether voluntary, fully paid, or partly paid, excepting those whose principal duties are clerical or otherwise do not clearly fall within the scope of active law enforcement service or active firefighting services, such as stenographers, telephone operators, and other office workers, the term "injury" as used in this division, includes a blood-borne infectious disease or methicillin-resistant Staphylococcus aureus skin infection when any part of the blood-borne infectious disease or methicillin-resistant Staphylococcus aureus skin infection develops or manifests itself during a period while that person is in the service of that office, staff, division, department, or unit. The compensation that is awarded for a blood-borne infectious disease or methicillin-resistant Staphylococcus aureus skin infection shall include, but not be limited to, full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by the workers' compensation laws of this state.

(b) (1) The blood-borne infectious disease or methicillin-resistant Staphylococcus aureus skin infection so developing or manifesting itself in those cases shall be presumed to arise out of and in the course of the employment or service. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it.

(2) The blood-borne infectious disease presumption shall be extended to a person covered by subdivision (a) following termination of service for a period of three calendar months for each full year of service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(3) Notwithstanding paragraph (2), the methicillin-resistant Staphylococcus aureus skin infection presumption shall be extended to a person covered by subdivision (a) following termination of service for a period of 90 days, commencing with the last day actually worked in the specified capacity.

(c) The blood-borne infectious disease or methicillin-resistant Staphylococcus aureus skin infection so developing or manifesting itself in those cases shall in no case be attributed to any disease or skin infection existing prior to that development or manifestation.

(d) For the purposes of this section, "blood-borne infectious disease" means a disease caused by exposure to pathogenic microorganisms that are present in human blood that can cause disease in humans, including those pathogenic microorganisms defined as blood-borne pathogens by the Department of Industrial Relations.

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## CHAPTER 685

An act to add Article 7.5 (commencing with Section 54750) and Article 7.7 (commencing with Section 54760) to Chapter 9 of Part 29 of Division 4 of Title 2 of the Education Code, relating to career technical education.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Initiatives taken by the State of California and by California cities to reduce energy consumption through green building has resulted in a huge demand for a skilled workforce. For example, on December 14, 2004, Governor Schwarzenegger issued Executive Order S-20-04 with the goal of reducing energy use in state-owned buildings by 20 percent by 2015, from the 2003 baseline. The executive order also encourages the private commercial sector to set the same goal.

(b) The office of the President of the University of California; the California State University; the San Francisco, Los Angeles, and Peralta Community College Districts; the Public Employees' Retirement System; the State Teachers' Retirement System; and other public entities have passed initiatives that will reduce energy use through energy-efficient retrofitting and green building for new construction and retrofitting.

(c) Cities across the state have passed green building ordinances, from green building design and construction guidelines, including, but not

limited to, meeting Leadership in Energy and Environmental Design (LEED) standards, and construction and demolition waste recycling ordinances.

(d) The movement towards green building in California matches nationwide economic growth patterns; according to preliminary results of a McGraw-Hill Construction/National Association of Home Builders (NAHB) survey, there was a 20-percent increase in 2005 in the number of homebuilders focused on green, environmentally responsible building. This number is expected to have increased by another 30 percent in 2006.

(e) By 2010, residential green building is expected to grow to between $19,000,000,000 and $38,000,000,000 in the United States.

(f) Three-quarters of the buildings in the United States will be built through new construction or will be modernized during the next 30 years.

(g) Clean technology or "Clean Tech" has been described as "the biggest economic opportunity of the 21st century," moving to the third-highest investment category within the entire venture asset class, overtaking the semiconductor sector in terms of dollars being invested. Passage of Assembly Bill 32 in 2006 (Chapter 448 of the Statutes of 2006) will increase the need for green technology efforts to meet industry efforts to reduce greenhouse gas emissions.

(h) Green building is a recognized approach to mitigating climate change, as buildings are responsible for 40 percent of all greenhouse gas emissions annually and 76 percent of all electricity in the United States.

(i) The great demand placed upon the green building sector is making it difficult for modern energy professionals, such as energy service companies, to meet work demands due to a shortage of educated workers in fields such as heating, ventilation, and air conditioning (HVAC), lighting, refrigeration, carpentry, masonry, and roofing.

(j) Green building demands are necessitating the development of curriculum to educate young people, prepare them to serve the growing labor market, and provide access to meaningful, career-oriented jobs.

(k) Career and partnership academy programs in green building could provide graduates with a direct link to advanced community college-level certification programs in sustainability or trades apprenticeships.

SEC. 2. Article 7.5 (commencing with Section 54750) is added to Chapter 9 of Part 29 of Division 4 of Title 2 of the Education Code, to read:

## Article 7.5. Green Technology Partnership Academies

54750. (a) Commencing with the 2009–10 school year, when funds become available for additional partnership academies within the total number of grants available for all partnership academies pursuant to

Section 54691, the Superintendent shall issue grants for the establishment of partnership academies and shall give priority to the establishment of partnership academies dedicated to educating pupils in the emerging environmentally sound technologies until no less than one green technology partnership academy has been established in each of the nine economic regions established by the state. The academies may include, but are not limited to, technologies that educate pupils in the following areas:

(1) Energy audits that include a determination of energy savings.

(2) Retrofitting and weatherization activities that increase energy efficiency and conservation.

(3) Energy-efficient and water-efficient buildings.

(4) Retrofitting and installing energy-efficient household appliances, windows, doors, insulation, and lighting.

(5) Retrofitting and installing water and energy conservation technologies in existing homes, industrial buildings, and commercial and public buildings, to improve efficiency, including the use of energy and water management technologies and control systems.

(6) The design, construction, manufacture, sale, assembly, installation, and maintenance of energy-efficient technologies and renewable energy facilities, or the component parts of renewable energy technologies.

(7) Energy-efficient technologies or practices and renewable energy production, or the component parts of renewable energy plants and energy distribution, including energy storage; energy infrastructure, including transmission; transportation, including logistics; and water and wastewater, including water conservation.

(8) Performance and low-emission vehicle technology, automotive computer systems, mass transit fleet conversion, and the servicing and maintenance of those technologies.

(9) Pollution prevention and hazardous and solid waste reduction.

(10) Ocean, soil, or water conservation, or forestation strategies to mitigate climate change impacts.

(b) (1) The selection of school districts to establish the green technology partnership academies and the planning and development of the green technology partnership academies shall be conducted pursuant to the procedures and requirements established in Section 54691 for all partnership academies. The planning grants shall be made available for academies pursuant to this article from the total number of grants established pursuant to Section 54691.

(2) In the event a school district applies to convert an existing school program to a partnership academy and meets all the criteria for a partnership academy pursuant to Section 54692 and paragraph (3), the

department, in coordination with the Superintendent, may provide that academy with first-year implementation funds, as appropriate.

(3) (A) In order to be eligible for funding pursuant to this article, the coursework and internship or preapprenticeship programs of the proposed academy shall focus on the use of environmentally sound technologies and practices. The proposed academy shall demonstrate this through its efforts to obtain input from environmental industry, utilities, and professional trade organizations.

(B) Staff development opportunities also shall be included in the academy plans to ensure that teaching staff has the opportunity to be educated in the use of emerging technologies and to become familiar with new materials and current practices in the field.

(c) The priority established in this section may be satisfied when the specified number of green technology partnership academies meeting the requirements of this article are funded by any of, or a combination of, funds appropriated for the establishment of partnership academies.

SEC. 3. Article 7.7 (commencing with Section 54760) is added to Chapter 9 of Part 29 of Division 4 of Title 2 of the Education Code, to read:

Article 7.7. Goods Movement Partnership Academies

54760. (a) Commencing with the 2009–10 school year, when funds become available for additional partnership academies within the total number of grants available for all partnership academies pursuant to Section 54691, the Superintendent shall issue grants for the establishment of partnership academies and shall give priority to the establishment of partnership academies dedicated to educating pupils in goods movement occupational areas, such as port and terminal operations, pollution prevention, performance and low-emission vehicle technology, transportation computer systems, fleet conversion, and the servicing and maintenance of those technologies, shipping, logistics, trucking, rail, air, and security, until no less than one goods movement partnership academy has been established in each of the four transportation corridors established by the state.

(b) (1) The selection of school districts to establish the goods movement partnership academies and the planning and development of the goods movement partnership academies shall be conducted pursuant to the procedures and requirements established in Section 54691 for all partnership academies. The planning grants shall be made available for academies pursuant to this article from the total number of grants established pursuant to Section 54691.

(2) In the event a school district applies to convert an existing school program to a partnership academy and meets all the criteria for a partnership academy pursuant to Section 54692 and paragraph (3), the department, in coordination with the Superintendent, may provide that academy with first-year implementation funds, as appropriate.

(3) (A) In order to be eligible for funding pursuant to this article, the coursework and internship or preapprenticeship programs of the proposed academy shall focus significant time on the use of emerging technologies and state-of-the-art equipment. The proposed academy shall demonstrate this through its efforts to obtain input from industry and professional trade organizations.

(B) Staff development opportunities also shall be included in the academy plans to ensure that teaching staff has the opportunity to be educated in the use of emerging technologies and to become familiar with new equipment and current practices in the field.

(c) The priority established in this section may be satisfied when the specified number of goods movement partnership academies meeting the requirements of this article are funded by any of, or a combination of, funds appropriated for the establishment of partnership academies.

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## CHAPTER 686

An act to amend Section 11010 of the Business and Professions Code, and to amend Section 1103.4 of, and to amend the heading of Article 1.7 (commencing with Section 1103) of Chapter 2 of Title 4 of Part 4 of Division 2 of, the Civil Code, relating to nuisance.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 11010 of the Business and Professions Code is amended to read:

11010. (a) Except as otherwise provided pursuant to subdivision (c) or elsewhere in this chapter, any person who intends to offer subdivided lands within this state for sale or lease shall file with the Department of Real Estate an application for a public report consisting of a notice of intention and a completed questionnaire on a form prepared by the department.

(b) The notice of intention shall contain the following information about the subdivided lands and the proposed offering:

(1) The name and address of the owner.

(2) The name and address of the subdivider.

(3) The legal description and area of lands.

(4) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.

(5) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.

(6) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities. For subdivided lands that were subject to the imposition of a condition pursuant to subdivision (b) of Section 66473.7 of the Government Code, the true statement of the provisions made for water shall be satisfied by submitting a copy of the written verification of the available water supply obtained pursuant to Section 66473.7 of the Government Code.

(7) A true statement of the use or uses for which the proposed subdivision will be offered.

(8) A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.

(9) A true statement of the amount of indebtedness that is a lien upon the subdivision or any part thereof, and that was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.

(10) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area, assessment district, or community facilities district within the boundaries of which, the subdivision, or any part thereof, is located, and that is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to that subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.

(11) A notice pursuant to Section 1102.6c of the Civil Code.

(12) (A) As to each school district serving the subdivision, a statement from the appropriate district that indicates the location of each high school, junior high school, and elementary school serving the subdivision, or documentation that a statement to that effect has been requested from the appropriate school district.

(B) In the event that, as of the date the notice of intention and application for issuance of a public report are otherwise deemed to be qualitatively and substantially complete pursuant to Section 11010.2, the statement described in subparagraph (A) has not been provided by

any school district serving the subdivision, the person who filed the notice of intention and application for issuance of a public report shall immediately provide the department with the name, address, and telephone number of that district.

(13) (A) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision. If the property is located within an airport influence area, the following statement shall be included in the notice of intention:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

(B) For purposes of this section, an "airport influence area," also known as an "airport referral area," is the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.

(14) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.

(15) A true statement of whether or not fill is used, or is proposed to be used, in the subdivision and a statement giving the name and the location of the public agency where information concerning soil conditions in the subdivision is available.

(16) On or after July 1, 2005, as to property located within the jurisdiction of the San Francisco Bay Conservation and Development Commission, a statement that the property is so located and the following notice:

NOTICE OF SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION JURISDICTION

This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission's jurisdiction may be subject to special regulations, restrictions, and permit requirements. You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction.

(17) If the property is presently located within one mile of a parcel of real property designated as "Prime Farmland," "Farmland of Statewide Importance," "Unique Farmland," "Farmland of Local Importance," or "Grazing Land" on the most current "Important Farmland Map" issued by the California Department of Conservation, Division of Land Resource Protection, utilizing solely the county-level GIS map data, if any, available on the Farmland Mapping and Monitoring Program Website. If the residential property is within one mile of a designated farmland area, the report shall contain the following notice:

NOTICE OF RIGHT TO FARM

This property is located within one mile of a farm or ranch land designated on the current county-level GIS "Important Farmland Map," issued by the California Department of Conservation, Division of Land Resource Protection. Accordingly, the property may be subject to inconveniences or discomforts resulting from agricultural operations that are a normal and necessary aspect of living in a community with a strong rural character and a healthy agricultural sector. Customary agricultural practices in farm operations may include, but are not limited to, noise, odors, dust, light, insects, the operation of pumps and machinery, the storage and disposal of manure, bee pollination, and the ground or aerial application of fertilizers, pesticides, and herbicides. These agricultural practices may occur at any time during the 24-hour day. Individual sensitivities to those practices can vary from person to person. You may wish to consider the impacts of such agricultural practices before you complete your purchase. Please be advised that you may be barred from obtaining legal remedies against agricultural practices conducted in a manner consistent with proper and accepted customs and standards pursuant to Section 3482.5 of the Civil Code or any pertinent local ordinance.

(18) Any other information that the owner, his or her agent, or the subdivider may desire to present.

(c) The commissioner may, by regulation, or on the basis of the particular circumstances of a proposed offering, waive the requirement of the submission of a completed questionnaire if the commissioner determines that prospective purchasers or lessees of the subdivision interests to be offered will be adequately protected through the issuance of a public report based solely upon information contained in the notice of intention.

SEC. 2. The heading of Article 1.7 (commencing with Section 1103) of Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code is amended to read:

Article 1.7. Disclosure of Natural and Environmental Hazards, Right-to-Farm, and Other Disclosures Upon Transfer of Residential Property

SEC. 3. Section 1103.4 of the Civil Code is amended to read:

1103.4. (a) Neither the transferor nor any listing or selling agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or the listing or selling agent, and was based on information timely provided by public agencies or by other persons providing information as specified in subdivision (c) that is required to be disclosed pursuant to this article, and ordinary care was exercised in obtaining and transmitting the information.

(b) The delivery of any information required to be disclosed by this article to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this article shall be deemed to comply with the requirements of this article and shall relieve the transferor or any listing or selling agent of any further duty under this article with respect to that item of information.

(c) The delivery of a report or opinion prepared by a licensed engineer, land surveyor, geologist, or expert in natural hazard discovery dealing with matters within the scope of the professional's license or expertise, shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective transferee pursuant to a request therefor, whether written or oral. In responding to that request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of Section 1103.2 and, if so, shall indicate the required disclosures, or parts thereof, to which the information being furnished

is applicable. Where that statement is furnished, the expert shall not be responsible for any items of information, or parts thereof, other than those expressly set forth in the statement.

(1) In responding to the request, the expert shall determine whether the property is within an airport influence area as defined in subdivision (b) of Section 11010 of the Business and Professions Code. If the property is within an airport influence area, the report shall contain the following statement:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

(2) In responding to the request, the expert shall determine whether the property is within the jurisdiction of the San Francisco Bay Conservation and Development Commission, as defined in Section 66620 of the Government Code. If the property is within the commission's jurisdiction, the report shall contain the following notice:

NOTICE OF SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION JURISDICTION

This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission's jurisdiction may be subject to special regulations, restrictions, and permit requirements. You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction.

(3) In responding to the request, the expert shall determine whether the property is presently located within one mile of a parcel of real property designated as "Prime Farmland," "Farmland of Statewide Importance," "Unique Farmland," "Farmland of Local Importance," or "Grazing Land" on the most current "Important Farmland Map" issued by the California Department of Conservation, Division of Land Resource

Protection, utilizing solely the county-level GIS map data, if any, available on the Farmland Mapping and Monitoring Program website. If the residential property is within one mile of a designated farmland area, the report shall contain the following notice:

NOTICE OF RIGHT TO FARM

This property is located within one mile of a farm or ranch land designated on the current county-level GIS "Important Farmland Map," issued by the California Department of Conservation, Division of Land Resource Protection. Accordingly, the property may be subject to inconveniences or discomforts resulting from agricultural operations that are a normal and necessary aspect of living in a community with a strong rural character and a healthy agricultural sector. Customary agricultural practices in farm operations may include, but are not limited to, noise, odors, dust, light, insects, the operation of pumps and machinery, the storage and disposal of manure, bee pollination, and the ground or aerial application of fertilizers, pesticides, and herbicides. These agricultural practices may occur at any time during the 24-hour day. Individual sensitivities to those practices can vary from person to person. You may wish to consider the impacts of such agricultural practices before you complete your purchase. Please be advised that you may be barred from obtaining legal remedies against agricultural practices conducted in a manner consistent with proper and accepted customs and standards pursuant to Section 3482.5 of the Civil Code or any pertinent local ordinance.

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.

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CHAPTER 687

An act to amend Sections 43013 and 43016 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. Section 43013 of the Health and Safety Code is amended to read:

43013. (a) The state board shall adopt and implement motor vehicle emission standards, in-use performance standards, and motor vehicle fuel specifications for the control of air contaminants and sources of air pollution which the state board has found to be necessary, cost effective, and technologically feasible, to carry out the purposes of this division, unless preempted by federal law.

(b) The state board shall, consistent with subdivision (a), adopt standards and regulations for light-duty and heavy-duty motor vehicles, medium-duty motor vehicles, as determined and specified by the state board, portable fuel containers and spouts, and off-road or nonvehicle engine categories, including, but not limited to, off-highway motorcycles, off-highway vehicles, construction equipment, farm equipment, utility engines, locomotives, and, to the extent permitted by federal law, marine vessels.

(c) Prior to adopting standards and regulations for farm equipment, the state board shall hold a public hearing and find and determine that the standards and regulations are necessary, cost effective, and technologically feasible. The state board shall also consider the technological effects of emission control standards on the cost, fuel consumption, and performance characteristics of mobile farm equipment.

(d) Notwithstanding subdivision (b), the state board shall not adopt any standard or regulation affecting locomotives until the final study required under Section 5 of Chapter 1326 of the Statutes of 1987 has been completed and submitted to the Governor and Legislature.

(e) Prior to adopting or amending any standard or regulation relating to motor vehicle fuel specifications pursuant to this section, the state board shall, after consultation with public or private entities that would be significantly impacted as described in paragraph (2) of subdivision (f), do both of the following:

(1) Determine the cost-effectiveness of the adoption or amendment of the standard or regulation. The cost-effectiveness shall be compared on an incremental basis with other mobile source control methods and options.

(2) Based on a preponderance of scientific and engineering data in the record, determine the technological feasibility of the adoption or amendment of the standard or regulation. That determination shall

include, but is not limited to, the availability, effectiveness, reliability, and safety expected of the proposed technology in an application that is representative of the proposed use.

(f) Prior to adopting or amending any motor vehicle fuel specification pursuant to this section, the state board shall do both of the following:

(1) To the extent feasible, quantitatively document the significant impacts of the proposed standard or specification on affected segments of the state's economy. The economic analysis shall include, but is not limited to, the significant impacts of any change on motor vehicle fuel efficiency, the existing motor vehicle fuel distribution system, the competitive position of the affected segment relative to border states, and the cost to consumers.

(2) Consult with public or private entities that would be significantly impacted to identify those investigative or preventive actions that may be necessary to ensure consumer acceptance, product availability, acceptable performance, and equipment reliability. The significantly impacted parties shall include, but are not limited to, fuel manufacturers, fuel distributors, independent marketers, vehicle manufacturers, and fuel users.

(g) To the extent that there is any conflict between the information required to be prepared by the state board pursuant to subdivision (f) and information required to be prepared by the state board pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the requirements established under subdivision (f) shall prevail.

(h) It is the intent of the Legislature that the state board act as expeditiously as is feasible to reduce nitrogen oxide emissions from diesel vehicles, marine vessels, and other categories of vehicular and mobile sources which significantly contribute to air pollution problems.

SEC. 2. Section 43016 of the Health and Safety Code is amended to read:

43016. Any person who violates any provision of this part, or any order, rule, or regulation of the state board adopted pursuant to this part, and for which violation there is not provided in this part any other specific civil penalty or fine, shall be subject to a civil penalty not to exceed five hundred dollars ($500) per vehicle, portable fuel container, spout, engine, or other unit subject to regulation under this part, as these terms are defined in this division or state board regulations. Any penalty collected pursuant to this section shall be payable to the State Treasurer for deposit in the Air Pollution Control Fund.

SEC. 3. The amendment of Section 43013 of the Health and Safety Code made by this act does not constitute a change in, but is declaratory of, existing law.

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## CHAPTER 688

An act to amend Section 5.1 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), relating to the Castaic Lake Water Agency.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 5.1 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

SEC. 5.1. (a) (1) Notwithstanding any other provision of the Castaic Lake Water Agency Law, the number of directors on the board shall be as follows:

(2) One nominee for the office of appointed director shall be nominated by each purveyor and submitted in writing to the board of directors. The board of directors shall appoint each nominee within 30 days after the nomination is submitted, or may within the same time period by resolution reject any nominee for cause which is documented in the resolution by a detailed statement of reasons. If the board of directors rejects a nominee of any purveyor, the affected purveyor shall promptly submit a second and different nominee to the board of directors. The board of directors shall appoint the second nominee within 30 days after the second nomination is submitted, or may within the same time period likewise by resolution reject that second nominee for cause which is documented in the resolution by a detailed statement of reasons. If the board of directors rejects any second nominee of any purveyor, the affected purveyor shall select a third and still different nominee, which nominee shall be entitled without further board action to take an oath of office as required by law and to thereafter serve as an appointed director of the agency.

(3) A nominee of a purveyor may be a shareholder, director, officer, agent, or employee of the nominating purveyor, and shall be a registered voter within Los Angeles County or Ventura County. Any nominee of a purveyor who is the chief executive officer, chief operating officer, or

the general manager of the purveyor shall be rejected for appointment only on the ground that the nominee is legally disqualified from holding the office of director by reason of a provision of law applicable to appointed directors of the agency.

(4) The term of office of an appointed director is four years.

(5) Upon expiration of an initial term of office of an appointed director, the office of that appointed director shall be filled pursuant to Section 5.2. If a vacancy occurs in the office of an appointed director, it shall be filled in the same manner as is provided in subdivisions (a) and (b) of Section 5.2 for the appointment of a successor appointed director, except that the purveyor or its successor in interest to which the vacancy relates shall within not more than 60 days of the occurrence of the vacancy nominate a person for appointment to the vacant office, and the vacant office shall be filled by the board of directors not later than 30 days after that nomination.

(6) An incumbent in the office of appointed director shall be subject to recall by the voters of the entire agency in accordance with Division 11 (commencing with Section 11000) of the Elections Code, except that any vacancy created by a successful recall shall be filled in accordance with the procedure provided by this section for a vacancy created other than by a recall election.

(b) (1) Notwithstanding any other provision of the Castaic Lake Water Agency Law, if the agency acquires a private water purveyor, the term of office of the director appointed by the private purveyor shall terminate at 12 o'clock noon on the first Monday after January 1 of the year following the acquisition.

(2) The successor to the director described in paragraph (1) shall be elected at-large by agency voters at the statewide general election held in November of the even-numbered year following the acquisition, and shall take office at 12 o'clock noon on the first Monday after January 1 of the year following the election. The successor and each elected director thereafter to hold the office described in this subdivision shall hold office for the term of four years from the date of taking office and until the election and qualification of the next director to hold that office.

(3) The elected office described in paragraph (2) shall cease to exist upon the abolishment of the offices of appointed directors pursuant to subdivision (c) of Section 5.2.

(4) Paragraph (1) shall not be effective with respect to the director appointed by the Santa Clarita Water Company until a court of competent jurisdiction issues a final decision holding that the agency acquired the company.

# CHAPTER 689

An act to amend Sections 5093.32 and 5093.36 of, and to add Section 5093.345 to, the Public Resources Code, and to amend and supplement the Budget Act of 2008 by amending Items 3790-491 and 3790-495 of, and by adding Item 3790-101-6029 to, Section 2.00 of that act, relating to parks and wilderness areas, and making an appropriation therefor.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 5093.32 of the Public Resources Code is amended to read:

5093.32. As used in this chapter:

(a) "Minimum management requirements" means the minimum wilderness management actions that are necessary to administer a wilderness area for the purpose of this chapter.

(b) "Minimum tool" means the least intrusive tool, equipment, device, regulation, action, or practice that will achieve the minimum management requirements.

(c) "Roadless area" means a reasonably compact area of undeveloped land that possesses the general characteristics of a wilderness, as described in subdivision (c) of Section 5093.33, and within which there is no improved road that is suitable for public travel by motorized vehicles intended primarily for highway use.

(d) "Secretary" means the Secretary of the Resources Agency.

(e) "System" means the California wilderness preservation system.

(f) "Wilderness areas" means component areas of the system as described in Section 5093.33, 5093.34, or 5093.345.

SEC. 2. Section 5093.345 is added to the Public Resources Code, immediately preceding Section 5093.35, to read:

5093.345. (a) Limekiln State Wilderness, comprised of approximately 413 acres of Limekiln State Park as generally depicted on a map entitled "Limekiln State Park Wilderness" dated August 29, 2008, and filed with the Secretary of State and transmitted to the secretary, is hereby designated as a component of the system. The department may take measures to control fire, diseases, and insects as provided in subdivision (c) of Section 5093.36.

(b) Notwithstanding any other provision of this chapter, the California Coastal Trail, as specified in Section 31408, may be located, designed, constructed, or operated within the Limekiln State Wilderness.

SEC. 3. Section 5093.36 of the Public Resources Code is amended to read:

5093.36. (a) Except as otherwise provided in this chapter, a state agency with jurisdiction over an area designated as a wilderness area shall be responsible for preserving the wilderness character of the wilderness area and shall administer the area for the purposes for which it has been established and to preserve its wilderness character. Except as otherwise provided in this chapter, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.

(b) Except as specifically provided in this chapter, and subject to private rights existing as of January 1, 1975, there shall be no commercial enterprise and no permanent road within any wilderness area. There shall be no temporary road, no use of motor vehicles, motorized equipment, or motorboats, no landing or hovering of aircraft, no flying of aircraft lower than 2,000 feet above the ground, no other form of mechanical transport, and no structure or installation within any wilderness area, except under either of the following circumstances:

(1) It is necessary in an emergency involving the health and safety of persons within the wilderness area.

(2) It is the minimum tool necessary to meet the minimum management requirements.

(c) The following special provisions are hereby made:

(1) Within a wilderness area, measures may be taken as may be necessary for the control of fire, insects, and diseases, subject to conditions that the state agency with jurisdiction over the wilderness area may deem desirable.

(2) Nothing in this chapter shall prevent any activity by any public agency within a wilderness area, including prospecting, for the purpose of gathering information about mineral or other resources that the state agency with jurisdiction over the wilderness area has determined will be carried on in a manner compatible with the preservation of the wilderness environment.

(3) A state agency with jurisdiction over a wilderness area may authorize the collection of hydrometeorological data and the conduct of weather modification activities, including both atmospheric and surface activities and environmental research, which are within, over, or may affect wilderness areas and for those purposes may permit access, installation, and use of equipment which is specifically justified and unobtrusively located. Maximum practical application of miniaturization, telemetry, and camouflage shall be employed in conducting weather modification activities. In granting permission for the conduct of data collection and weather modification activities, the appropriate state

agency may prescribe operating and monitoring conditions that it deems necessary to minimize or avoid long-term and intensive local impact on the wilderness character of the wilderness areas affected.

(4) Within a wilderness area, the grazing of livestock, where established prior to January 1, 1975, may be permitted to be continued by the present lessee or permittee subject to limitation by the terms and regulations that are deemed necessary by the state agency with jurisdiction over the wilderness areas.

(5) This chapter does not apply to the aerial stocking of fish or to the conduct of aerial surveys of wildlife species.

(6) A state agency with jurisdiction over a wilderness area may authorize measures that address environmental damage or degradation affecting wilderness character and resources if those measures are consistent with the minimum management requirements and only the minimum tools are used.

(7) Guidelines for the determination of the minimum management requirements and the minimum tool shall be adopted by regulation.

SEC. 4. Item 3790-101-6029 is added to Section 2.00 of the Budget Act of 2008, to read:

3790-101-6029—For local assistance, Department of Parks and Recreation, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund, for grants to be available for expenditure until June 30, 2011..... 6,626,000

Schedule:

(1) Railroad Technology Museum Grant—Rehabilitation and facilities plan..... 11,626,000

(2) Reimbursement: Railroad Technology Museum—Rehabilitation and facilities plan..... −5,000,000

Provisions:

1. The funds appropriated in Schedules (1) and (2) may be granted by the Department of Parks and Recreation to the California State Railroad Museum Foundation for the boiler shop core, shell, and site rehabilitation and development. The grant agreement shall include provisions that require the grantee to conduct due diligence appropriate for this transaction, as determined in consultation with the Department of Finance.
2. Upon completion of the boiler shop core, shell, and site rehabilitation and development, the California

State Railroad Museum Foundation shall make the facility available, at no cost, for use by the Department of Parks and Recreation as a part of the California State Railroad Museum.

3. Ten years after the completion of the boiler shop core, shell, and site rehabilitation and development, the California State Railroad Museum Foundation shall transfer the title to the site and facility, at no cost, to the State of California, Department of Parks and Recreation, subject to approvals from the State Public Works Board and the Director of Finance.

SEC. 5. Item 3790-491 of Section 2.00 of the Budget Act of 2008 is amended to read:

3790-491—Reappropriation, Department of Parks and Recreation. The balances of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in the appropriations:

0005—Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund

(.5) Item 3790-301-0005, Budget Act of 2002 (Ch. 379, Stats. 2002), as reappropriated by Item 3790-490, Budget Act of 2003 (Ch. 157, Stats. 2003), and Item 3790-491, Budget Acts of 2005 (Chs. 38 and 39, Stats. 2005) and 2006 (Chs. 47 and 48, Stats. 2006)

(5.5) 90.86.100-Rancho San Andreas: Castro Adobe—Preliminary plans, working drawings, and construction

(20) 90.H9.101-Cardiff SB: Rebuild South Cardiff Facilities—Construction

(1) Item 3790-301-0005, Budget Act of 2004 (Ch. 208, Stats. 2004), as reappropriated by Item 3790-491, Budget Act of 2005 (Chs. 38 and 39, Stats. 2005)

(1) 90.GI.101-Crystal Cove State Park: El Morro Mobilehome Park Conversion—Construction

(2) Item 3790-301-0005, Budget Act of 2005 (Chs. 38 and 39, Stats. 2005), as partially reappropriated by Item 3790-491, Budget Act of 2006 (Chs. 47 and 48, Stats. 2006)

(3) 90.I6.101-San Elijo SB: Replace Main Lifeguard Tower—Preliminary plans and working drawings

(9) 90.86.100-Rancho San Andreas: Castro Adobe—Construction

(3) Item 3790-301-0005, Budget Act of 2006 (Chs. 47 and 48, Stats. 2006), as reappropriated by Item 3790-491, Budget Act of 2007 (Chs. 171 and 172, Stats. 2007)

(3) 90.I6.101-San Elijo SB: Replace Main Lifeguard Tower—Construction and equipment

(6) 90.8J.101-Columbia SHP: Drainage Improvements—Working drawings and construction

(4) Item 3790-301-0005, Budget Act of 2007 (Chs. 171 and 172, Stats. 2007)

(2) 90.RS.205-Statewide: State Park System—Minor projects

0262—Habitat Conservation Fund

(1) Item 3790-301-0262, Budget Act of 2005 (Chs. 38 and 39, Stats. 2005)

(1) 90.RS.406-Habitat Conservation: Proposed Additions—Acquisition

0263—Off-Highway Vehicle Trust Fund

(1) Item 3790-301-0263, Budget Act of 2005 (Chs. 38 and 39, Stats. 2005)

(1) 90.RS.405-Statewide: OHV Opportunity Purchase/Budget Package/Schematic Planning—Acquisition and study

0890—Federal Trust Fund

(1) Item 3790-301-0890, Budget Act of 2007 (Chs. 171 and 172, Stats. 2007)

(.5) 90.I6.101-San Elijo State Beach: Replace Main Lifeguard Tower—Construction

(1) 90.RS.801-Federal Trust Fund Program—Acquisition, preliminary plans, working drawings, and construction

6029—California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund

(1) Chapter 1126, Statutes of 2002, as reappropriated by Item 3790-491, Budget Act of 2005 (Chs. 38 and 39, Stats. 2005), as reappropriated by Item 3790-491, Budget Acts of 2006 (Chs. 47 and 48, Stats. 2006) and 2007 (Chs. 171 and 172, Stats. 2007)

(2) 90.8L.101-California Indian Museum: Preliminary plans, working drawings, and construction

(1.5) Item 3790-301-6029, Budget Act of 2002 (Ch. 379, Stats. 2002), as reappropriated by Item 3790-491, Budget Act of 2005 (Chs. 38 and 39, Stats. 2005)
(1) 90.FJ.103-Will Rogers SHP: Restoration Historic Landscape—Construction
(6) 90.RS.224-Statewide: Acquisition-Proposition 40—Acquisition

(1.8) Item 3790-301-6029, Budget Act of 2003 (Ch. 157, Stats. 2003), as reappropriated by Item 3790-491, Budget Act of 2005 (Chs. 38 and 39, Stats. 2005), Item 3790-493, Budget Act of 2006 (Chs. 47 and 48, Stats. 2006), and Item 3790-491, Budget Act of 2007 (Chs. 171 and 172, Stats. 2007)
(1) 90.AC.101-Railroad Technology Museum: Rehabilitation and Facilities Plan—Study and preliminary plans

(2) Item 3790-301-6029, Budget Act of 2004 (Ch. 208, Stats. 2004), as partially reappropriated by Item 3790-491, Budget Act of 2005 (Chs. 38 and 39, Stats. 2005), Budget Act of 2006 (Chs. 47 and 48, Stats. 2006), and Budget Act of 2007 (Chs. 171 and 172, Stats. 2007)
(2.2) 90.E4.104-Chino Hills SP: Entrance Road and Facilities—Working drawings
(5.1) 90.8D.102-Donner Memorial SP: New Visitor Center—Working drawings, construction, and equipment
(5.4) 90.42.101-MacKerricher State Park: Rehabilitate Historic Pudding Creek Trestle— Construction
(5.7) Reimbursement-Donner Memorial SP: Visitor Center

(3) Item 3790-301-6029, Budget Act of 2005 (Chs. 38 and 39, Stats. 2005)
(3) 90.E4.104-Chino Hills State Park: Entrance Road and Facilities—Construction and equipment
(5) 90.RS.412-Statewide: State Park System Opportunity and Inholding Acquisitions—Acquisition

(4) Item 3790-301-6029, Budget Act of 2006 (Chs. 47 and 48, Stats. 2006), as reappropriated by Item 3790-491, Budget Act of 2007 (Chs. 171 and 172, Stats. 2007)
(3.5) 90.8D.102-Donner Memorial SP: New Visitor Center—Working drawings and construction

(3.8) Reimbursement—Donner Memorial SP: New Visitor Center

(5) Item 3790-301-6029, Budget Act of 2007 (Chs. 171 and 172, Stats. 2007)

(1) 90.RS.810-Capital Outlay Projects—Acquisition, preliminary plans, working drawings, capital outlay, and minor projects

(3) Reimbursements: Capital Outlay Projects

(6) Item 3790-301-6029, Budget Act of 2006 (Chs. 47 and 48, Stats. 2006), as reappropriated by Item 3790-491, Budget Act of 2007 (Chs. 171 and 172, Stats. 2007)

(3) 90.2U.102-Jedediah Smith Redwoods State Park: Aubell Maintenance Facility—Construction

6051—Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006

(1) Item 3790-301-6051, Budget Act of 2007 (Chs. 171 and 172, Stats. 2007)

(3.5) 90.KZ.104-Los Angeles SHP: Planning and Phase I Build-Out—preliminary plans

(5) 90.8I.101-Calaveras Big Trees State Park: New Visitor Center—Working drawings, construction, and equipment

(6) Reimbursements: Calaveras Big Trees State Park: New Visitor Center

SEC. 6. Item 3790-495 of Section 2.00 of the Budget Act of 2008 is amended to read:

3790-495—Reversion, Department of Parks and Recreation. As of June 30, 2008, the unencumbered balances of the appropriations provided in the following citations shall revert to the fund from which the appropriations were made:

0005—Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund

(1) Item 3790-301-0005, Budget Act of 2000 (Ch. 52, Stats. 2000), as reappropriated by Item 3790-490, Budget Act of 2003 (Ch. 157, Stats. 2003), as reappropriated by Item 3790-491, Budget Act of 2006 (Chs. 47 and 48, Stats. 2006)

(16) 90.KV.100-Los Angeles River Parkway Project: Acquisition and Development—Acquisition

(2) Item 3790-301-0005, Budget Act of 2003 (Ch. 157, Stats. 2003), as reappropriated by Item 3790-491, Budget Act of 2006 (Chs. 47 and 48, Stats. 2006)
(14) 90.5N.101-Mount Diablo State Park: Road System Improvements—Construction

0263—Off-Highway Vehicle Fund

(1) Item 3790-301-0263, Budget Act of 2004 (Ch. 208, Stats. 2004), as reappropriated by Item 3790-491, Budget Act of 2006 (Chs. 47 and 48, Stats. 2006)
(1) 90.A7.102-Prairie City SVRA: Improvement Project—Working Drawings and construction

6029—California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund

(1) Item 3790-301-6029, Budget Act of 2004 (Ch. 208, Stats. 2004), as reappropriated by Item 3790-491, Budget Act of 2005 (Chs. 38 and 39, Stats. 2005)
(0.5) 90.AC.101-Railroad Technology Museum: Rehabilitation and Facilities Plan—Working drawings and construction
(5.3) 90.8X.101-Plumas-Eureka State Park: Stamp Mill Preservation—Study and partial construction
(5.5) Reimbursement-Railroad Technology Museum: Rehabilitation and Facilities Plan

SEC. 7. (a) The Legislature finds and declares all of the following:

(1) Pursuant to Item 3790-103-0005 of Section 2.00 of the Budget Act of 2000 (Chapter 52 of the Statutes of 2000), grant moneys (per capita) were appropriated for local assistance to the Department of Parks and Recreation, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund.

(2) Pursuant to subdivision (d) of Section 5096.341 of the Public Resources Code, a recipient of grant funds described in paragraph (1) must complete all funded projects within eight years of the effective date of the appropriation.

(3) For the following projects funded by grants pursuant to Item 3790-103-0005 of Section 2.00 of the Budget Act of 2000 (Chapter 52 of the Statutes of 2000), moneys were encumbered, projects were timely completed, and documentation for payments was submitted to the Department of Parks and Recreation prior to June 30, 2008:

(A) The City of Fullerton, rehabilitation of Adlena and Byerrum Parks.

(B) The City of Laguna Hills, project for Beckenham Park (CIP No. 229).

(C) The City of Newport Beach, project for the Newport Theater Arts Center.

(D) The Southgate Recreation Park District, Sky Park irrigation system upgrade.

(E) The City of Brisbane, project for the Crocker Park Trail.

(b) The following amounts are appropriated from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund to the Department of Parks and Recreation to make the following payments:

(A) One million eight hundred ninety-three dollars ($1,000,893) to the City of Fullerton.

(B) Two hundred eighty-one thousand dollars ($281,000) to the City of Laguna Hills.

(C) Eight thousand seven hundred thirty-nine dollars ($8,739) to the City of Newport Beach.

(D) Seventeen thousand eighty-nine dollars ($17,089) to the Southgate Recreation Park District.

(E) Four thousand one hundred forty-one dollars ($4,141) to the City of Brisbane.

SEC. 8. Sections 4 to 6, inclusive, of this act shall become operative only if the Budget Act of 2008, Assembly Bill 1781, as proposed by Conference Report No. 1 on July 17, 2008, is enacted and becomes effective on or before January 1, 2009.

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## CHAPTER 690

An act to add and repeal Title 7.25 (commencing with Section 66700) of the Government Code, relating to the San Francisco Bay Restoration Authority.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Title 7.25 (commencing with Section 66700) is added to the Government Code, to read:

# TITLE 7.25. SAN FRANCISCO BAY RESTORATION AUTHORITY ACT

## Chapter 1. Findings and Declarations

66700. This title shall be known and may be cited as the San Francisco Bay Restoration Authority Act.

66700.5. The Legislature hereby finds and declares all of the following:

(a) The nine counties surrounding the San Francisco Bay constitute a region with unique natural resource and outdoor recreational needs. The San Francisco Bay is the region's greatest natural resource and its central feature and contributes greatly to California's economic health and vitality. The bay is a hub of an interconnected open-space system of watersheds, natural habitats, scenic areas, agricultural lands, and regional trails.

(b) As the largest estuary on the West Coast of the United States, the San Francisco Bay is home to hundreds of fish and wildlife species and provides many outdoor recreational opportunities. The San Francisco Bay is home to 105 threatened species and 23 endangered species of wildlife. The San Francisco Bay and its tidal and seasonal wetlands and other natural shoreline habitats are a significant part of the state's coastal resources and a healthy bay is necessary to support the state's human and wildlife populations.

(c) The Legislature has declared, in the California Ocean Protection Act, that California's coastal and ocean resources are critical to the state's environmental and economic security and integral to the state's quality of life.

(d) A healthy San Francisco Bay is essential to a healthy ocean ecosystem. Forty percent of the land in the state drains to the San Francisco Bay. Pollution from cars, homes, and neighborhoods around the bay, as well as from communities as far away as Fresno, Redding, and Sacramento, drains into creeks, streams, and rivers that flow to the bay before entering the Pacific Ocean.

(e) The San Francisco Bay is an estuary that is a critical nursery for many ocean species, and the bay's wetlands, which are sheltered from high winds, big waves, and fast-moving water, provide plentiful food and protection from ocean predators. The bay's fertile mixing zone of fresh and salty water also generates the ocean's food chain base.

(f) The restoration, preservation, and maintenance of vital wetlands and San Francisco Bay habitat, improvement of bay water quality, provision of public access to the bay shoreline, and enhancement of shoreline recreational amenities for the growing population of the San

Francisco Bay Area are immediate state and regional priorities that are necessary to address continuing serious threats posed by pollution and sprawl and to improve the region's quality of life.

(g) Wetland restoration in the San Francisco Bay is necessary to address the growing danger that global warming and rises in sea level pose to the economic well-being, public health, natural resources, and environment of California. Tidal wetlands can both assist with tidal and fluvial flood management and adapt to rises in sea level by accreting additional sediment and rising in elevation. Leading scientists from the Intergovernmental Panel on Climate Change and the United States government have found that the restoration of lost wetlands represents an immediate and large opportunity for enhancing terrestrial carbon sequestration.

(h) The importance of protecting and restoring the San Francisco Bay's tidal wetlands and other natural habitat was underscored by the 2007 Cosco Busan oil spill, and the critical importance of restoration projects and the long-term health of the bay are well-documented in regional plans and reports, including the San Francisco Estuary Project's Comprehensive Conservation and Management Plan, the San Francisco Bay Conservation and Development Commission's San Francisco Bay Plan, the Baylands Ecosystem Habitat Goals Report, the San Francisco Bay Joint Venture's "Restoring the Estuary" Implementation Strategy, the Resources Agency report, "California's Ocean Economy," and the Save The Bay's "Greening the Bay" report.

(i) The protection and restoration of the San Francisco Bay require efficient and effective use of public funds, leveraging of local funds with state and federal resources, and investment of significant resources over a sustained period for habitat restoration on shoreline parcels, parks, and recreational facilities, and public access to natural areas.

(j) The protection and restoration of the San Francisco Bay and the enhancement of its shoreline confer special benefits on property proximate to the bay. Properties proximate to the bay receive special benefits from the contribution of a healthy and vibrant bay to the region's economy and quality of life, including improved access to the bay's shoreline, enhanced recreational amenities in the area, and protection from flooding.

(k) The San Francisco Bay Area needs to develop regional mechanisms to generate and allocate additional resources to address threats to the San Francisco Bay and to secure opportunities for the improvement of the bay and its shoreline, natural areas, and recreational facilities.

(*l*) It is in the public interest to create the San Francisco Bay Restoration Authority as a regional entity to generate and allocate

resources for the protection and enhancement of tidal wetlands and other wildlife habitat in and surrounding the San Francisco Bay.

## Chapter 2. Definitions

66701. Unless the context otherwise requires, the following definitions govern the construction of this title:

(a) "Advisory committee" means the Bay Restoration Advisory Committee convened by the governing board of the San Francisco Bay Restoration Authority pursuant to Section 66703.7.

(b) "Authority" means the San Francisco Bay Restoration Authority established as a regional entity pursuant to Section 66702.

(c) "Bayside city or county" means a city or county with a geographical boundary that touches San Francisco Bay, and includes the City and County of San Francisco.

(d) "Board" means the governing board of the San Francisco Bay Restoration Authority created pursuant to Section 66703.

(e) "Elected official" means an elected member of a city council or an elected member of a county board of supervisors.

(f) "Member" means a person appointed as a member of the governing board of the San Francisco Bay Restoration Authority pursuant to Section 66703.

(g) "San Francisco Bay" means the area described in subdivision (a) of Section 66610.

(h) "San Francisco Bay Area" means the area within the State Coastal Conservancy's San Francisco Bay Area Conservancy Program created pursuant to Chapter 4.5 (commencing with Section 31160) of Division 21 of the Public Resources Code and includes the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.

## Chapter 3. San Francisco Bay Restoration Authority

66702. (a) The San Francisco Bay Restoration Authority is hereby established as a regional entity with jurisdiction extending throughout the San Francisco Bay Area.

(b) The jurisdiction of the authority is not subject to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5).

(c) The authority's purpose is to raise and allocate resources for the restoration, enhancement, protection, and enjoyment of wetlands and wildlife habitats in the San Francisco Bay and along its shoreline.

66702.5. It is the intent of the Legislature that the authority should complement existing efforts by cities, counties, districts, the San Francisco Bay Conservation and Development Commission, the State Coastal Conservancy, and other local, regional, and state entities, related to addressing the goals described in this title.

## Chapter 4. Governing Body

66703. (a) The authority shall be governed by a board composed of seven voting members, as follows:

(1) One member shall be a resident of the San Francisco Bay Area with expertise in the implementation of Chapter 4.5 (commencing with Section 31160) of Division 21 of the Public Resources Code and shall serve as the chair.

(2) One member shall be an elected official of a bayside city or county in the North Bay. For purposes of this subdivision, the North Bay consists of the Counties of Marin, Napa, Solano, and Sonoma.

(3) One member shall be an elected official of a bayside city or county in the East Bay. For purposes of this subdivision, the East Bay consists of the portion of Contra Costa County that is west of the City of Pittsburg and the portion of Alameda County that is north of the southern boundary of the City of Hayward.

(4) One member shall be an elected official of a bayside city or county in the South Bay. For purposes of this subdivision, the South Bay consists of Santa Clara County, the portion of Alameda County that is south of the southern boundary of the City of Hayward, and the portion of San Mateo County that is south of the northern boundary of Redwood City.

(5) One member shall be an elected official of a bayside city or county in the West Bay. For purposes of this subdivision, the West Bay consists of the City and County of San Francisco and the portion of San Mateo County that is north of the northern boundary of Redwood City.

(6) Two members shall be elected officials of one or more of the following:

(A) A bayside city or county.

(B) A regional park district, regional open-space district, or regional park and open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of the Public Resources Code that owns or operates one or more San Francisco Bay shoreline parcels.

(b) The Association of Bay Area Governments shall appoint the members.

(c) Each member shall serve at the pleasure of his or her appointing authority.

(d) A vacancy shall be filled by the Association of Bay Area Governments within 90 days from the date on which the vacancy occurs.

66703.1. The members of the board are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

66703.2. A member shall exercise his or her independent judgment on behalf of the interests of the residents, the property owners, and the public as a whole in furthering the intent and purposes of this title.

66703.4. (a) A member appointed pursuant to subdivision (b) of Section 66703 may receive a per diem for each board meeting that he or she attends. The board shall set the amount of that per diem for a member's attendance, but that amount shall not exceed one hundred dollars ($100) per meeting. A member may not receive a payment for more than two meetings in a calendar month.

(b) A member may waive a payment authorized by this section.

66703.5. The board shall elect from its own members a vice chair who shall preside in the absence of the chair.

66703.6. (a) The time and place of the first meeting of the board shall be at a time and place within the San Francisco Bay Area fixed by the chair of the board.

(b) After the first meeting described in subdivision (a), the board shall hold meetings at times and places determined by the board.

(c) Meetings of the board are subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

66703.7. (a) Not later than six months after the date of the board's first meeting described in subdivision (a) of Section 66703.6, the board shall convene a Bay Restoration Advisory Committee to assist and advise the board in carrying out the functions of the board. The advisory committee shall meet on a regular basis.

(b) The membership of the advisory committee shall be determined by the authority based upon criteria that provide a broad representation of community and agency interests within the authority's jurisdiction over the restoration of wetland areas in the San Francisco Bay and along its shoreline. The membership of the advisory committee may include, but is not limited to, representatives from the following:

(1) The Department of Fish and Game.

(2) The State Coastal Conservancy.

(3) The San Francisco Bay National Wildlife Refuge Complex operated by the United States Fish and Wildlife Service.

(4) Open space and park districts that own or operate shoreline parcels in the San Francisco Bay Area.

(5) The San Francisco Bay Regional Water Quality Control Board.

(6) The San Francisco Bay Conservation and Development Commission.

(7) The San Francisco Bay Joint Venture Management Board.

(8) The San Francisco Bay Trail Project.

(9) The San Francisco Estuary Project.

(10) Nongovernmental organizations working to restore, protect, and enhance San Francisco Bay wetlands and wildlife habitat.

(11) Members of the public from bayside cities and counties in the San Francisco Bay Area.

66703.8. (a) The board is the legislative body of the authority and, consistent with this title, shall establish policies for the operation of the authority.

(b) The board may act either by ordinance or resolution in order to regulate the authority and to implement this title.

(c) Four voting members of the board shall constitute a quorum for the purpose of transacting any business of the board. A recorded majority vote of the total voting membership of the board is required on each action.

## Chapter 5. Powers and Duties of the Authority

### Article 1. General Provisions

66704. The authority has, and may exercise, all powers, expressed or implied, that are necessary to carry out the intent and purposes of this title, including, but not limited to, the power to do all of the following:

(a) (1) Levy a benefit assessment, special tax, or property-related fee consistent with the requirements of Articles XIII C and XIII D of the California Constitution, including but not limited to, a benefit assessment levied pursuant to paragraph (2), except that a benefit assessment, special tax, or property-related fee shall not be levied pursuant to this subdivision after December 31, 2028.

(2) The authority may levy a benefit assessment pursuant to any of the following:

(A) The Improvement Act of 1911, Division 7 (commencing with Section 5000) of the Streets and Highways Code.

(B) The Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and Highways Code.

(C) The Municipal Improvement Act of 1913, Division 12 (commencing with Section 10000) of the Streets and Highways Code.

(D) The Landscaping and Lighting Assessment Act of 1972, Part 2 (commencing with Section 22500) of Division 15 of the Streets and

Highways Code, notwithstanding Section 22501 of the Streets and Highways Code.

(E) Any other statutory authorization.

(b) Apply for and receive grants from federal and state agencies.

(c) Solicit and accept gifts, fees, grants, and allocations from public and private entities.

(d) Issue revenue bonds for any of the purposes authorized by this title pursuant to the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5).

(e) Incur bond indebtedness, subject to the following requirements:

(1) The principal and interest of any bond indebtedness incurred pursuant to this subdivision shall be paid and discharged prior to January 1, 2029.

(2) For purposes of incurring bond indebtedness pursuant to this subdivision, the authority shall comply with the requirements of Article 11 (commencing with Section 5790) of Chapter 4 of Division 5 of the Public Resources Code except where those requirements are in conflict with this provision. For purposes of this subdivision, all references in Article 11 (commencing with Section 5790) of Chapter 4 of Division 5 of the Public Resources Code to a board of directors shall mean the board and all references to a district shall mean the authority.

(3) The total amount of indebtedness incurred pursuant to this subdivision outstanding at any one time shall not exceed 10 percent of the authority's total revenues in the preceding fiscal year.

(f) Receive and manage a dedicated revenue source.

(g) Deposit or invest moneys of the authority in banks or financial institutions in the state in accordance with state law.

(h) Sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

(i) Engage counsel and other professional services.

(j) Enter into and perform all necessary contracts.

(k) Enter into joint powers agreements pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1).

(*l*) Hire staff, define their qualifications and duties, and provide a schedule of compensation for the performance of their duties.

(m) Use interim or temporary staff provided by appropriate state agencies or the Association of Bay Area Governments. A person who performs duties as interim or temporary staff shall not be considered an employee of the authority.

66704.1. The authority shall not acquire or own real property.

66704.3. All records prepared, owned, used, or retained by the authority are public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

### Article 2. Grant Program

66704.5. (a) The authority may raise funds and award grants to public and private entities, including, but not limited to, owners or operators of San Francisco Bay shoreline parcels, for eligible projects in the counties within the authority's jurisdiction.

(b) An eligible project shall do at least one of the following:

(1) Restore, protect, or enhance tidal wetlands, managed ponds, or natural habitats on the San Francisco Bay shoreline.

(2) Build or enhance shoreline levees or other flood management features that are part of a project to restore, enhance, or protect tidal wetlands, managed ponds, or natural habitats identified in paragraph (1).

(3) Provide or improve public access or recreational amenities that are part of a project to restore, enhance, or protect tidal wetlands, managed ponds, or natural habitats identified in paragraph (1).

(c) In awarding grants pursuant to subdivision (a), the authority shall give priority to projects that, to the greatest extent possible, meet the selection criteria of the State Coastal Conservancy's San Francisco Bay Area Conservancy Program in accordance with subdivision (c) of Section 31163 of the Public Resources Code, and are consistent with the San Francisco Bay Conservation and Development Commission coastal management program for the San Francisco Bay segment of the California coastal zone and the San Francisco Bay Joint Venture implementation strategy updated list of Ongoing and Potential Wetland Habitat Projects.

(d) In reviewing and assessing projects, the authority shall solicit input from the advisory committee convened pursuant to Section 66703.7. The authority shall adopt a procedure for evaluating proposals in consultation with the advisory committee.

(e) Grants awarded pursuant to subdivision (a) may be used to support all phases of planning, construction, monitoring, operation, and maintenance for projects that are eligible pursuant to subdivision (b).

## Chapter 6. Financial Provisions

66705. (a) The board shall provide for regular audits of the authority's accounts and records and shall maintain accounting records and shall report accounting transactions in accordance with generally

accepted accounting principles adopted by the Government Accounting Standards Board of the Financial Accounting Foundation for both public reporting purposes and for reporting of activities to the Controller.

(b) The board shall provide for annual financial reports. The board shall make copies of the annual financial reports available to the public.

66705.5. The authority shall be funded through gifts, donations, grants, state or local bonds, assessments, other appropriate funding sources, and other types of financial assistance from public and private sources.

### Chapter 7. Repeal

66706. This title shall remain in effect only until January 1, 2029, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2029, deletes or extends that date.

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.

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## CHAPTER 691

An act to amend Section 39705 of the Health and Safety Code, relating to air resources.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 39705 of the Health and Safety Code is amended to read:

39705. (a) The state board shall appoint a screening committee of not to exceed 11 persons, the membership of which may be rotated as determined by the state board.

(b) The committee shall consist of physicians, scientists, biologists, chemists, engineers, meteorologists, and other persons who are knowledgeable, technically qualified, and experienced in air pollution problems for which projects are being reviewed. At least two members of the committee shall have demonstrated expertise in the field of climate

change. The committee shall review, and give its advice and recommendations with respect to, all air pollution and climate change-related research projects funded by the state and subject to approval by the state board, including both those conducted by the state board and those conducted under contract with the state board.

(c) The committee members shall receive one hundred dollars ($100) per day for each day they attend a meeting of the state board or meet to perform their duties under this section. In addition to the compensation, they shall receive their actual and necessary travel expenses incurred while performing their duties.

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## CHAPTER 692

An act to amend Section 65460.1 of, and to add, repeal, and add Section 66005.1 of, the Government Code, relating to community development.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 65460.1 of the Government Code is amended to read:

65460.1. (a) The Legislature hereby finds and declares all of the following:

(1) Federal, state, and local governments in California are investing in new and expanded transit systems in areas throughout the state, including Los Angeles County, the San Francisco Bay area, San Diego County, Santa Clara County, and Sacramento County.

(2) This public investment in transit is unrivaled in the state's history and represents well over ten billion dollars ($10,000,000,000) in planned investment alone.

(3) Recent studies of transit ridership in California indicate that persons who live within a quarter-mile radius of transit stations utilize the transit system in far greater numbers than does the general public living elsewhere.

(4) The use of transit by persons living near transit stations is particularly important given the decline of transit ridership in California between 1980 and 1990. Transit's share of commute trips dropped in all California metropolitan areas—greater Los Angeles: 5.4 percent to 4.8

percent; San Francisco Bay area: 11.9 percent to 10.0 percent; San Diego: 3.7 percent to 3.6 percent; Sacramento: 3.7 percent to 2.5 percent.

(5) Only a few transit stations in California have any concentration of housing proximate to the station.

(6) Interest in clustering housing and commercial development around transit stations, called transit villages, has gained momentum in recent years.

(b) For purposes of this article, the following definitions shall apply:

(1) "Bus hub" means an intersection of three or more bus routes, with a minimum route headway of 10 minutes during peak hours.

(2) "Bus transfer station" means an arrival, departure, or transfer point for the area's intercity, intraregional, or interregional bus service having permanent investment in multiple bus docking facilities, ticketing services, and passenger shelters.

(3) "District" means a transit village development district as defined in Section 65460.4.

(4) "Peak hours" means the time between 7 a.m. to 10 a.m., inclusive, and 3 p.m. to 7 p.m., inclusive, Monday through Friday.

(5) "Transit station" means a rail or light-rail station, ferry terminal, bus hub, or bus transfer station.

SEC. 1.5. Section 65460.1 of the Government Code is amended to read:

65460.1. (a) The Legislature hereby finds and declares all of the following:

(1) Federal, state, and local governments in California are investing in new and expanded transit systems in areas throughout the state, including Los Angeles County, the San Francisco Bay area, San Diego County, Santa Clara County, and Sacramento County.

(2) This public investment in transit is unrivaled in the state's history and represents well over ten billion dollars ($10,000,000,000) in planned investment alone.

(3) Recent studies of transit ridership in California indicate that persons who live within one-half mile radius of transit stations utilize the transit system in far greater numbers than does the general public living elsewhere.

(4) The use of transit by persons living near transit stations is particularly important given the decline of transit ridership in California between 1980 and 1990. Transit's share of commute trips dropped in all California metropolitan areas—greater Los Angeles: 5.4 percent to 4.8 percent; San Francisco Bay area: 11.9 percent to 10.0 percent; San Diego: 3.7 percent to 3.6 percent; Sacramento: 3.7 percent to 2.5 percent.

(5) Only a few transit stations in California have any concentration of housing proximate to the station.

(6) Interest in clustering housing and commercial development around transit stations, called transit villages, has gained momentum in recent years.

(b) For purposes of this article, the following definitions shall apply:

(1) "Bus transfer station" means an arrival, departure, or transfer point for the area's intercity, intraregional, or interregional bus service having permanent investment in multiple bus docking facilities, ticketing services, and passenger shelters.

(2) "County" includes a city and county.

(3) "Bus hub" means an intersection of three or more bus routes, with a minimum route headway of 10 minutes during peak hours.

(4) "District" means a transit village development district as defined in Section 65460.4.

(5) "Peak hours" means the time between 7 a.m. to 10 a.m., inclusive, and 3 p.m. to 7 p.m., inclusive, Monday through Friday.

(6) "Transit station" means a rail or light-rail station, ferry terminal, bus hub, or bus transfer station.

SEC. 2. Section 66005.1 is added to the Government Code, to read:

66005.1. (a) (1) When a local agency imposes a fee on a housing development pursuant to Section 66001 for the purpose of mitigating vehicular traffic impacts, if that housing development satisfies all of the following characteristics, the fee, or the portion thereof relating to vehicular traffic impacts, shall be set at a rate that reflects a lower rate of automobile trip generation associated with such housing developments in comparison with housing developments without these characteristics, unless the local agency adopts findings after a public hearing establishing that the housing development, even with these characteristics, would not generate fewer automobile trips than a housing development without those characteristics:

(A) The housing development is located within one-half mile of a transit station and there is direct access between the housing development and the transit station along a barrier-free walkable pathway not exceeding one-half mile in length.

(B) Convenience retail uses, including a store that sells food, are located within one-half mile of the housing development.

(C) The housing development provides either the minimum number of parking spaces required by the local ordinance, or no more than one onsite parking space for zero to two bedroom units, and two onsite parking spaces for three or more bedroom units, whichever is less.

(2) The provisions of paragraph (1) shall not apply to a housing development that satisfies the characteristics in subparagraphs (A) to (C), inclusive, of paragraph (1) that is located within an area covered by a capital improvement plan for traffic facilities that was adopted on or

before January 1, 2009, and for which fees are collected to mitigate the impacts of traffic.

(b) If a housing development does not satisfy the characteristics in subdivision (a), the local agency may charge a fee that is proportional to the estimated rate of automobile trip generation associated with the housing development.

(c) As used in this section, "housing development" means a development project with common ownership and financing consisting of residential use or mixed use where not less than 50 percent of the floorspace is for residential use.

(d) For the purposes of this section, "transit station" has the meaning set forth in paragraph (4) of subdivision (b) of Section 65460.1. "Transit station" includes planned transit stations otherwise meeting this definition whose construction is programmed to be completed prior to the scheduled completion and occupancy of the housing development.

(e) 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. 3. Section 66005.1 is added to the Government Code, to read:

66005.1. (a) When a local agency imposes a fee on a housing development pursuant to Section 66001 for the purpose of mitigating vehicular traffic impacts, if that housing development satisfies all of the following characteristics, the fee, or the portion thereof relating to vehicular traffic impacts, shall be set at a rate that reflects a lower rate of automobile trip generation associated with such housing developments in comparison with housing developments without these characteristics, unless the local agency adopts findings after a public hearing establishing that the housing development, even with these characteristics, would not generate fewer automobile trips than a housing development without those characteristics:

(1) The housing development is located within one-half mile of a transit station and there is direct access between the housing development and the transit station along a barrier-free walkable pathway not exceeding one-half mile in length.

(2) Convenience retail uses, including a store that sells food, are located within one-half mile of the housing development.

(3) The housing development provides either the minimum number of parking spaces required by the local ordinance, or no more than one onsite parking space for zero to two bedroom units, and two onsite parking spaces for three or more bedroom units, whichever is less.

(b) If a housing development does not satisfy the characteristics in subdivision (a), the local agency may charge a fee that is proportional

to the estimated rate of automobile trip generation associated with the housing development.

(c) As used in this section, "housing development" means a development project with common ownership and financing consisting of residential use or mixed use where not less than 50 percent of the floorspace is for residential use.

(d) For the purposes of this section, "transit station" has the meaning set forth in paragraph (4) of subdivision (b) of Section 65460.1. "Transit station" includes planned transit stations otherwise meeting this definition whose construction is programmed to be completed prior to the scheduled completion and occupancy of the housing development.

(e) This section shall become operative on January 1, 2011.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 65460.1 of the Government Code proposed by both this bill and AB 1221. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 65460.1 of the Government Code, and (3) this bill is enacted after AB 1221, in which case Section 1 of this bill shall not become operative.

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## CHAPTER 693

An act to amend Section 80110 of the Water Code, relating to electricity, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 80110 of the Water Code is amended to read:

80110. (a) The department shall retain title to all power sold by it to the retail end-use customers. The department shall be entitled to recover, as a revenue requirement, amounts and at the times necessary to enable it to comply with Section 80134, and shall advise the commission as the department determines to be appropriate.

(b) The revenue requirements may also include any advances made to the department hereunder or hereafter for purposes of this division, or from the Department of Water Resources Electric Power Fund, and General Fund moneys expended by the department pursuant to the Governor's Emergency Proclamation dated January 17, 2001.

(c) (1) For the purposes of this division and except as otherwise provided in this section, the Public Utility Commission's authority as set forth in Section 451 of the Public Utilities Code shall apply, except any just and reasonable review under Section 451 shall be conducted and determined by the department. Prior to the execution of any modification of any contract for the purchase of power by the department pursuant to this division, on or after the effective date of this section, the department or the commission, as applicable, shall do the following:

(A) The department shall notify the public of its intent to modify a contract and the opportunity to comment on the proposed modification.

(B) At least 21 days after providing public notice, the department shall make a determination as to whether the proposed modifications are just and reasonable. The determination shall include responses to any public comments.

(C) No later than 70 days before the date of execution of the contract modification, the department shall provide a written report to the commission setting forth the justification for the determination that the proposed modification is just and reasonable, including documents, analysis, response to public comments, and other information relating to the determination.

(D) Within 60 days of the date of receipt of the department's written report, the commission shall review the report and make public its comments. If the commission in its comments recommends against the proposed modification, the department shall not execute the proposed contract modification.

(2) This subdivision does not apply to the modification of a contract modified to settle litigation to which the commission is a party.

(3) This subdivision does not apply to the modification of a contract for the purchase of electricity that is generated from a facility owned by a public agency if the contract requires the public agency to sell electricity to the department at or below the public agency's cost of that power.

(4) This subdivision does not apply to the modification of a contract to address issues relating to billing, scheduling, delivery of electricity, and related contract matters arising out of the implementation by the Independent System Operator of its market redesign and technology upgrade program.

(5) (A) For purposes of this subdivision, the department proposes to "modify" a contract if there is any material change proposed in the terms of the contract.

(B) A change to a contract is not material if it is only administrative in nature or the change in ratepayer value results in ratepayer savings, not to exceed twenty-five million dollars ($25,000,000) per year. For the purpose of making a determination that a change is only

administrative in nature or results in ratepayer savings of twenty-five million dollars ($25,000,000) or less per year, the executive director of the commission shall concur in writing with each of those determinations by the department.

(d) The commission may enter into an agreement with the department with respect to charges under Section 451 for purposes of this division, and that agreement shall have the force and effect of a financing order adopted in accordance with Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, as determined by the commission.

(e) In no case shall the commission increase the electricity charges in effect on the date that the act that adds this section becomes effective for residential customers for existing baseline quantities or usage by those customers of up to 130 percent of existing baseline quantities, until such time as the department has recovered the costs of power it has procured for the electrical corporation's retail end-use customers as provided in this division.

(f) After the passage of a period of time after February 1, 2001, as shall be determined by the commission, the right of retail end-use customers pursuant to Article 6 (commencing with Section 360) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code to acquire service from other providers shall be suspended until the department no longer supplies power hereunder. The department shall have the same rights with respect to the payment by retail end-use customers for power sold by the department as do providers of power to the customers.

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 the Public Utilities Commission to conduct a review of the just and reasonable review for modifications of contracts entered into under Section 80110 of the Water Code as soon as possible, it is necessary that this act take immediate effect.

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## CHAPTER 694

An act to amend Sections 112895, 112910, and 112915 of, to add Sections 112891 and 112893 to, to add Article 1 (commencing with Section 112875) to, to add the heading of Article 2 (commencing with Section 112891) to, Chapter 9 of Part 6 of Division 104 of, and to repeal Sections 112875, 112880, 112885, 112890, and 112900 of, the Health and Safety Code, relating to food labeling.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Extra virgin olive oil has been shown by numerous scientific studies to be associated with fighting cardiovascular disease and providing other health benefits.

(b) California grows and processes more than 99 percent of the extra virgin olive oil produced in the United States, and more than 90 percent of California olive oil meets the international standards for top-grade "extra virgin" as established by the International Olive Council.

(c) The quality of California olive oil is comparable to other producers internationally.

(d) It is the intent of the Legislature that California's definitions of olive oil be consistent with international standards.

SEC. 2. Article 1 (commencing with Section 112875) is added to Chapter 9 of Part 6 of Division 104 of the Health and Safety Code, to read:

## Article 1. Olive Oil Grades

112875. "Olive oil," as used in this chapter means the edible oil obtained solely from the fruit of the olive tree (olea europea L.) to the exclusion of oils obtained using solvents or reesterification processes and of any mixture with oils derived of other kinds except in the making of flavored olive oil.

112876. Olive oil grades shall be in the following order of quality:

(a) Virgin olive oils.

(1) Extra virgin olive oil.

(2) Virgin olive oil.

(3) Ordinary virgin olive oil.

(b) Olive oil.

(c) Refined olive oil.

(d) Olive-pomace oils.

(1) Olive-pomace oil.

(2) Refined olive-pomace oil.

(3) Crude olive-pomace oil.

112877. Olive oil grades are defined as follows:

(a) "Virgin olive oils" means those oils fit for consumption as they are, obtained from the fruit of the olive tree solely by mechanical or

other physical means under conditions, particularly thermal conditions, that do not lead to alterations in the oil, and which have not undergone any treatment other than washing, decanting, centrifuging, and filtration. Virgin olive oils fit for consumption as they are include:

(1) "Extra virgin olive oil" means virgin olive oil which has a free acidity, expressed as oleic acid, of not more than 0.8 grams per 100 grams, has a peroxide value of not more than 20 milliequivalent peroxide oxygen per kilogram oil and meets the sensory standards of extra virgin olive oil as determined by a taste panel certified by the International Olive Council, or, if the International Olive Council ceases to certify taste panels, meets the sensory standards of a taste panel that is operated by the University of California or California State University according to guidelines adopted by the International Olive Council as of 2007.

(2) "Virgin olive oil" means virgin olive oil which has a free acidity, expressed as oleic acid, of not more than 2 grams per 100 grams oil and has a peroxide value of not more than 20 milliequivalent peroxide oxygen per kilogram oil.

(3) "Ordinary virgin olive oil" means virgin olive oil which has a free acidity, expressed as oleic acid, of not more than 3.3 grams per 100 grams oil and has a peroxide value of not more than 20 milliequivalent peroxide oxygen per kilogram oil.

(b) "Olive oil" is the oil consisting of a blend of refined olive oil and virgin olive oils fit for consumption as they are as defined in this section. It has a free acidity, expressed as oleic acid, of not more than 1 gram per 100 grams.

(c) "Refined olive oil" means the olive oil obtained from virgin olive oils by refining methods which do not lead to alterations in the initial glyceridic structure. It has a free acidity, expressed as oleic acid, of not more than 0.3 grams per 100 grams oil.

(d) "Olive-pomace oils" means oils obtained by treating olive pomace with solvents or other physical treatments, to the exclusion of oils obtained by reesterification processes and of any mixture with oils of other kinds. They shall be labeled and marketed with the following designations and definitions:

(1) "Olive-pomace oil" is the oil comprising the blend of refined olive-pomace oil and virgin olive oils fit for consumption as they are. It has a free acidity, expressed as oleic acid, of not more than 1 gram per 100 grams oil. In no case shall this blend be called or labeled "olive oil."

(2) "Refined olive-pomace oil" is the oil obtained from crude olive-pomace oil by refining methods which do not lead to alterations in the initial glyceridic structure. It has a free acidity, expressed as oleic acid, of not more than 0.3 grams per 100 grams oil.

(3) "Crude olive-pomace oil" means olive-pomace oil that is intended for refining for use for human consumption or that is intended for technical use.

112878. "Flavored olive oil," as used in this chapter, means extra virgin olive oil, virgin olive oil, or olive oil, that is mixed with a flavoring, or olives that are processed into oil with any fruit, vegetable, herb, nut, seed, or spice and the product resulting from either process contains not less than 90 percent extra virgin olive oil, virgin olive oil, or olive oil, and is labeled for sale as an olive oil that has been flavored.

112879. "Imitation olive oil," as used in this chapter, means the mixture of any edible oil artificially colored or flavored to resemble olive oil.

SEC. 3. Section 112875 of the Health and Safety Code is repealed.

SEC. 4. Section 112880 of the Health and Safety Code is repealed.

SEC. 5. Section 112885 of the Health and Safety Code is repealed.

SEC. 6. The heading of Article 2 (commencing with Section 112891) is added to Chapter 9 of Part 6 of Division 104 of the Health and Safety Code, immediately preceding Section 112890, to read:

Article 2. Olive Oil Manufacture and Marketing

SEC. 7. Section 112890 of the Health and Safety Code is repealed.

SEC. 8. Section 112891 is added to the Health and Safety Code, to read:

112891. Any olive oil labeled for sale shall be consistent with this chapter.

SEC. 9. Section 112893 is added to the Health and Safety Code, to read:

112893. Alpha-tocopherol may be added to refined olive oil, olive oil, refined olive-pomace oil, and olive-pomace oil to restore natural tocopherol lost in the refining process. The concentration of alpha-tocopherol in the final product shall not exceed 200 milligrams per kilogram.

SEC. 10. Section 112895 of the Health and Safety Code is amended to read:

112895. (a) It is unlawful to manufacture, sell, offer for sale, give away, or to possess imitation olive oil in California.

(b) This section does not prohibit the blending of olive oil with other edible oils, if the blend is not labeled as olive oil or imitation olive oil, is clearly labeled as a blended vegetable oil, and if the contents and proportions of the blend are prominently displayed on the container's label, or if the oil is a flavored olive oil.

(c) Any olive oil produced, processed, sold, offered for sale, given away, or possessed in California, that indicates on its label "California Olive Oil," or uses words of similar import that indicate that California is the source of the oil, shall be made of oil derived solely from olives grown in California.

(d) Any olive oil produced, processed, sold, offered for sale, given away, or possessed in California, that indicates on its label that it is from an area that is one of the approved American Viticultural Areas as set forth in Part 9 (commencing with Sec. 9.1) of Title 27 of the Code of Federal Regulations shall be made of oil 75 percent of which is derived solely from olives grown in that approved American Viticultural Area.

SEC. 11. Section 112900 of the Health and Safety Code is repealed.

SEC. 12. Section 112910 of the Health and Safety Code is amended to read:

112910. All records of those operating under the provisions of this chapter that concern the amounts of olive oil produced, purchased, or produced and purchased, or the sale, distribution, or sale and distribution of any olive oil, shall be open to inspection upon demand of any agent of the department.

SEC. 13. Section 112915 of the Health and Safety Code is amended to read:

112915. It is unlawful to reuse any olive oil container, can, or drum for repacking any fixed oil intended to be used for food purposes, except on the premises of the processor or when a consumer fills a clean container from a sanitary olive oil dispenser at a retail outlet.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district 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.

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## CHAPTER 695

An act to add Section 112877 to the Health and Safety Code, relating to food labeling.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 112877 is added to the Health and Safety Code, to read:

112877. Olive oil grades are defined as follows:

(a) "Virgin olive oils" means those oils fit for consumption as they are, obtained from the fruit of the olive tree solely by mechanical or other physical means under conditions, particularly thermal conditions, that do not lead to alterations in the oil, and which have not undergone any treatment other than washing, decanting, centrifuging, and filtration. Virgin olive oils fit for consumption as they are include:

(1) "Extra virgin olive oil" means virgin olive oil which has a free acidity, expressed as oleic acid, of not more than 0.8 grams per 100 grams, has a peroxide value of not more than 20 milliequivalent peroxide oxygen per kilogram oil and would meet the sensory standards of extra virgin olive oil as determined by a taste panel certified by the International Olive Council, or, if the International Olive Council ceases to certify taste panels, would meet the sensory standards of a taste panel that is operated by the University of California or California State University according to guidelines adopted by the International Olive Council as of 2007.

(2) "Virgin olive oil" means virgin olive oil which has a free acidity, expressed as oleic acid, of not more than 2 grams per 100 grams oil and has a peroxide value of not more than 20 milliequivalent peroxide oxygen per kilogram oil.

(3) "Ordinary virgin olive oil" means virgin olive oil which has a free acidity, expressed as oleic acid, of not more than 3.3 grams per 100 grams oil and has a peroxide value of not more than 20 milliequivalent peroxide oxygen per kilogram oil.

(b) "Olive oil" is the oil consisting of a blend of refined olive oil and virgin olive oils fit for consumption as they are as defined in this section. It has a free acidity, expressed as oleic acid, of not more than 1 gram per 100 grams.

(c) "Refined olive oil" means the olive oil obtained from virgin olive oils by refining methods which do not lead to alterations in the initial glyceridic structure. It has a free acidity, expressed as oleic acid, of not more than 0.3 grams per 100 grams oil.

(d) "Olive-pomace oils" means oils obtained by treating olive pomace with solvents or other physical treatments, to the exclusion of oils obtained by reesterification processes and of any mixture with oils of other kinds. They shall be labeled and marketed with the following designations and definitions:

(1) "Olive-pomace oil" is the oil comprising the blend of refined olive-pomace oil and virgin olive oils fit for consumption as they are. It has a free acidity, expressed as oleic acid, of not more than 1 gram per 100 grams oil. In no case shall this blend be called or labeled "olive oil."

(2) "Refined olive-pomace oil" is the oil obtained from crude olive-pomace oil by refining methods which do not lead to alterations in the initial glyceridic structure. It has a free acidity, expressed as oleic acid, of not more than 0.3 grams per 100 grams oil.

(3) "Crude olive-pomace oil" means olive-pomace oil that is intended for refining for use for human consumption or that is intended for technical use.

SEC. 2. Section 1 of this bill makes additional changes to Section 112877 of the Health and Safety Code as proposed to be added by SB 634. It shall only become operative if both bills are enacted, SB 634 adds Section 112877 to the Health and Safety Code, and this bill is enacted after SB 634, in which case Section 112877 of the Health and Safety Code, as proposed to be added by SB 634, shall not become operative.

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## CHAPTER 696

An act to amend Sections 14501, 14511.7, 14520.5, 14524, 14539, 14549.6, 14549.7, 14552, 14560.5, 14561, 14571, 14571.1, 14571.7, 14575, 14580, 14581, 14588.1, 14588.2, 14593, 14594, 42889, 42963, 45014, and 71205.3 of, and to repeal Sections 14514.5, 14555, 14575.2, 14575.5, and 14580.5 of, the Public Resources Code, and to amend Section 31560 of the Vehicle Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 14501 of the Public Resources Code is amended to read:

14501. The Legislature finds and declares as follows:

(a) Experience in this state and others demonstrates that financial incentives and convenient return systems ensure the efficient and large-scale recycling of beverage containers. Accordingly, it is the intent of the Legislature to encourage increased, and more convenient, beverage container redemption opportunities for all consumers. These redemption

opportunities shall consist of dealer and other shopping center locations, independent and industry operated recycling centers, curbside programs, and other recycling systems that assure all consumers, in every region of the state, the opportunity to return beverage containers conveniently, efficiently, and economically.

(b) California grocery, beer, soft drink, container manufacturing, labor, agricultural, consumer, environmental, government, citizen, recreational, taxpayer, and recycling groups have joined together in calling for an innovative program to generate large-scale redemption and recycling of beverage containers.

(c) This division establishes a beverage container recycling goal of 80 percent.

(d) It is the intent of the Legislature to ensure that every container type proves its own recyclability.

(e) It is the intent of the Legislature to make redemption and recycling convenient to consumers, and the Legislature hereby urges cities and counties, when exercising their zoning authority, to act favorably on the siting of multimaterial recycling centers, reverse vending machines, mobile recycling units, or other types of recycling opportunities, as necessary for consumer convenience, and the overall success of litter abatement and beverage container recycling in the state.

(f) The purpose of this division is to create and maintain a marketplace where it is profitable to establish sufficient recycling centers and locations to provide consumers with convenient recycling opportunities through the establishment of minimum refund values and processing fees and, through the proper application of these elements, to enhance the profitability of recycling centers, recycling locations, and other beverage container recycling programs.

(g) The responsibility to provide convenient, efficient, and economical redemption opportunities rests jointly with manufacturers, distributors, dealers, recyclers, processors, and the Department of Conservation.

(h) It is the intent of the Legislature, in enacting this division, that all empty beverage containers redeemed shall be recycled, and that the responsibilities and regulations of the department shall be determined and implemented in a manner that favors the recycling of redeemed containers, as opposed to their disposal.

(i) Nothing in this division shall be interpreted as affecting the current business practices of scrap dealers or recycling centers, except that, to the extent they function as a recycling center or processor, they shall do so in accordance with this division.

(j) The program established by this division will contribute significantly to the reduction of the beverage container component of litter in this state.

SEC. 2. Section 14511.7 of the Public Resources Code is amended to read:

14511.7. "Dropoff or collection program" means any person, association, nonprofit corporation, church, club, or other organization certified by the department, and that accepts or collects empty beverage containers from consumers with the intention to recycle them, or any waste reduction facility that separates beverage containers from the waste stream with the intent to recycle them. "Dropoff or collection program" does not include a certified recycling center or curbside program.

SEC. 3. Section 14514.5 of the Public Resources Code is repealed.

SEC. 4. Section 14520.5 of the Public Resources Code is amended to read:

14520.5. "Recycling location" means a place, mobile unit, reverse vending machine, or other device where a certified recycling center accepts one or more types of empty beverage containers from consumers, and pays or provides the refund value for one or more types of empty beverage containers.

SEC. 5. Section 14524 of the Public Resources Code is amended to read:

14524. "Refund value" means the amount established for each type of beverage container pursuant to Section 14560 that is paid by the following:

(a) A certified recycling center to the consumer or dropoff or collection center for each beverage container redeemed by the consumer or dropoff or collection center. With respect to consumers returning containers to recycling centers, the refund value shall not be subject to tax under the Personal Income Tax Law (Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code) or the Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code).

(b) A processor to a certified recycling center, dropoff or collection program, or curbside program, for each beverage container received from the certified recycling center, dropoff or collection program, or curbside program.

(c) The department to a processor, for each beverage container received by the processor from a certified recycling center, curbside program, or dropoff or collection program.

SEC. 6. Section 14539 of the Public Resources Code is amended to read:

14539. (a) The department shall certify processors pursuant to this section. The director shall adopt, by regulation, requirements and standards for certification. The regulations shall require, but shall not

be limited to requiring, that all of the following conditions be met for certification:

(1) The processor demonstrates to the satisfaction of the department that the processor will operate in accordance with this division.

(2) If one or more certified entities have operated at the same location within the past five years, the operations at the location of the processor exhibit, to the satisfaction of the department, a pattern of operation in compliance with the requirements of this division and regulations adopted pursuant to this division.

(3) The processor notifies the department promptly of any material change in the nature of the processor's operations that conflicts with the information submitted in the operator's application for certification.

(b) A certified processor shall comply with all of the following requirements for operation:

(1) The processor shall not pay a refund value for, or receive a refund value from the department for, any food or drink packaging material or any beverage container or other product that does not have a refund value established pursuant to Section 14560.

(2) The processor shall take those actions that satisfy the department to prevent the payment of a refund value for any food or drink packaging material or any beverage container or other product that does not have a refund value established pursuant to Section 14560.

(3) Unless exempted pursuant to subdivision (b) of Section 14572, the processor shall accept, and pay at least the refund value for, all empty beverage containers, regardless of type, for which the processor is certified.

(4) A processor shall not pay any refund values, processing payments, or administrative fees to a noncertified recycler. A processor may pay refund values, processing payments, or administrative fees to any entity that is identified by the department on its list of certified recycling centers.

(5) A processor shall not pay any refund values, processing payments, or administrative fees on empty beverage containers or other containers that the processor knew, or should have known, were coming into the state from out of the state.

(6) A processor shall not claim refund values, processing payments, or administrative fees on empty beverage containers that the processor knew, or should have known, were received from noncertified recyclers or on beverage containers that the processor knew, or should have known, come from out of the state. A processor may claim refund values, processing payments, or administrative fees on any empty beverage container that does not come from out of the state and that is received

from any entity that is identified by the department on its list of certified recycling centers.

(7) A processor shall take the actions necessary and approved by the department to cancel containers to render them unfit for redemption.

(8) A processor shall prepare or maintain the following documents involving empty beverage containers, as specified by the department by regulation:

(A) Shipping reports that are required to be prepared by the processor or that are required to be obtained from recycling centers.

(B) Processor invoice reports.

(C) Cancellation verification documents.

(D) Documents authorizing recycling centers to cancel empty beverage containers.

(E) Processor-to-processor transaction receipts.

(F) Rejected container receipts on materials subject to this division.

(G) Receipts for transactions with beverage manufacturers on materials subject to this division.

(H) Receipts for transactions with distributors on materials subject to this division.

(I) Weight tickets.

(9) In addition to the requirements of paragraph (7), a processor shall cooperate with the department and make available its records of scrap transactions when the review of these records is necessary for an audit or investigation by the department.

(c) The department may recover, in restitution pursuant to paragraph (5) of subdivision (c) of Section 14591.2, any payments made by the department to the processor pursuant to Section 14573 that are based on the documents specified in paragraph (8) of subdivision (b) of this section, that are not prepared or maintained in compliance with the department's regulations, and that do not allow the department to verify claims for program payments.

SEC. 7. Section 14549.6 of the Public Resources Code is amended to read:

14549.6. (a) The department, consistent with Section 14581 and subject to the availability of funds, shall annually pay a total of fifteen million dollars ($15,000,000) per fiscal year to operators of curbside programs and neighborhood dropoff programs that accept all types of empty beverage containers for recycling. The payments shall be for each container collected by the curbside or neighborhood dropoff programs and properly reported to the department by processors, based upon all of the following:

(1) The payment amount shall be calculated based upon the volume of beverage containers collected by curbside and neighborhood dropoff

programs during the 12-month calendar year ending on December 31 of the fiscal year for which payments are to be made.

(2) The per-container rate shall be calculated by dividing the total volume of beverage containers collected, as determined pursuant to paragraph (1), into the sum of fifteen million dollars ($15,000,000).

(3) The amount to be paid to each operator of a curbside program or neighborhood dropoff program shall be based upon the per-container rate, calculated pursuant to paragraph (2), multiplied by the program's total reported beverage container volume calculated pursuant to paragraph (1).

(b) The amounts paid pursuant to this section shall be expended by operators of curbside and neighborhood dropoff programs only for activities related to beverage container recycling.

(c) The department shall disburse payments pursuant to this section not later than the end of the fiscal year following the calendar year for which the payments are calculated pursuant to paragraph (1) of subdivision (a), subject to the availability of funds.

(d) The operator of a curbside program or neighborhood dropoff program shall make available for inspection and review any relevant record that the department determines is necessary to verify compliance with this section.

SEC. 8. Section 14549.7 of the Public Resources Code is amended to read:

14549.7. (a) Commencing on January 1, 2007, and consistent with Section 14581, and to the extent that existing funds are available for this purpose, the department shall establish a recycling incentive payment for eligible recycling centers and dropoff or collection programs for empty beverage containers accepted or collected directly from consumers.

(b) To be eligible for recycling incentive payments, a recycling center, or dropoff or collection program shall meet both of the following requirements:

(1) (A) The recycling center or dropoff or collection program is certified, and "open for business," as specified in Section 14571, during the entire two-year period prior to the six-month period for which payments are made, during the entire six-month period for which payments are made, and at the time the payment is made. A six-month period shall commence either on January 1 or July 1.

(B) Notwithstanding subparagraph (A), a recycling center or dropoff or collection program that was operational prior to July 1, 2005, may receive a recycling incentive payment for eligible beverage containers collected on or after January 1, 2007.

(2) The number of beverage containers accepted or collected directly from consumers for recycling by the recycling center or dropoff or

collection program during the six-month period for which payments are made exceeds by 6.5 percent, or more, for calendar year 2007, and by 5 percent, or more, for calendar years 2008 and 2009, the number of beverage containers accepted or collected directly from consumers for recycling by that entity during the same six-month period of the prior year.

(c) (1) Eligible beverage containers are those beverage containers that are accepted or collected directly from consumers for recycling by an eligible recycling center or dropoff or collection program during the six-month period for which payments are made that exceed the number of beverage containers accepted or collected directly from consumers by that entity in the same six-month period of the prior year. Eligible beverage containers determined pursuant to this paragraph shall be the "eligible volume" used to make payments pursuant to paragraph (3) of subdivision (d).

(2) Empty beverage containers purchased or collected by a recycling center or a dropoff or collection program from another certified or registered entity are not eligible for recycling incentive payments.

(d) The department shall make recycling incentive payments for each eligible beverage container accepted or collected directly from consumers by an eligible recycling center and dropoff or collection program and properly reported to the department by a processor, based upon all of the following:

(1) The payment amount shall be calculated based upon the number of eligible beverage containers, as specified in subdivision (c), collected by the eligible recycling centers and dropoff or collection program, as specified in subdivision (b), during the six-month period for which the payments are to be made.

(2) The per-container rate shall be up to one cent ($0.01) for each eligible beverage container, pursuant to subdivision (c).

(3) The amount to be paid to each recycling center and dropoff or collection program shall be based upon the per-container rate, multiplied by each eligible program's total number of eligible beverage containers calculated pursuant to paragraph (1).

(e) The department shall disburse payments pursuant to this section within 6 months of the end of the six-month period for which the payments are calculated pursuant to paragraph (1) of subdivision (d), subject to the availability of funds.

(f) Only one payment shall be made for each eligible empty beverage container collected by an eligible recycling center or dropoff or collection program.

(g) The operator of an eligible recycling center and dropoff or collection program shall make available for inspection and review any

relevant record that the department determines is necessary to verify compliance with this section.

(h) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2010, deletes or extends that date.

SEC. 9. Section 14552 of the Public Resources Code is amended to read:

14552. (a) The department shall establish and implement an auditing system to ensure that the information collected, and refund values and redemption payments paid pursuant to this division, comply with the purposes of this division. Notwithstanding Sections 14573 and 14573.5, the auditing system adopted by the department may include prepayment or postpayment controls.

(b) (1) On or after January 1 of each year, the department may audit or investigate any action taken up to three years before the onset of the audit or investigation and may determine if there was compliance with this division and the regulations adopted pursuant to this division, during that period.

(2) Notwithstanding any other provision of law establishing a shorter statute of limitation, the department may take an enforcement action, including, but not limited to, an action for restitution or to impose penalties, at any time within two years after the department discovers, or with reasonable diligence, should have discovered, a violation of this division or the regulations adopted pursuant to this division.

(c) During the conduct of any inspection, including, but not limited to, an inspection conducted as part of an audit or investigation, the entity that is the subject of the inspection shall, during its normal business hours, provide the department with immediate access to its facilities, operations, and any relevant record, that, in the department's judgment, the department determines are necessary to carry out this section to verify compliance with this division and the regulations adopted pursuant to this division.

(1) The department may take disciplinary action pursuant to Section 14591.2 against any person who fails to provide the department with access pursuant to this subdivision including, but not limited to, imposing penalties and the immediate suspension or termination of any certificate or registration held by the operator.

(2) The department shall protect any information obtained pursuant to this section in accordance with Section 14554, except that this section does not prohibit the department from releasing any information that the department determines to be necessary in the course of an enforcement action.

(d) The auditing system adopted by the department shall allow for reasonable shrinkage in material due to moisture, dirt, and foreign material. The department, after an audit by a qualified auditing firm and a hearing, shall adopt a standard to be used to account for shrinkage and shall incorporate this standard in the audit process.

(e) If the department prevails against any entity in any civil or administrative action brought pursuant to this division, and money is owed to the department as a result of the action, the department may offset the amount against amounts claimed by the entity to be due to it from the department. The department may take this offset by withholding payments from the entity or by authorizing all processors to withhold payment to a certified recycling center.

(f) If the department determines, pursuant to an audit or investigation, that a distributor or beverage manufacturer has overpaid the redemption payment or processing fee, the department may do either of the following:

(1) Offset the overpayment against future payments.

(2) Refund the payment pursuant to Article 3 (commencing with Section 13140) of Chapter 2 of Part 3 of Division 3 of Title 2 of the Government Code.

SEC. 10. Section 14555 of the Public Resources Code is repealed.

SEC. 11. Section 14560.5 of the Public Resources Code is amended to read:

14560.5. (a) (1) Except as provided in paragraph (2), the invoice or other form of accounting of the transaction submitted by a beverage distributor of beverages to a dealer shall separately identify the amount of any redemption payment imposed on beverage containers pursuant to Section 14560 and the separate identification of the invoice or other form of accounting of the transaction shall not combine or include the gross wholesale price with the redemption payment but shall separately state the gross amount of the redemption payment for each type of container included in each delivery.

(2) The invoice or other form of accounting of the transaction submitted by any distributor of beer and malt beverages or wine or distilled spirit coolers to a dealer may separately identify the portion of the gross wholesale price attributable to any redemption payment imposed on beverage containers pursuant to Section 14560 and the separate identification of the invoice or other form of accounting of the transaction may separately state the gross amount of the redemption payment for each type of container included in each delivery. The invoice or other form of accounting of this transaction may separately identify the portion of the gross wholesale price attributable to the redemption payment.

(3) Notwithstanding Section 14541, the department shall randomly inspect beverage distributor invoices or other forms of accounting to

ensure compliance with this subdivision. However, an unintentional error in addition or subtraction on an invoice or other form of accounting by a route driver of a distributor shall not be deemed a violation of this subdivision.

(4) For the purposes of this subdivision, the term "type of container" includes the amount of the redemption payment on containers under 24 ounces and on containers 24 ounces or more.

(b) To the extent technically and economically feasible, a dealer may separately identify the amount of any redemption payment on the customer cash register receipt provided to the consumer, by the dealer, that is applied to the purchase of a beverage container.

(c) (1) A dealer shall separately identify the amount of any redemption payment imposed on a beverage container in all advertising of beverage products and on the shelf labels of the dealer's establishment. The separate identification shall be accomplished by stating one of the following:

(A) The price of the beverage product plus a descriptive term, as described in paragraph (2).

(B) The price of the beverage product plus the amount of the applicable redemption payment and a descriptive term, as described in paragraph (2).

(C) The price of the beverage product plus the amount of the applicable redemption payment, a descriptive term, as described in paragraph (2), and the total of these two amounts.

(2) For purposes of paragraph (1), the redemption payment shall be identified by one of the following descriptive terms: "California Redemption Value," "CA Redemption Value," "CRV," "California Cash Refund," "CA Cash Refund," or any other message specified in Section 14561.

(3) A dealer shall not include the redemption payment in the total price of a beverage container in any advertising or on the shelf of the dealer's establishment.

(4) This subdivision applies only to a dealer at a dealer location with a sales and storage area totaling more than 4,000 square feet.

(5) The penalties specified in Sections 14591 and 14591.1 shall not be applied to a person who violates this subdivision.

(d) With regard to the sale of beer and other malt beverages or wine and distilled spirits cooler beverages, any amount of redemption payment imposed by this division is subject to Section 25509 of the Business and Professions Code.

SEC. 12. Section 14561 of the Public Resources Code is amended to read:

14561. (a) A beverage manufacturer shall clearly indicate on all beverage containers sold or offered for sale by that beverage manufacturer in this state the message "CA Redemption Value," "California Redemption Value," "CA Cash Refund," "California Cash Refund," or "CA CRV," by either printing or embossing the beverage container or by securely affixing a clear and prominent stamp, label, or other device to the beverage container.

(b) Any refillable beverage container sold or offered for sale is exempt from this section. However, any beverage manufacturer or container manufacturer may place upon, or affix to, a refillable beverage container, any message that the manufacturer determines to be appropriate relating to the refund value of the beverage container.

(c) A person shall not offer to sell, or sell to a consumer a beverage container subject to subdivision (a) that has not been labeled pursuant to this section, except for a refillable beverage container that is exempt from labeling pursuant to subdivision (b).

(d) The department may require that a beverage container intended for sale in this state be printed, embossed, stamped, labeled, or otherwise marked with a universal product code or similar machine-readable indicia.

(e) A beverage container labeled with the message specified in subdivision (a) shall have the minimum redemption payment established pursuant to Section 14560, which shall be paid by the distributor to the department pursuant to Section 14574.

SEC. 13. Section 14571 of the Public Resources Code is amended to read:

14571. (a) Except as otherwise provided in this chapter, there shall be at least one certified recycling center or location within every convenience zone that accepts and pays the refund value, if any, at one location for all types of empty beverage containers and is open for business during at least 30 hours per week with a minimum of five hours of operation occurring during periods other than from Monday to Friday, from 9 a.m. to 5 p.m.

(b) (1) Notwithstanding subdivision (a), the department may require a certified recycling center to operate 15 of its 30 hours of operation other than during 9 a.m. to 5 p.m.

(2) Notwithstanding subdivision (a) and paragraph (1), the department may certify a recycling center that will operate less than 30 hours per week, if all of the following conditions are met:

(A) The recycling center is in a rural region. For purposes of this subparagraph, "rural region" means a nonurban area identified by the department on an annual basis using the loan eligibility criteria of the Rural Housing Service of the United States Department of Agriculture, Rural Development Administration, or its successor agency. Those

criteria include, but are not limited to, places, open country, cities, towns, or census designated places with populations that are less than 10,000 persons. The department may designate an area with a population of between 10,000 and 50,000 persons as a rural region, unless the area is identified as part of, or associated with, an urban area, as determined by the department on an individual basis.

(B) The recycling center agrees to post a sign indicating the location of the nearest recycling center that is open at least 30 hours per week and that will accept all material types.

(C) The needs of the community and the goals of this division will be best served by certification of the operation as a recycling center.

(c) Before establishing operating hours for a certified recycling center pursuant to subdivision (b), the department shall make a determination that this action is necessary to further the goals of this division and that the proposed operating hours will not significantly decrease the ability of consumers to conveniently return beverage containers for the refund value to a certified recycling center redeeming all material types.

(d) For purposes of this section, if the recycling center is staffed and is not a reverse vending machine, a center is "open for business" if all of the following requirements are met:

(1) An employee of the certified recycling center or location is present during the hours of operation and available to the public to accept containers and to pay the refund values.

(2) In addition to the sign specified in subdivision (h), a sign having a minimum size of two feet by two feet is posted at the certified recycling center or location indicating that the center or location is open. Where allowed by local zoning requirements or where zoning restrictions apply, the sign shall be of the maximum allowable size.

(3) The prices paid, by weight or per container, are posted at the location.

(e) Except as provided in subdivision (f), for the purpose of this section, if the recycling center consists of reverse vending machines or other unmanned automated equipment, the center is "open for business" if the equipment is properly functioning, accepting all types of empty beverage containers at the recycling location, and paying posted refund values no less than the minimums required by this division.

(f) If a recycling center consists of reverse vending machines or other automated equipment, the recycling center is "open for business" if the equipment is properly functioning, and accepting all types of empty beverage containers at one physical recycling location within the recycling location.

(g) Whenever a recycling center that is a reverse vending machine is not "open for business" during the 30 hours of operation required and

posted pursuant to this section and Section 14570, the dealer that is hosting the reverse vending machine at its place of business shall redeem all empty beverage container types at all open cash registers or one designated location in the store, as specified on the sign required pursuant to subdivision (h).

(h) In addition to the sign specified in paragraph (2) of subdivision (d), each reverse vending machine shall be posted with a clear and conspicuous sign on or near the reverse vending machine which states that beverage containers may be redeemed by the host dealer if the machine is nonoperational at any time during the required 30 hours of operation, pursuant to subdivision (g). The department shall determine the size and location of the sign and the message required to be printed on the sign.

SEC. 14. Section 14571.1 of the Public Resources Code is amended to read:

14571.1. On or before January 1 of each year, the department shall, on a statewide basis, designate all convenience zones as of that date, including convenience zones in underserved areas, and shall prepare a map or maps showing these convenience zones.

SEC. 15. Section 14571.7 of the Public Resources Code is amended to read:

14571.7. (a) Except as provided in subdivision (b), in any convenience zone where a recycling location or locations were initially established, but where the location or locations cease to operate in accordance with Section 14571, the department shall notify all dealers within that convenience zone that a recycling location is required to be established within 60 days. If, within 30 days of the notification, a recycling location that satisfies the requirements of Section 14571 has not been established, the department shall notify all dealers within that zone, and one or more dealers within that zone shall establish, or cause to be established, a recycling location.

(b) In any convenience zone where a recycling location or locations were initially established, but where the location or locations cease to operate in accordance with Section 14571, the department shall determine, pursuant to Section 14571.8, if the convenience zone is eligible for an exemption. If the convenience zone meets all of the requirements for an exemption pursuant to Section 14571.8, the department shall grant one exemption. If the department determines that a convenience zone is not eligible for an exemption pursuant to subdivision (a) and Section 14571.8, the department shall notify all dealers within that convenience zone that a recycling location is required to be established within 60 days. If, within 30 days of the notification, a recycling location that satisfies the requirements of Section 14571 has

not been established, the department shall notify all dealers within that zone, and one or more dealers within that zone shall establish, or cause to be established, a recycling location.

SEC. 16. Section 14575 of the Public Resources Code is amended to read:

14575. (a) If any type of empty beverage container with a refund value established pursuant to Section 14560 has a scrap value less than the cost of recycling, the department shall, on January 1, 2000, and on or before January 1 annually thereafter, establish a processing fee and a processing payment for the container by the type of the material of the container.

(b) The processing payment shall be at least equal to the difference between the scrap value offered to a statistically significant sample of recyclers by willing purchasers, and except for the initial calculation made pursuant to subdivision (d), the sum of both of the following:

(1) The actual cost for certified recycling centers, excluding centers receiving a handling fee, of receiving, handling, storing, transporting, and maintaining equipment for each container sold for recycling or, only if the container is not recyclable, the actual cost of disposal, calculated pursuant to subdivision (c). The department shall determine the statewide weighted average cost to recycle each beverage container type, which shall serve as the actual recycling costs for purposes of paragraphs (2) and (3) of subdivision (c), by conducting a survey of the costs of a statistically significant sample of certified recycling centers, excluding those recycling centers receiving a handling fee, for receiving, handling, storing, transporting, and maintaining equipment.

(2) A reasonable financial return for recycling centers.

(c) The department shall base the processing payment pursuant to this section upon all of the following:

(1) The department shall use the average scrap values paid to recyclers between October 1, 2001, and September 30, 2002, for the 2003 calculation and the same 12-month period directly preceding the year in which the processing fee is calculated for any subsequent calculation.

(2) To calculate the 2003 processing payments, the department shall use the recycling costs for certified recycling centers used to calculate the January 1, 2002, processing payments.

(3) For calculating processing payments that will be in effect on and after January 1, 2004, the department shall determine the actual costs for certified recycling centers, every second year, pursuant to paragraph (1) of subdivision (b). The department shall adjust the recycling costs annually to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.

(d) Notwithstanding paragraph (1) of subdivision (b) and subdivision (c), for the purpose of setting the cost for recycling non polyethylene terephthalate (non-PET) plastic containers by certified recycling centers to determine the processing payment for those containers, the department shall use a recycling cost of six hundred forty-two dollars and sixty-nine cents ($642.69) per ton for the January 1, 2002, calculation of the processing payment.

(e) Except as specified in subdivision (f), the actual processing fee paid by a beverage manufacturer shall equal 65 percent of the processing payment calculated pursuant to subdivision (b).

(f) The department, consistent with Section 14581 and subject to the availability of funds, shall reduce the processing fee paid by beverage manufacturers by expending funds in each material processing fee account, in the following manner:

(1) On January 1, 2005, and annually thereafter, the processing fee shall equal the following amounts:

(A) Ten percent of the processing payment for a container type with a recycling rate equal to or greater than 75 percent.

(B) Eleven percent of the processing payment for a container type with a recycling rate equal to or greater than 65 percent, but less than 75 percent.

(C) Twelve percent of the processing payment for a container type with a recycling rate equal to or greater than 60 percent, but less than 65 percent.

(D) Thirteen percent of the processing payment for a container type with a recycling rate equal to or greater than 55 percent, but less than 60 percent.

(E) Fourteen percent of the processing payment for a container type with a recycling rate equal to or greater than 50 percent, but less than 55 percent.

(F) Fifteen percent of the processing payment for a container type with a recycling rate equal to or greater than 45 percent, but less than 50 percent.

(G) Eighteen percent of the processing payment for a container type with a recycling rate equal to or greater than 40 percent, but less than 45 percent.

(H) Twenty percent of the processing payment for a container type with a recycling rate equal to or greater than 30 percent, but less than 40 percent.

(I) Sixty-five percent of the processing payment for a container type with a recycling rate less than 30 percent.

(2) Notwithstanding this section, for calendar year 2007 only, the department shall reduce to zero the processing fee paid for any container type with a recycling rate equal to, or greater than 40 percent.

(3) The department shall calculate the recycling rate for purposes of paragraphs (1) and (2) based on the 12-month period ending on June 30 that directly precedes the date of the January 1 processing fee determination.

(g) Not more than once every three months, the department may make an adjustment in the amount of the processing payment established pursuant to this section notwithstanding any change in the amount of the processing fee established pursuant to this section, for any beverage container, if the department makes the following determinations:

(1) The statewide scrap value paid by processors for the material type for the most recent available 12-month period directly preceding the quarter in which the processing payment is to be adjusted is 5 percent more or 5 percent less than the average scrap value used as the basis for the processing payment currently in effect.

(2) Funds are available in the processing fee account for the material type.

(3) Adjusting the processing payment is necessary to further the objectives of this division.

(h) (1) Except as provided in paragraphs (2) and (3), a beverage manufacturer shall pay to the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale in the form and in the manner that the department may prescribe.

(2) (A) Notwithstanding Section 14506, with respect to the payment of processing fees for beer and other malt beverages manufactured outside the state, the beverage manufacturer shall be deemed to be the person or entity named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code. If the department is unable to collect the processing fee from the person or entity named on the certificate of compliance, the department shall give written notice by certified mail, return receipt requested, to that person or entity. The notice shall state that the processing fee shall be remitted in full within 30 days of issuance of the notice or the person or entity shall not be permitted to offer that beverage brand for sale within the state. If the person or entity fails to remit the processing fee within 30 days of issuance of the notice, the department shall notify the Department of Alcoholic Beverage Control that the certificate holder has failed to comply, and the Department of Alcoholic Beverage Control shall prohibit the offering for sale of that beverage brand within the state.

(B) The department shall enter into a contract with the Department of Alcoholic Beverage Control, pursuant to Section 14536.5, concerning the implementation of this paragraph, which shall include a provision reimbursing the Department of Alcoholic Beverage Control for its costs incurred in implementing this paragraph.

(3) (A) Notwithstanding paragraph (1), if a beverage manufacturer displays a pattern of operation in compliance with this division and the regulations adopted pursuant to this division, to the satisfaction of the department, the beverage manufacturer may make a single annual payment of processing fees, if the beverage manufacturer meets either of the following conditions:

(i) If the redemption payment and refund value is not increased pursuant to paragraph (3) of subdivision (a) of Section 14560, the beverage manufacturer's projected processing fees for a calendar year total less than ten thousand dollars ($10,000).

(ii) If the redemption payment and refund value is increased pursuant to paragraph (3) of subdivision (a) of Section 14560, the beverage manufacturer's projected processing fees for a calendar year total less than fifteen thousand dollars ($15,000).

(B) An annual processing fee payment made pursuant to this paragraph is due and payable on or before February 1 for every beverage container sold or transferred by the beverage manufacturer to a distributor or dealer in the previous calendar year.

(C) A beverage manufacturer shall notify the department of its intent to make an annual processing fee payment pursuant to this paragraph on or before January 31 of the calendar year for which the payment will be due.

(4) The department shall pay the processing payments on redeemed containers to processors, in the same manner as it pays refund values pursuant to Sections 14573 and 14573.5. The processor shall pay the recycling center the entire processing payment representing the actual costs and financial return incurred by the recycling center, as specified in subdivision (b).

(i) When assessing processing fees pursuant to subdivision (a), the department shall assess the processing fee on each container sold, as provided in subdivisions (e) and (f), by the type of material of the container, assuming that every container sold will be redeemed for recycling, whether or not the container is actually recycled.

(j) The container manufacturer, or a designated agent, shall pay to, or credit, the account of the beverage manufacturer in an amount equal to the processing fee.

(k) If, at the end of any calendar year for which glass recycling rates equal or exceed 45 percent and sufficient surplus funds remain in the

glass processing fee account to make the reduction pursuant to this subdivision or if, at the end of any calendar year for which PET recycling rates equal or exceed 45 percent and sufficient surplus funds remain in the PET processing fee account to make the reduction pursuant to this subdivision, the department shall use these surplus funds in the respective processing fee accounts in the following calendar year to reduce the amount of the processing fee that would otherwise be due from glass or PET beverage manufacturers pursuant to this subdivision.

(1) The department shall reduce the glass or PET processing fee amount pursuant to this subdivision in addition to any reduction for which the glass or PET beverage container qualifies under subdivision (f).

(2) The department shall determine the processing fee reduction by dividing two million dollars ($2,000,000) from each processing fee account by an estimate of the number of containers sold or transferred to a distributor during the previous calendar year, based upon the latest available data.

SEC. 17. Section 14575.2 of the Public Resources Code is repealed.

SEC. 18. Section 14575.5 of the Public Resources Code is repealed.

SEC. 19. Section 14580 of the Public Resources Code is amended to read:

14580. (a) Except as provided in subdivision (d), the department shall deposit all amounts paid as redemption payments by distributors pursuant to Section 14574 and all other revenues received into the California Beverage Container Recycling Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is hereby continuously appropriated to the department for expenditure without regard to fiscal year for the following purposes:

(1) The payment of refund values and administrative fees to processors pursuant to Section 14573.

(2) For a reserve for contingencies, which shall not be greater than an amount equal to 5 percent of the total amount paid to processors pursuant to Section 14573 during the preceding calendar year, plus the interest earned on that amount.

(b) The money in the fund may be expended by the department for the administration of this division only upon appropriation by the Legislature in the annual Budget Act.

(c) After setting aside funds estimated to be needed for expenditures authorized pursuant to this section, the department shall set aside funds on a quarterly basis for the purposes specified in Section 14581. Notwithstanding Section 13340 of the Government Code, that money

is hereby continuously appropriated to the department, without regard to fiscal year, for the purposes specified in Section 14581.

(d) The department shall deposit all civil penalties or fines collected pursuant to this division into the Penalty Account, which is hereby created in the fund. The money in the Penalty Account may be expended by the department only upon appropriation by the Legislature, for purposes of this division.

SEC. 20. Section 14580.5 of the Public Resources Code is repealed.

SEC. 21. 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) 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) Multifamily 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) Grants provided pursuant to this paragraph shall not comprise more than 75 percent of the annual budget of a community conservation corps.

(D) Grants provided pursuant to this paragraph shall support one-time capital improvement projects and shall not be used to support ongoing staff activities.

(E) 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 established pursuant to Section 14575. 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. All of the following shall be deposited into each account:

(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.

(B) Notwithstanding Section 13340 of the Government Code, the moneys in each processing fee account are hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments, and reducing processing fees, pursuant to Section 14575.

(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) 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.

(17) (A) Up to fifteen million dollars ($15,000,000) may be expended from January 1, 2008, to January 1, 2009, to provide grants to place source separated beverage container recycling receptacles in multifamily housing.

(B) Notwithstanding subdivision (b) of Section 14580, the amount of one hundred ninety-eight thousand dollars ($198,000) may be expended by the department from the fund, on a one-time basis, for the administrative costs of implementing the grant program established by subparagraph (A).

(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. 22. Section 14588.1 of the Public Resources Code is amended to read:

14588.1. (a) As used in this chapter, "unfair and predatory pricing" means the payment to consumers by a supermarket site, that receives handling fees for the redemption of beverage containers, in an amount that exceeds the sum of both of the following:

(1) The California refund value for that container.

(2) (A) If the supermarket site is not located in a rural region, the average scrap value paid per pound for that container type by specified certified recycling centers located within a five-mile radius of the supermarket site on the date of the alleged occurrence, the day before the alleged occurrence, and the day after the alleged occurrence.

(B) If the supermarket site is located in a rural region, the average scrap value paid per pound for that container type by specified certified recycling centers located within a 10-mile radius of the supermarket site on the date of the alleged occurrence, the day before the alleged occurrence, and the day after the alleged occurrence.

(b) In calculating the three-day average price paid by recyclers within the specified distance of a recycler alleged to have engaged in predatory pricing, as required by subdivision (a), the department shall only survey those recyclers who did not receive handling fees in three or more of the 12 whole months immediately preceding the date of the allegation of predatory pricing.

(c) For purposes of this chapter, "rural region" means a nonurban area identified by the department on an annual basis using the loan eligibility criteria of the Rural Housing Service of the United States Department of Agriculture, Rural Development Administration, or its successor agency. Those criteria include, but are not limited to, places, open country, cities, towns, or census designated places with populations that are less than 10,000 persons. The department may designate an area with population of between 10,000 and 50,000 persons as a rural region, unless the area is identified as part of, or associated with, an urban area, as determined by the department on an individual basis.

SEC. 23. Section 14588.2 of the Public Resources Code is amended to read:

14588.2. (a) To ensure that handling fees paid to a supermarket site are not used for the purpose of engaging in unfair and predatory pricing, and to otherwise further the intent of this chapter, the department shall follow all of the requirements of this section upon the complaint of either of the following:

(1) Any certified recycler located within five miles of the supermarket site alleged to have engaged in unfair and predatory pricing if not located in a rural region.

(2) Any certified recycler located within 10 miles of the supermarket site alleged to have engaged in unfair and predatory pricing if located in a rural region.

(b) (1) Within 50 days of receiving the complaint, the department shall complete an audit of the payments for the redemption of beverage containers being paid by the supermarket site, and by all other certified recycling centers as specified in Section 14588.1, for the purpose of determining whether the supermarket site is engaged in unfair and predatory pricing.

(2) The department shall withhold from public disclosure any proprietary information collected by the department in the course of the audit mandated by paragraph (1). The department shall exercise its discretion in determining what information is proprietary.

(c) (1) If the director determines there is probable cause that a supermarket site, against which a complaint has been made, has engaged in unfair and predatory pricing, the director shall, within 60 days of receiving the complaint, convene an informal hearing before the director, or the director's designee.

(2) At least 10 days before the hearing, the director shall forward the results of the audit to the complainant and respondent.

(3) At the hearing, the director, or the director's designee, shall review the audit conducted pursuant to subdivision (b) and any evidence presented by the complainant that a supermarket site has engaged in

unfair and predatory pricing. The director, or the director's designee, shall also review any evidence presented by the respondent that the respondent has not engaged in unfair and predatory pricing.

(4) The respondent shall be given the opportunity to rebut the presumption of unfair and predatory pricing imposed by Section 14588.1 by demonstrating to the satisfaction of the director, or the director's designee, that the respondent did both of the following:

(A) The respondent made a good faith effort to determine the average scrap value paid per pound for that container type by certified recycling centers located within a five-mile or 10-mile radius of the supermarket site, pursuant to subdivision (a) of Section 14588.1, within 30 days before the date of the alleged violation.

(B) The three-day average scrap value the respondent paid per pound for that container type was within 2.5 percent of the three-day average scrap value paid per pound determined by the department pursuant to subdivision (a).

(5) The director, or the director's designee, may dismiss a complaint made pursuant to subdivision (a) upon determining either of the following:

(A) The complaint is without basis.

(B) The complaint is repetitious of prior similar complaints against the same supermarket site for which the director or the director's designee has determined that no unfair and predatory pricing occurred.

(d) Within 20 days of the completion of the hearing, the director, or the director's designee, shall determine whether the supermarket site has engaged in unfair and predatory pricing. This determination shall be based upon the audit conducted pursuant to subdivision (b), and upon any clear and convincing evidence of unfair and predatory pricing presented at the hearing.

(e) During the time period from the date of the receipt of a complaint pursuant to subdivision (a), until the date the director makes a determination pursuant to subdivision (d), the supermarket site against which the allegation of unfair and predatory pricing is made shall not receive handling fees that were earned during the period commencing with the date of the alleged unfair and predatory pricing. However, nothing in this subdivision shall affect the payment of handling fees to a supermarket site that is found not to have engaged in unfair and predatory pricing pursuant to this section, or to the activities of a supermarket site prior to the date of the alleged unfair and predatory pricing.

(f) If, after complying with the procedure established pursuant to this section, the director, or the director's designee, determines that a

supermarket site has engaged in unfair and predatory pricing, the site is ineligible to receive handling fees as specified by this section.

(1) If the determination of unfair and predatory pricing is the first for the site, the site is ineligible to receive handling fees for six months from the date that the respondent is found to have engaged in unfair and predatory pricing.

(2) If the determination of unfair and predatory pricing is the second for the site, the site is ineligible to receive handling fees for one year from the date that the respondent is found to have engaged in unfair and predatory pricing.

(3) If the determination of unfair and predatory pricing is the third or more for the site, the site is ineligible to receive handling fees for five years after the date that the respondent is found to have engaged in unfair and predatory pricing.

(g) The complainant or respondent may obtain a review of the determination made pursuant to this section by filing in the superior court a petition for a writ of mandate within 30 days following the issuance of the determination. Section 1094.5 of the Code of Civil Procedure shall govern judicial proceedings pursuant to this subdivision, except that the court shall exercise its independent judgment. If a petition for a writ of mandate is not filed within the time limits set forth in this subdivision, the determination made pursuant to this subdivision is not subject to review by any court or agency.

(h) If either party appeals the determination of the director, or the director's designee, pursuant to subdivision (g), and the department prevails, the department may recover any costs associated with its defense of the complaint.

SEC. 24. Section 14593 of the Public Resources Code is amended to read:

14593. Notwithstanding subdivisions (b) and (c) of Section 14591.1, the department may assess a civil penalty of up to 15 percent of the amount due for payment, and interest at the rate earned by the Pooled Money Investment Account, on distributors and beverage manufacturers for underpayment or late payment of the redemption payments for containers to the fund. The department may examine the accounts and records of distributors and beverage manufacturers that pay or should pay a redemption payment. No penalty shall be assessed until 30 days after the department has notified the distributor or manufacturer of the penalty assessment, and the amount due for payment and interest has not been paid.

SEC. 25. Section 14594 of the Public Resources Code is amended to read:

14594. (a) Notwithstanding subdivisions (b) and (c) of Section 14591.1, the department may assess a civil penalty of up to 15 percent of the amount due for payment, and interest at the rate earned by the Pooled Money Investment Account, on a beverage manufacturer that fails to pay a processing fee required pursuant to Section 14575. The department may examine the accounts and records of a beverage manufacturer that pays or should pay a processing fee. No penalty shall be assessed until 30 days after the department has notified the manufacturer of the penalty assessment, and the amount due for payment and interest has not been paid.

(b) If the department determines that an audit of a beverage manufacturer shows that there has been an underpayment of a processing fee, the department may examine the records concerning beverage container sales of a container manufacturer that supplied the beverage containers to the beverage manufacturer.

SEC. 26. Section 42889 of the Public Resources Code, as amended by Section 56 of Chapter 77 of the Statutes of 2006, is amended to read:

42889. (a) Commencing January 1, 2005, of the moneys collected pursuant to Section 42885, an amount equal to seventy-five cents ($0.75) per tire on which the fee is imposed shall be transferred by the State Board of Equalization to the Air Pollution Control Fund. The state board shall expend those moneys, or allocate those moneys to the districts for expenditure, to fund programs and projects that mitigate or remediate air pollution caused by tires in the state, to the extent that the state board or the applicable district determines that the program or project remediates air pollution harms created by tires upon which the fee described in Section 42885 is imposed.

(b) The remaining moneys collected pursuant to Section 42885 shall be used to fund the waste tire program, and shall be appropriated to the board in the annual Budget Act in a manner consistent with the five-year plan adopted and updated by the board. These moneys shall be expended for the payment of refunds under this chapter and for the following purposes:

(1) To pay the administrative overhead cost of this chapter, not to exceed 6 percent of the total revenue deposited in the fund annually, or an amount otherwise specified in the annual Budget Act.

(2) To pay the costs of administration associated with collection, making refunds, and auditing revenues in the fund, not to exceed 3 percent of the total revenue deposited in the fund, as provided in subdivision (c) of Section 42885.

(3) To pay the costs associated with operating the tire recycling program specified in Article 3 (commencing with Section 42870).

(4) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires and used tires. The board shall consider designating a city, county, or city and county as the enforcement authority of regulations relating to the storage of waste tires and used tires, as provided in subdivision (c) of Section 42850, and regulations relating to the hauling of waste and used tires, as provided in subdivision (b) of Section 42963. If the board designates a local entity for that purpose, the board shall provide sufficient, stable, and noncompetitive funding to that entity for that purpose, based on available resources, as provided in the five-year plan adopted and updated as provided in subdivision (a) of Section 42885.5. The board may consider and create, as appropriate, financial incentives for citizens who report the illegal hauling or disposal of waste tires as a means of enhancing local and statewide waste tire and used tire enforcement programs.

(5) To pay the costs of cleanup, abatement, removal, or other remedial action related to waste tire stockpiles throughout the state, including all approved costs incurred by other public agencies involved in these activities by contract with the board. Not less than six million five hundred thousand dollars ($6,500,000) shall be expended by the board during each of the following fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

(6) To make studies and conduct research directed at promoting and developing alternatives to the landfill disposal of waste tires.

(7) To assist in developing markets and new technologies for used tires and waste tires. The board's expenditure of funds for purposes of this subdivision shall reflect the priorities for waste management practices specified in subdivision (a) of Section 40051.

(8) To pay the costs associated with implementing and operating a waste tire and used tire hauler program and manifest system pursuant to Chapter 19 (commencing with Section 42950).

(9) To pay the costs to create and maintain an emergency reserve, which shall not exceed one million dollars ($1,000,000).

(10) To pay the costs of cleanup, abatement, or other remedial action related to the disposal of waste tires in implementing and operating the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program established pursuant to Chapter 2.5 (commencing with Section 48100) of Part 7.

(c) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2015, deletes or extends that date.

SEC. 27. Section 42889 of the Public Resources Code, as added by Section 14.5 of Chapter 707 of the Statutes of 2004, is amended to read:

42889. Funding for the waste tire program shall be appropriated to the board in the annual Budget Act. The moneys in the fund shall be expended for the payment of refunds under this chapter and for the following purposes:

(a) To pay the administrative overhead cost of this chapter, not to exceed 5 percent of the total revenue deposited in the fund annually, or an amount otherwise specified in the annual Budget Act.

(b) To pay the costs of administration associated with collection, making refunds, and auditing revenues in the fund, not to exceed 3 percent of the total revenue deposited in the fund, as provided in subdivision (b) of Section 42885.

(c) To pay the costs associated with operating the tire recycling program specified in Article 3 (commencing with Section 42870).

(d) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires and used tires. The board shall consider designating a city, county, or city and county as the enforcement authority of regulations relating to the storage of waste tires and used tires, as provided in subdivision (c) of Section 42850, and regulations relating to the hauling of waste and used tires, as provided in subdivision (b) of Section 42963. If the board designates a local entity for that purpose, the board shall provide sufficient, stable, and noncompetitive funding to that entity for that purpose, based on available resources, as provided in the five-year plan adopted and updated as provided in subdivision (a) of Section 42855.5. The board may consider and create, as appropriate, financial incentives for citizens who report the illegal hauling or disposal of waste tires as a means of enhancing local and statewide waste tire and used tire enforcement programs.

(e) To pay the costs of cleanup, abatement, removal, or other remedial action related to waste tire stockpiles throughout the state, including all approved costs incurred by other public agencies involved in these activities by contract with the board. Not less than six million five hundred thousand dollars ($6,500,000) shall be expended by the board during each of the following fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

(f) This section shall become operative on January 1, 2015.

SEC. 28. Section 42963 of the Public Resources Code is amended to read:

42963. (a) This chapter, or any regulations adopted pursuant to Section 42966, is not a limitation on the power of a city, county, or district to impose and enforce reasonable land use conditions or restrictions on facilities that handle waste or used tires in order to protect the public health and safety or the environment, including preventing or mitigating potential nuisances, if the conditions or restrictions do not

conflict with, or impose less stringent requirements than, this chapter or those regulations. However, this chapter, including any regulations that are adopted pursuant to Section 42966, is intended to establish a uniform statewide program for the regulation of waste and used tire haulers that will prevent the illegal disposal of tires, but which will not subject waste and used tire haulers to multiple registration or manifest requirements. Therefore, any local laws regulating the transportation of waste or used tires are preempted by this chapter.

(b) Upon request of a city, county, or city and county, the board may designate, in writing, that city, county, or city and county to exercise the enforcement authority granted to the board under this chapter. A city, county, or city and county designated by the board pursuant to this subdivision shall follow the same procedures set forth for the board under this article. This designation shall not limit the authority of the board to take action it deems necessary or proper to ensure the enforcement of this chapter.

SEC. 29. Section 45014 of the Public Resources Code is amended to read:

45014. (a) Upon the failure of a person to comply with a final order issued by a local enforcement agency or the board, the Attorney General, upon request of the board, shall petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining the person or persons from continuing to violate the order or complaint.

(b) An attorney authorized to act on behalf of the local enforcement agency or the board may petition the superior court for injunctive relief to enforce this part, a term or condition in a solid waste facilities permit, or a standard adopted by the board or the local enforcement agency.

(c) In addition to the administrative imposition of civil penalties pursuant to this part, Article 6 (commencing with Section 42850) of Chapter 16 of Part 3, and Article 4 (commencing with Section 42962) of Chapter 19 of Part 3, an attorney authorized to act on behalf of the local enforcement agency or the board may apply, to the clerk of the appropriate court in the county in which the civil penalty was imposed, for a judgment to collect the penalty. The application, which shall include a certified copy of the decision or order in the civil penalty action, constitutes a sufficient showing to warrant issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered shall include the amount of the court filing fee that would have been due from an applicant who is not a public agency, and has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court

in which it is entered. The amount of the unpaid court filing fee shall be paid to the court prior to satisfying any of the civil penalty amount. Thereafter, any civil penalty or judgment recovered shall be paid, to the maximum extent allowed by law, to the board or to the local enforcement agency, whichever is represented by the attorney who brought the action.

SEC. 30. Section 71205.3 of the Public Resources Code is amended to read:

71205.3. (a) On or before January 1, 2008, the commission shall adopt regulations that do all of the following:

(1) Except as provided otherwise in Section 71204.7, require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to implement the interim performance standards for the discharge of ballast water recommended in accordance with Table x-1 of the California State Lands Commission Report on Performance Standards for Ballast Water Discharges in California Waters, as approved by the commission on January 26, 2006.

(2) Except as provided otherwise in Section 71204.7, require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to comply with the following implementation schedule:

| Ballast water capacity of vessel | Standards apply to new vessels in this size class constructed on or after: | Standards apply to all other vessels in this size class beginning in: |
|---|---|---|
| <1500 metric tons | January 1, 2010 | January 1, 2016 |
| 1500-5000 metric tons | January 1, 2010 | January 1, 2014 |
| >5000 metric tons | January 1, 2012 | January 1, 2016 |

(3) Notwithstanding Section 71204.7, require an owner or operator of a vessel carrying, or capable of carrying, ballast water that operates in the waters of the state to meet the final performance standard for the discharge of ballast water of zero detectable for all organism size classes by 2020, as approved by the commission on January 26, 2006.

(b) On or before January 1, 2009, for the interim performance standards specified in paragraph (1) of subdivision (a) that have to be complied with in 2010, as specified in paragraph (2) of subdivision (a), and not less than 18 months prior to the scheduled compliance date specified in paragraph (2) of subdivision (a) for each subsequent class and the date for implementation of the final performance standard, as specified in paragraph (3) of subdivision (a), the commission, in consultation with the State Water Resources Control Board, the United States Coast Guard, and the advisory panel described in subdivision (b) of Section 71204.9, shall prepare, or update, and submit to the Legislature

a review of the efficacy, availability, and environmental impacts, including the effect on water quality, of currently available technologies for ballast water treatment systems. If technologies to meet the performance standards are determined in a review to be unavailable, the commission shall include in that review an assessment of why the technologies are unavailable.

SEC. 31. Section 31560 of the Vehicle Code is amended to read:

31560. (a) A person operating a vehicle, or combination of vehicles, in the transportation of 10 or more used tires or waste tires, or a combination of used tires and waste tires totaling 10 or more, as defined in Section 42950 of the Public Resources Code, shall be registered with the California Integrated Waste Management Board, unless specifically exempted, as provided in Chapter 19 (commencing with Section 42950) of Part 3 of Division 30 of the Public Resources Code and in regulations adopted by the board to implement that chapter.

(b) It is unlawful and constitutes an infraction for a person engaged in the transportation of 10 or more used tires or waste tires, or a combination of used tires and waste tires totaling 10 or more, to violate a provision of this article or Section 42951 of the Public Resources Code.

SEC. 32. 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. 33. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To ensure the protection of the environment at the earliest possible time, it is necessary that this act take effect immediately.

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## CHAPTER 697

An act to amend Sections 14575 and 14581 of the Public Resources Code, relating to beverage containers, and making an appropriation therefor.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 14575 of the Public Resources Code is amended to read:

14575. (a) If any type of empty beverage container with a refund value established pursuant to Section 14560 has a scrap value less than the cost of recycling, the department shall, on January 1, 2000, and on or before January 1 annually thereafter, establish a processing fee and a processing payment for the container by the type of the material of the container.

(b) The processing payment shall be at least equal to the difference between the scrap value offered to a statistically significant sample of recyclers by willing purchasers, and except for the initial calculation made pursuant to subdivision (d), the sum of both of the following:

(1) The actual cost for certified recycling centers, excluding centers receiving a handling fee, of receiving, handling, storing, transporting, and maintaining equipment for each container sold for recycling or, only if the container is not recyclable, the actual cost of disposal, calculated pursuant to subdivision (c). The department shall determine the statewide weighted average cost to recycle each beverage container type, which shall serve as the actual recycling costs for purposes of paragraph (2) of subdivision (c), by conducting a survey of the costs of a statistically significant sample of certified recycling centers, excluding those recycling centers receiving a handling fee, for receiving, handling, storing, transporting, and maintaining equipment.

(2) A reasonable financial return for recycling centers.

(c) The department shall base the processing payment pursuant to this section upon all of the following:

(1) Except as provided in paragraph (2), for calculating processing payments that will be in effect on and after January 1, 2004, the department shall determine the actual costs for certified recycling centers, every second year, pursuant to paragraph (1) of subdivision (b). The department shall adjust the recycling costs annually to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.

(2) On and after January 1, 2010, the department shall use the most recently published, measured actual costs of recycling for a specific beverage material type if the department determines the number of beverage containers for that material type that is returned for recycling pursuant to Section 14551, based on the most recently published calendar year number of beverage containers returned for recycling, is less than 5 percent of the total number of beverage containers returned for

recycling for all material types. The department shall determine the actual recycling cost to be used for calculating processing payments for those beverage containers in the following manner:

(A) The department shall adjust the costs of recycling that material type every second year by the percentage change in the most recently measured cost of recycling HDPE plastic beverage containers, as determined by the department. The department shall use the percentage change in costs of recycling HDPE plastic beverage containers for this purpose, even if HDPE plastic beverage containers are less than 5 percent of the total volume of returned beverage containers.

(B) The department shall adjust the recycling costs annually for that material type to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.

(d) Except as specified in subdivision (e), the actual processing fee paid by a beverage manufacturer shall equal 65 percent of the processing payment calculated pursuant to subdivision (b).

(e) The department, consistent with Section 14581 and subject to the availability of funds, shall reduce the processing fee paid by beverage manufacturers by expending funds in each material processing fee account, in the following manner:

(1) On January 1, 2005, and annually thereafter, the processing fee shall equal the following amounts:

(A) Ten percent of the processing payment for a container type with a recycling rate equal to or greater than 75 percent.

(B) Eleven percent of the processing payment for a container type with a recycling rate equal to or greater than 65 percent, but less than 75 percent.

(C) Twelve percent of the processing payment for a container type with a recycling rate equal to or greater than 60 percent, but less than 65 percent.

(D) Thirteen percent of the processing payment for a container type with a recycling rate equal to or greater than 55 percent, but less than 60 percent.

(E) Fourteen percent of the processing payment for a container type with a recycling rate equal to or greater than 50 percent, but less than 55 percent.

(F) Fifteen percent of the processing payment for a container type with a recycling rate equal to or greater than 45 percent, but less than 50 percent.

(G) Eighteen percent of the processing payment for a container type with a recycling rate equal to or greater than 40 percent, but less than 45 percent.

(H) Twenty percent of the processing payment for a container type with a recycling rate equal to or greater than 30 percent, but less than 40 percent.

(I) Sixty-five percent of the processing payment for a container type with a recycling rate less than 30 percent.

(2) The department shall calculate the recycling rate for purposes of paragraph (1) based on the 12-month period ending on June 30 that directly precedes the date of the January 1 processing fee determination.

(f) Not more than once every three months, the department may make an adjustment in the amount of the processing payment established pursuant to this section notwithstanding any change in the amount of the processing fee established pursuant to this section, for any beverage container, if the department makes the following determinations:

(1) The statewide scrap value paid by processors for the material type for the most recent available 12-month period directly preceding the quarter in which the processing payment is to be adjusted is 5 percent more or 5 percent less than the average scrap value used as the basis for the processing payment currently in effect.

(2) Funds are available in the processing fee account for the material type.

(3) Adjusting the processing payment is necessary to further the objectives of this division.

(g) (1) Except as provided in paragraphs (2) and (3), every beverage manufacturer shall pay to the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale in the form and in the manner which the department may prescribe.

(2) (A) Notwithstanding Section 14506, with respect to the payment of processing fees for beer and other malt beverages manufactured outside the state, the beverage manufacturer shall be deemed to be the person or entity named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code. If the department is unable to collect the processing fee from the person or entity named on the certificate of compliance, the department shall give written notice by certified mail, return receipt requested, to that person or entity. The notice shall state that the processing fee shall be remitted in full within 30 days of issuance of the notice or the person or entity shall not be permitted to offer that beverage brand for sale within the state. If the person or entity fails to remit the processing fee within 30 days of issuance of the notice, the department shall notify the Department of Alcoholic Beverage Control that the certificate holder has failed to comply, and the Department of Alcoholic Beverage Control shall prohibit the offering for sale of that beverage brand within the state.

(B) The department shall enter into a contract with the Department of Alcoholic Beverage Control, pursuant to Section 14536.5, concerning the implementation of this paragraph, which shall include a provision reimbursing the Department of Alcoholic Beverage Control for its costs incurred in implementing this paragraph.

(3) (A) Notwithstanding paragraph (1), if a beverage manufacturer displays a pattern of operation in compliance with this division and the regulations adopted pursuant to this division, to the satisfaction of the department, the beverage manufacturer may make a single annual payment of processing fees, if the beverage manufacturer meets either of the following conditions:

(i) If the redemption payment and refund value is not increased pursuant to paragraph (3) of subdivision (a) of Section 14560, the beverage manufacturer's projected processing fees for a calendar year total less than ten thousand dollars ($10,000).

(ii) If the redemption payment and refund value is increased pursuant to paragraph (3) of subdivision (a) of Section 14560, the beverage manufacturer's projected processing fees for a calendar year total less than fifteen thousand dollars ($15,000).

(B) An annual processing fee payment made pursuant to this paragraph is due and payable on or before February 1 for every beverage container sold or transferred by the beverage manufacturer to a distributor or dealer in the previous calendar year.

(C) A beverage manufacturer shall notify the department of its intent to make an annual processing fee payment pursuant to this paragraph on or before January 31 of the calendar year for which the payment will be due.

(4) The department shall pay the processing payments on redeemed containers to processors, in the same manner as it pays refund values pursuant to Sections 14573 and 14573.5. The processor shall pay the recycling center the entire processing payment representing the actual costs and financial return incurred by the recycling center, as specified in subdivision (b).

(h) When assessing processing fees pursuant to subdivision (a), the department shall assess the processing fee on each container sold, as provided in subdivisions (d) and (e), by the type of material of the container, assuming that every container sold will be redeemed for recycling, whether or not the container is actually recycled.

(i) The container manufacturer, or a designated agent, shall pay to, or credit, the account of the beverage manufacturer in an amount equal to the processing fee.

(j) If, at the end of any calendar year for which glass recycling rates equal or exceed 45 percent and sufficient surplus funds remain in the

glass processing fee account to make the reduction pursuant to this subdivision or if, at the end of any calendar year for which PET recycling rates equal or exceed 45 percent and sufficient surplus funds remain in the PET processing fee account to make the reduction pursuant to this subdivision, the department shall use these surplus funds in the respective processing fee accounts in the following calendar year to reduce the amount of the processing fee that would otherwise be due from glass or PET beverage manufacturers pursuant to this subdivision.

(1) The department shall reduce the glass or PET processing fee amount pursuant to this subdivision in addition to any reduction for which the glass or PET beverage container qualifies under subdivision (e).

(2) The department shall determine the processing fee reduction by dividing two million dollars ($2,000,000) from each processing fee account by an estimate of the number of containers sold or transferred to a distributor during the previous calendar year, based upon the latest available data.

SEC. 2. Section 14581 of the Public Resources Code is amended to read:

14581. (a) Subject to the availability of funds, and pursuant to subdivision (c), the department shall expend the moneys set aside in the fund, pursuant to subdivision (c) of Section 14580, for the purposes of this section:

(1) (A) On and after July 1, 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) Multifamily 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 paragraph (2) 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 moneys in each processing fee account are 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) 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.

(17) (A) Up to fifteen million dollars ($15,000,000) may be expended from January 1, 2008, to January 1, 2009, to provide grants to place source separated beverage container recycling receptacles in multifamily housing.

(B) Notwithstanding subdivision (b) of Section 14580, the amount of one hundred ninety-eight thousand dollars ($198,000) may be expended by the department from the fund, on a one-time basis, for the

administrative costs of implementing the grant program established by subparagraph (A).

(18) (A) Up to twenty million dollars ($20,000,000) may be expended from July 1, 2009, to January 1, 2012, inclusive, for either of the following:

(i) Grants for beverage container recycling and litter reduction programs that emphasize the greatest and most effective collection of beverage containers per dollar spent to ensure the program's performance and accountability.

(ii) Focused, regional community beverage container recycling and litter reduction programs that enable the department to more effectively organize the amount and type of resources needed for regional and statewide efforts to increase recycling.

(B) The department shall require, as a condition of receiving grant funds pursuant to subparagraph (A), each grant recipient to submit a final report including, but not limited to, the grant recipient's reported volumes of beverage containers recycled, where applicable.

(C) On or before July 1, 2014, the department shall publish an evaluation of all grants made pursuant to paragraph (A). At a minimum, the evaluation shall summarize each final report submitted by each grantee pursuant to subparagraph (B) and assess whether the grantee adequately met the scope and objectives outlined in the grant agreement.

(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.

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## CHAPTER 698

An act to amend Sections 7583.24, 7583.25, 7583.27, 7596.8, 7596.81, and 7596.83 of the Business and Professions Code, to amend Section 12811.3 of the Government Code, to amend Section 12101 of the Health and Safety Code, and to amend Sections 832.15, 832.16, 832.17, 12011, 12026.1, 12050, 12052, 12071, 12072, 12076, 12077.5, 12078, 12086, 12094, 12101, 12280, 12285, 12305, and 13511.5 of the Penal Code, relating to firearms.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 7583.24 of the Business and Professions Code is amended to read:

7583.24. (a) The bureau shall not issue a firearm permit if the applicant is prohibited from possessing, receiving, owning, or purchasing a firearm pursuant to state or federal law.

(b) Before issuing an initial firearm permit the bureau shall provide the Department of Justice with the name, address, social security number, and fingerprints of the applicant.

(c) The Department of Justice shall inform the bureau, within 60 days from receipt of the information specified in subdivision (b), of the

applicant's eligibility to possess, receive, purchase, or own a firearm pursuant to state and federal law.

(d) An applicant who has been denied a firearm permit based upon subdivision (a) may reapply for the permit after the prohibition expires. The bureau shall treat this application as an initial application and shall follow the required screening process as specified in this section.

SEC. 2. Section 7583.25 of the Business and Professions Code is amended to read:

7583.25. (a) The bureau shall not renew a firearm permit if the applicant is prohibited from possessing, receiving, purchasing, or owning a firearm pursuant to state or federal law.

(b) Before renewing a firearm permit, the bureau shall provide the Department of Justice with the information necessary to identify the renewal applicant. No firearm permit shall be renewed if the expiration date of the permit is between October 1, 1993, and October 1, 1994, unless the application for renewal is also accompanied by a classifiable fingerprint card and the fingerprint processing fees for that card.

(c) The Department of Justice shall inform the bureau, within 30 days of receipt of the information specified in subdivision (b), of the renewal applicant's eligibility to possess, receive, purchase, or own a firearm pursuant to state and federal law.

(d) An applicant who is denied a firearm permit renewal based upon subdivision (a) may reapply for the permit after the prohibition expires. The bureau shall treat this as an initial application and shall follow the screening process specified in Section 7583.24.

SEC. 3. Section 7583.27 of the Business and Professions Code is amended to read:

7583.27. A firearm permit shall be automatically revoked if at any time the Department of Justice notifies the bureau that the holder of the firearm permit is prohibited from possessing, receiving, or purchasing a firearm pursuant to state or federal law. Following the automatic revocation, an administrative hearing shall be provided upon written request to the bureau in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 7596.8 of the Business and Professions Code is amended to read:

7596.8. (a) Effective October 1, 1993, the bureau shall not issue a firearm permit if the applicant is prohibited from possessing, receiving, owning, or purchasing a firearm pursuant to state or federal law.

(b) Before issuing an initial firearm permit the bureau shall provide the Department of Justice with the name, address, social security number, and fingerprints of the applicant.

(c) The Department of Justice shall inform the bureau, within 60 days from receipt of the information specified in subdivision (b), of the applicant's eligibility to possess, receive, purchase, or own a firearm pursuant to state and federal law.

(d) An applicant who has been denied a firearm permit based upon subdivision (a) may reapply for the permit after the prohibition expires. The bureau shall treat this application as an initial application and shall follow the required screening process as specified in this section.

SEC. 5. Section 7596.81 of the Business and Professions Code is amended to read:

7596.81. (a) Effective October 1, 1993, the bureau shall not renew a firearm permit if the applicant is prohibited from possessing, receiving, purchasing, or owning a firearm pursuant to state or federal law.

(b) Before renewing a firearm permit, the bureau shall provide the Department of Justice with the information necessary to identify the renewal applicant. No firearm permit shall be renewed if the expiration date of the permit is between October 1, 1993, and October 1, 1994, unless the application for renewal is also accompanied by a classifiable fingerprint card and the fingerprint processing fees for that card.

(c) The Department of Justice shall inform the bureau, within 30 days of receipt of the information specified in subdivision (b), of the renewal applicant's eligibility under state and federal law to possess, receive, purchase, or own a firearm.

(d) An applicant who is denied a firearm permit renewal based upon subdivision (a) may reapply for the permit after the prohibition expires. The bureau shall treat this as an initial application and shall follow the screening process specified in Section 7596.8.

SEC. 6. Section 7596.83 of the Business and Professions Code is amended to read:

7596.83. A firearm permit shall be automatically revoked if at any time the Department of Justice notifies the bureau that the holder of the firearm permit is prohibited from possessing, receiving, or purchasing a firearm pursuant to state or federal law. Following the automatic revocation, an administrative hearing shall be provided upon written request to the bureau in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 7. Section 12811.3 of the Government Code is amended to read:

12811.3. (a) Notwithstanding any other provision of law and subject to the provisions of subdivision (i), any employee of a department, board, or commission under the jurisdiction of the Department of Corrections and Rehabilitation, who is designated as a peace officer described in

Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may transfer from his or her current position to another department, board, or commission under the jurisdiction of the Department of Corrections and Rehabilitation.

(b) Any peace officer who desires to transfer to another department, board, or commission pursuant to subdivision (a), and who is prohibited from carrying a firearm pursuant to state or federal law may not transfer to a department, board, or commission that requires the use of a firearm.

(c) Any peace officer who desires to transfer to another department, board, or commission pursuant to subdivision (a) to a position requiring the ability to carry a firearm, as determined by the department, board, or commission, and who has not completed the required training pursuant to Section 832 of the Penal Code, shall successfully complete the required training before appointment to his or her new peace officer position.

(d) (1) Any peace officer who desires to transfer shall not be required to undergo a psychological screening pursuant to subdivision (f) of Section 1031 or subdivision (a) of Section 13601 of the Penal Code, unless the Secretary of the Department of Corrections and Rehabilitation, or his or her designee, makes a determination that a peace officer is required to undergo all or a portion of a psychological screening as described in subdivision (f) of Section 1031 of this code or subdivision (a) of Section 13601 of the Penal Code.

(2) The Secretary of the Department of Corrections and Rehabilitation shall promulgate emergency regulations in order to implement paragraph (1). Notwithstanding subdivision (b) of Section 11346.1, no showing of an emergency shall be necessary in order to adopt, amend, or repeal the emergency regulations required by this paragraph.

(e) Any peace officer who has successfully completed a course of training pursuant to Section 13602 of the Penal Code and who transfers to another department, board, or commission pursuant to subdivision (a) shall not be required to complete a new course of training pursuant to Section 13602 of the Penal Code. However, each department, board, or commission may prescribe additional training to be provided to an employee who transfers pursuant to subdivision (a) and shall provide that training within the first six months of appointment to his or her new peace officer position.

(f) Any peace officer who desires to transfer to another department, board, or commission pursuant to subdivision (a) shall not be required to undergo a new background investigation pursuant to Section 1029.1.

(g) Nothing in this section shall affect an employee's seniority calculation as provided for under current law or any memorandum of understanding between the state and any applicable bargaining unit agreement in effect upon the effective date of this section.

(h) The provisions of the Unit 6 Memorandum of Understanding, which expires July 2, 2006, as modified by the ratified addendum dated June 30, 2004, relating to the release of copies of videotaped incidents, shall be subject to the California Public Records Act.

(i) This section shall become operative only when the Secretary of the Department of Corrections and Rehabilitation certifies in writing that it is necessary to prevent or minimize employment actions, including, but not limited to, layoffs, demotions, reductions in time base, or involuntary transfers of employees. In addition, the Secretary of the Department of Corrections and Rehabilitation shall have the sole authority to designate any or all departments, boards, or commissions eligible to have its peace officer employees transfer pursuant to subdivision (a) and any or all departments, boards, or commissions that shall accept peace officer employees under this section.

SEC. 8. Section 12101 of the Health and Safety Code is amended to read:

12101. (a) No person shall do any one of the following without first having made application for and received a permit in accordance with this section:

(1) Manufacture explosives.

(2) Sell, furnish, or give away explosives.

(3) Receive, store, or possess explosives.

(4) Transport explosives.

(5) Use explosives.

(6) Operate a terminal for handling explosives.

(7) Park or leave standing any vehicle carrying explosives, except when parked or left standing in or at a safe stopping place designated as such by the Department of the California Highway Patrol under Division 14 (commencing with Section 31600) of the Vehicle Code.

(b) Application for a permit shall be made to the appropriate issuing authority.

(c) (1) A permit shall be obtained from the issuing authority having the responsibility in the area where the activity, as specified in subdivision (a), is to be conducted.

(2) If the person holding a valid permit for the use or storage of explosives desires to purchase or receive explosives in a jurisdiction other than that of intended use or storage, the person shall first present the permit to the issuing authority in the jurisdiction of purchase or receipt for endorsement. The issuing authority may include any reasonable restrictions or conditions which the authority finds necessary for the prevention of fire and explosion, the preservation of life, safety, or the control and security of explosives within the authority's jurisdiction. If, for any reason, the issuing authority refuses to endorse

the permit previously issued in the area of intended use or storage, the authority shall immediately notify both the issuing authority who issued the permit and the Department of Justice of the fact of the refusal and the reasons for the refusal.

(3) Every person who sells, gives away, delivers, or otherwise disposes of explosives to another person shall first be satisfied that the person receiving the explosives has a permit valid for that purpose. When the permit to receive explosives indicates that the intended storage or use of the explosives is other than in that area in which the permittee receives the explosives, the person who sells, gives away, delivers, or otherwise disposes of the explosives shall insure that the permit has been properly endorsed by a local issuing authority and, further, shall immediately send a copy of the record of sale to the issuing authority who originally issued the permit in the area of intended storage or use. The issuing authority in the area in which the explosives are received or sold shall not issue a permit for the possession, use, or storage of explosives in an area not within the authority's jurisdiction.

(d) In the event any person desires to receive explosives for use in an area outside of this state, a permit to receive the explosives shall be obtained from the State Fire Marshal.

(e) A permit may include any restrictions or conditions which the issuing authority finds necessary for the prevention of fire and explosion, the preservation of life, safety, or the control and security of explosives.

(f) A permit shall remain valid only until the time when the act or acts authorized by the permit are performed, but in no event shall the permit remain valid for a period longer than one year from the date of issuance of the permit.

(g) Any valid permit which authorizes the performance of any act shall not constitute authorization for the performance of any act not stipulated in the permit.

(h) An issuing authority shall not issue a permit authorizing the transportation of explosives pursuant to this section if the display of placards for that transportation is required by Section 27903 of the Vehicle Code, unless the driver possesses a license for the transportation of hazardous materials issued pursuant to Division 14.1 (commencing with Section 32000) of the Vehicle Code, or the explosives are a hazardous waste or extremely hazardous waste, as defined in Sections 25117 and 25115 of the Health and Safety Code, and the transporter is currently registered as a hazardous waste hauler pursuant to Section 25163 of the Health and Safety Code.

(i) An issuing authority shall not issue a permit pursuant to this section authorizing the handling or storage of division 1.1, 1.2, or 1.3 explosives

in a building, unless the building has caution placards which meet the standards established pursuant to subdivision (g) of Section 12081.

(j) (1) A permit shall not be issued to a person who meets any of the following criteria:

(A) He or she has been convicted of a felony.

(B) He or she is addicted to a narcotic drug.

(C) He or she is in a class prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) For purposes of determining whether a person meets any of the criteria set forth in this subdivision, the issuing authority shall obtain two sets of fingerprints on prescribed cards from all persons applying for a permit under this section and shall submit these cards to the Department of Justice. The Department of Justice shall utilize the fingerprint cards to make inquiries both within this state and to the Federal Bureau of Investigation regarding the criminal history of the applicant identified on the fingerprint card.

This paragraph does not apply to any person possessing a current certificate of eligibility issued pursuant to paragraph (4) of subdivision (a) of Section 12071 or to any holder of a dangerous weapons permit or license issued pursuant to Section 12095, 12230, 12250, 12286, or 12305 of the Penal Code.

(k) An issuing authority shall inquire with the Department of Justice for the purposes of determining whether a person who is applying for a permit meets any of the criteria specified in subdivision (j). The Department of Justice shall determine whether a person who is applying for a permit meets any of the criteria specified in subdivision (j) and shall either grant or deny clearance for a permit to be issued pursuant to the determination. The Department of Justice shall not disclose the contents of a person's records to any person who is not authorized to receive the information in order to ensure confidentiality.

SEC. 9. Section 832.15 of the Penal Code is amended to read:

832.15. (a) On and after October 1, 1993, the Department of Justice shall notify a state or local agency as to whether an individual applying for a position as a peace officer, as defined by this chapter, a custodial officer authorized by the employing agency to carry a firearm pursuant to Section 831.5, or a transportation officer pursuant to Section 831.6 authorized by the employing agency to carry a firearm, is prohibited from possessing, receiving, owning, or purchasing a firearm pursuant to state or federal law. If the prohibition is temporary, the notice shall indicate the date that the prohibition expires. However, the notice shall not provide any other information with respect to the basis for the prohibition.

(b) Before providing the information specified in subdivision (a), the applicant shall provide the Department of Justice with fingerprints and other identifying information deemed necessary by the department.

(c) The Department of Justice may charge the applicant a fee sufficient to reimburse its costs for furnishing the information specified in subdivision (a).

(d) The notice required by this section shall not apply to persons receiving treatment under subdivision (a) of Section 8100 of the Welfare and Institutions Code.

SEC. 10. Section 832.16 of the Penal Code is amended to read:

832.16. (a) On and after October 1, 1993, the Department of Justice shall notify a state or local agency employing a peace officer, as defined by this chapter, who is authorized by the employing agency to carry a firearm, as to whether a peace officer is prohibited from possessing, receiving, owning, or purchasing a firearm pursuant to state or federal law. If the prohibition is temporary, the notice shall indicate the date that the prohibition expires. However, the notice shall not provide any other information with respect to the basis for the prohibition.

(b) Before providing the information specified in subdivision (a), the agency employing the peace officer shall provide the Department of Justice with the officer's fingerprints and other identifying information deemed necessary by the department.

(c) The information specified in this section shall only be provided by the Department of Justice subject to the availability of funding.

(d) The notice required by this section shall not apply to persons receiving treatment under subdivision (a) of Section 8100 of the Welfare and Institutions Code.

SEC. 11. Section 832.17 of the Penal Code is amended to read:

832.17. (a) Upon request by a state or local agency, the Department of Justice shall notify the state or local agency as to whether an individual employed as a custodial or transportation officer and authorized by the employing agency to carry a firearm, is prohibited or subsequently becomes prohibited from possessing, receiving, owning, or purchasing a firearm pursuant to state or federal law. If the prohibition is temporary, the notice shall indicate the date on which the prohibition expires. However, the notice shall not provide any other information with respect to the basis for the prohibition.

(b) Before the department provides the information specified in subdivision (a), the officer shall provide the department with his or her fingerprints and other identifying information deemed necessary by the department.

(c) The department may charge the officer a fee sufficient to reimburse its costs for furnishing the information specified in subdivision (a). A local law enforcement agency may pay this fee for the officer.

(d) The notice required by this section shall not apply to persons receiving treatment under subdivision (a) of Section 8100 of the Welfare and Institutions Code.

SEC. 12. Section 12011 of the Penal Code is amended to read:

12011. The Prohibited Armed Persons File database shall function as follows:

(a) Upon entry into the Automated Criminal History System of a disposition for a conviction of any felony, a conviction for any firearms-prohibiting charge specified in Section 12021, a conviction for an offense described in Section 12021.1, a firearms prohibition pursuant to Section 8100 or 8103 of the Welfare and Institutions Code, or any firearms possession prohibition identified by the federal National Instant Check System, the Department of Justice shall determine if the subject has an entry in the Consolidated Firearms Information System indicating possession or ownership of a firearm on or after January 1, 1991, or an assault weapon registration, or a .50 BMG rifle registration.

(b) Upon an entry into any department automated information system that is used for the identification of persons who are prohibited by state or federal law from acquiring, owning, or possessing firearms, the department shall determine if the subject has an entry in the Consolidated Firearms Information System indicating ownership or possession of a firearm on or after January 1, 1991, or an assault weapon registration, or a .50 BMG rifle registration.

(c) If the department determines that, pursuant to subdivision (a) or (b), the subject has an entry in the Consolidated Firearms Information System indicating possession or ownership of a firearm on or after January 1, 1991, or an assault weapon registration, or a .50 BMG rifle registration, the following information shall be entered into the Prohibited Armed Persons File:

(1) The subject's name.

(2) The subject's date of birth.

(3) The subject's physical description.

(4) Any other identifying information regarding the subject that is deemed necessary by the Attorney General.

(5) The basis of the firearms possession prohibition.

(6) A description of all firearms owned or possessed by the subject, as reflected by the Consolidated Firearms Information System.

SEC. 13. Section 12026.1 of the Penal Code is amended to read:

12026.1. (a) Section 12025 shall not be construed to prohibit any citizen of the United States over the age of 18 years who resides or is

temporarily within this state, and who is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm, from transporting or carrying any pistol, revolver, or other firearm capable of being concealed upon the person, provided that the following applies to the firearm:

(1) The firearm is within a motor vehicle and it is locked in the vehicle's trunk or in a locked container in the vehicle other than the utility or glove compartment.

(2) The firearm is carried by the person directly to or from any motor vehicle for any lawful purpose and, while carrying the firearm, the firearm is contained within a locked container.

(b) The provisions of this section do not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with this chapter.

(c) As used in this section, "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device.

SEC. 14. Section 12050 of the Penal Code is amended to read:

12050. (a) (1) (A) The sheriff of a county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying satisfies any one of the conditions specified in subparagraph (D) and has completed a course of training as described in subparagraph (E), may issue to that person a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person in either one of the following formats:

(i) A license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

(ii) Where the population of the county is less than 200,000 persons according to the most recent federal decennial census, a license to carry loaded and exposed in that county a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The chief or other head of a municipal police department of any city or city and county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying is a resident of that city and has completed a course of training as described in subparagraph (E), may issue to that person a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person in either one of the following formats:

(i) A license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

(ii) Where the population of the county in which the city is located is less than 200,000 persons according to the most recent federal

decennial census, a license to carry loaded and exposed in that county a pistol, revolver, or other firearm capable of being concealed upon the person.

(C) The sheriff of a county or the chief or other head of a municipal police department of any city or city and county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying is a person who has been deputized or appointed as a peace officer pursuant to subdivision (a) or (b) of Section 830.6 by that sheriff or that chief of police or other head of a municipal police department, may issue to that person a license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person. Direct or indirect fees for the issuance of a license pursuant to this subparagraph may be waived. The fact that an applicant for a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person has been deputized or appointed as a peace officer pursuant to subdivision (a) or (b) of Section 830.6 shall be considered only for the purpose of issuing a license pursuant to this subparagraph, and shall not be considered for the purpose of issuing a license pursuant to subparagraph (A) or (B).

(D) For the purpose of subparagraph (A), the applicant shall satisfy any one of the following:

(i) Is a resident of the county or a city within the county.

(ii) Spends a substantial period of time in the applicant's principal place of employment or business in the county or a city within the county.

(E) (i) For new license applicants, the course of training may be any course acceptable to the licensing authority, shall not exceed 16 hours, and shall include instruction on at least firearm safety and the law regarding the permissible use of a firearm. Notwithstanding this clause, the licensing authority may require a community college course certified by the Commission on Peace Officer Standards and Training, up to a maximum of 24 hours, but only if required uniformly of all license applicants without exception.

(ii) For license renewal applicants, the course of training may be any course acceptable to the licensing authority, shall be no less than four hours, and shall include instruction on at least firearm safety and the law regarding the permissible use of a firearm. No course of training shall be required for any person certified by the licensing authority as a trainer for purposes of this subparagraph, in order for that person to renew a license issued pursuant to this section.

(2) (A) (i) Except as otherwise provided in clause (ii), subparagraphs (C) and (D) of this paragraph, and subparagraph (B) of paragraph (4) of subdivision (f), a license issued pursuant to subparagraph (A) or (B) of

paragraph (1) is valid for any period of time not to exceed two years from the date of the license.

(ii) If the licensee's place of employment or business was the basis for issuance of the license pursuant to subparagraph (A) of paragraph (1), the license is valid for any period of time not to exceed 90 days from the date of the license. The license shall be valid only in the county in which the license was originally issued. The licensee shall give a copy of this license to the licensing authority of the city, county, or city and county in which he or she resides. The licensing authority that originally issued the license shall inform the licensee verbally and in writing in at least 16-point type of this obligation to give a copy of the license to the licensing authority of the city, county, or city and county of residence. Any application to renew or extend the validity of, or reissue, the license may be granted only upon the concurrence of the licensing authority that originally issued the license and the licensing authority of the city, county, or city and county in which the licensee resides.

(B) A license issued pursuant to subparagraph (C) of paragraph (1) to a peace officer appointed pursuant to Section 830.6 is valid for any period of time not to exceed four years from the date of the license, except that the license shall be invalid upon the conclusion of the person's appointment pursuant to Section 830.6 if the four-year period has not otherwise expired or any other condition imposed pursuant to this section does not limit the validity of the license to a shorter time period.

(C) A license issued pursuant to subparagraph (A) or (B) of paragraph (1) is valid for any period of time not to exceed three years from the date of the license if the license is issued to any of the following individuals:

(i) A judge of a California court of record.

(ii) A full-time court commissioner of a California court of record.

(iii) A judge of a federal court.

(iv) A magistrate of a federal court.

(D) A license issued pursuant to subparagraph (A) or (B) of paragraph (1) is valid for any period of time not to exceed four years from the date of the license if the license is issued to a custodial officer who is an employee of the sheriff as provided in Section 831.5, except that the license shall be invalid upon the conclusion of the person's employment pursuant to Section 831.5 if the four-year period has not otherwise expired or any other condition imposed pursuant to this section does not limit the validity of the license to a shorter time period.

(3) For purposes of this subdivision, a city or county may be considered an applicant's "principal place of employment or business" only if the applicant is physically present in the jurisdiction during a substantial part of his or her working hours for purposes of that employment or business.

(b) A license may include any reasonable restrictions or conditions which the issuing authority deems warranted, including restrictions as to the time, place, manner, and circumstances under which the person may carry a pistol, revolver, or other firearm capable of being concealed upon the person.

(c) Any restrictions imposed pursuant to subdivision (b) shall be indicated on any license issued.

(d) A license shall not be issued if the Department of Justice determines that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(e) (1) The license shall be revoked by the local licensing authority if at any time either the local licensing authority is notified by the Department of Justice that a licensee is prohibited by state or federal law from owning or purchasing firearms, or the local licensing authority determines that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) If at any time the Department of Justice determines that a licensee is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm, the department shall immediately notify the local licensing authority of the determination.

(3) If the local licensing authority revokes the license, the Department of Justice shall be notified of the revocation pursuant to Section 12053. The licensee shall also be immediately notified of the revocation in writing.

(f) (1) A person issued a license pursuant to this section may apply to the licensing authority for an amendment to the license to do one or more of the following:

(A) Add or delete authority to carry a particular pistol, revolver, or other firearm capable of being concealed upon the person.

(B) Authorize the licensee to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.

(C) If the population of the county is less than 200,000 persons according to the most recent federal decennial census, authorize the licensee to carry loaded and exposed in that county a pistol, revolver, or other firearm capable of being concealed upon the person.

(D) Change any restrictions or conditions on the license, including restrictions as to the time, place, manner, and circumstances under which the person may carry a pistol, revolver, or other firearm capable of being concealed upon the person.

(2) When the licensee changes his or her address, the license shall be amended to reflect the new address and a new license shall be issued pursuant to paragraph (3).

(3) If the licensing authority amends the license, a new license shall be issued to the licensee reflecting the amendments.

(4) (A) The licensee shall notify the licensing authority in writing within 10 days of any change in the licensee's place of residence.

(B) If the license is one to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person, then it may not be revoked solely because the licensee changes his or her place of residence to another county if the licensee has not breached any conditions or restrictions set forth in the license and has not become prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. However, any license issued pursuant to subparagraph (A) or (B) of paragraph (1) of subdivision (a) shall expire 90 days after the licensee moves from the county of issuance if the licensee's place of residence was the basis for issuance of the license.

(C) If the license is one to carry loaded and exposed a pistol, revolver, or other firearm capable of being concealed upon the person, the license shall be revoked immediately if the licensee changes his or her place of residence to another county.

(5) An amendment to the license does not extend the original expiration date of the license and the license shall be subject to renewal at the same time as if the license had not been amended.

(6) An application to amend a license does not constitute an application for renewal of the license.

(g) Nothing in this article shall preclude the chief or other head of a municipal police department of any city from entering an agreement with the sheriff of the county in which the city is located for the sheriff to process all applications for licenses, renewals of licenses, and amendments to licenses, pursuant to this article.

SEC. 15. Section 12052 of the Penal Code is amended to read:

12052. (a) The fingerprints of each applicant shall be taken and two copies on forms prescribed by the Department of Justice shall be forwarded to the department. Upon receipt of the fingerprints and the fee as prescribed in Section 12054, the department shall promptly furnish the forwarding licensing authority a report of all data and information pertaining to any applicant of which there is a record in its office, including information as to whether the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. No license shall be issued by any licensing authority until after receipt of the report from the department.

(b) However, if the license applicant has previously applied to the same licensing authority for a license to carry firearms pursuant to Section 12050 and the applicant's fingerprints and fee have been previously forwarded to the Department of Justice, as provided by this

section, the licensing authority shall note the previous identification numbers and other data that would provide positive identification in the files of the Department of Justice on the copy of any subsequent license submitted to the department in conformance with Section 12053 and no additional application form or fingerprints shall be required.

(c) If the license applicant has a license issued pursuant to Section 12050 and the applicant's fingerprints have been previously forwarded to the Department of Justice, as provided in this section, the licensing authority shall note the previous identification numbers and other data that would provide positive identification in the files of the Department of Justice on the copy of any subsequent license submitted to the department in conformance with Section 12053 and no additional fingerprints shall be required.

SEC. 16. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term "licensee," "person licensed pursuant to Section 12071," or "dealer" means a person who has all of the following:

(A) A valid federal firearms license.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller's permit issued by the State Board of Equalization.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

(E) A license issued in the format prescribed by paragraph (6).

(F) Is among those recorded in the centralized list specified in subdivision (e).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller's permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice. The Department of Justice shall examine its records and records available to the department in the National Instant Criminal Background Check System in order to determine if the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm and issue a certificate to an applicant if the department's records indicate that the applicant is not a person who is prohibited by state or federal law from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) In the form prescribed by the Attorney General.

(B) A regulatory or business license that states on its face "Valid for Retail Sales of Firearms" and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

(i) The building designated in the license.

(ii) The places specified in subparagraph (B) or (C).

(iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is prohibited by state or federal law from processing, owning, purchasing, or receiving a firearm. The dealer shall make available to the person in the prohibited class a prohibited notice and transfer form, provided by the department, stating that the person is prohibited from owning or possessing a firearm, and that the person may obtain from the department the reason for the prohibition.

(4) No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing firearms transactions pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) and paragraph (1) of subdivision (f) of Section 12072, and subdivision (a) of Section 12316.

(7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(C) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS ($5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(D) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(E) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(F) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

(8) (A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no dealer may deliver a handgun unless the person receiving the handgun presents to the dealer a valid handgun safety certificate. The firearms dealer shall retain a photocopy of the handgun safety certificate as proof of compliance with this requirement.

(C) Commencing January 1, 2003, no handgun may be delivered unless the purchaser, transferee, or person being loaned the firearm presents documentation indicating that he or she is a California resident. Satisfactory documentation shall include a utility bill from within the last three months, a residential lease, a property deed, or military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice. The firearms dealer shall retain a photocopy of the documentation as proof of compliance with this requirement.

(D) Commencing January 1, 2003, except as authorized by the department, no firearms dealer may deliver a handgun unless the recipient performs a safe handling demonstration with that handgun. The demonstration shall commence with the handgun unloaded and locked with the firearm safety device with which it is required to be delivered, if applicable. While maintaining muzzle awareness, that is, the firearm is pointed in a safe direction, preferably down at the ground, and trigger discipline, that is, the trigger finger is outside of the trigger guard and along side of the handgun frame, at all times, the handgun recipient shall correctly and safely perform the following:

(i) If the handgun is a semiautomatic pistol:

(I) Remove the magazine.

(II) Lock the slide back. If the model of firearm does not allow the slide to be locked back, pull the slide back, visually and physically check the chamber to ensure that it is clear.

(III) Visually and physically inspect the chamber, to ensure that the handgun is unloaded.

(IV) Remove the firearm safety device, if applicable. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(V) Load one bright orange, red, or other readily identifiable dummy round into the magazine. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

(VI) Insert the magazine into the magazine well of the firearm.

(VII) Manipulate the slide release or pull back and release the slide.

(VIII) Remove the magazine.

(IX) Visually inspect the chamber to reveal that a round can be chambered with the magazine removed.

(X) Lock the slide back to eject the bright orange, red, or other readily identifiable dummy round. If the handgun is of a model that does not allow the slide to be locked back, pull the slide back and physically check the chamber to ensure that the chamber is clear. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

(XI) Apply the safety, if applicable.

(XII) Apply the firearm safety device, if applicable. This requirement shall not apply to an Olympic competition pistol if no firearms safety device, other than a cable lock that the department has determined would damage the barrel of the pistol, has been approved for the pistol, and the pistol is either listed in paragraph (2) of subdivision (h) of Section 12132 or is subject to paragraph (3) of subdivision (h) of Section 12132.

(ii) If the handgun is a double-action revolver:

(I) Open the cylinder.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) While maintaining muzzle awareness and trigger discipline, load one bright orange, red, or other readily identifiable dummy round into a chamber of the cylinder and rotate the cylinder so that the round is in the next-to-fire position. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

(V) Close the cylinder.

(VI) Open the cylinder and eject the round.

(VII) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VIII) Apply the firearm safety device, if applicable. This requirement shall not apply to an Olympic competition pistol if no firearms safety device, other than a cable lock that the department has determined would damage the barrel of the pistol, has been approved for the pistol, and the pistol is either listed in paragraph (2) of subdivision (h) of Section 12132 or is subject to paragraph (3) of subdivision (h) of Section 12132.

(iii) If the handgun is a single-action revolver:

(I) Open the loading gate.

(II) Visually and physically inspect each chamber, to ensure that the revolver is unloaded.

(III) Remove the firearm safety device required to be sold with the handgun. If the firearm safety device prevents any of the previous steps, remove the firearm safety device during the appropriate step.

(IV) Load one bright orange, red, or other readily identifiable dummy round into a chamber of the cylinder, close the loading gate and rotate the cylinder so that the round is in the next-to-fire position. If no readily identifiable dummy round is available, an empty cartridge casing with an empty primer pocket may be used.

(V) Open the loading gate and unload the revolver.

(VI) Visually and physically inspect each chamber to ensure that the revolver is unloaded.

(VII) Apply the firearm safety device, if applicable. This requirement shall not apply to an Olympic competition pistol if no firearms safety device, other than a cable lock that the department has determined would damage the barrel of the pistol, has been approved for the pistol, and the pistol is either listed in paragraph (2) of subdivision (h) of Section 12132 or is subject to paragraph (3) of subdivision (h) of Section 12132.

(E) The recipient shall receive instruction regarding how to render that handgun safe in the event of a jam.

(F) The firearms dealer shall sign and date an affidavit stating that the requirements of subparagraph (D) have been met. The firearms dealer shall additionally obtain the signature of the handgun purchaser on the same affidavit. The firearms dealer shall retain the original affidavit as proof of compliance with this requirement.

(G) The recipient shall perform the safe handling demonstration for a department-certified instructor.

(H) No demonstration shall be required if the dealer is returning the handgun to the owner of the handgun.

(I) Department-certified instructors who may administer the safe handling demonstration shall meet the requirements set forth in subdivision (j) of Section 12804.

(J) The persons who are exempt from the requirements of subdivision (b) of Section 12801, pursuant to Section 12807, are also exempt from performing the safe handling demonstration.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(11) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(13) Except as provided in subparagraphs (B) and (C) of paragraph (1) of subdivision (b), all firearms that are in the inventory of the licensee shall be kept within the licensed location. The licensee shall report the loss or theft of any firearm that is merchandise of the licensee, any firearm that the licensee takes possession of pursuant to Section 12082, or any firearm kept at the licensee's place of business within 48 hours of discovery to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located.

(14) Except as provided in subparagraphs (B) and (C) of paragraph (1) of subdivision (b), any time when the licensee is not open for business, all inventory firearms shall be stored in the licensed location. All firearms shall be secured using one of the following methods as to each particular firearm:

(A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's business premises.

(B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

(15) The licensing authority in an unincorporated area of a county or within a city may impose security requirements that are more strict or are at a higher standard than those specified in paragraph (14).

(16) Commencing January 1, 1994, the licensee shall, upon the issuance or renewal of a license, submit a copy of the same to the Department of Justice.

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) The provisions of this paragraph shall not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(iv) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(19) The licensee shall forward in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not delivered within the time period set forth in Section 478.102 (c) of Title 27 of the Code of Federal Regulations.

(20) (A) Firearms dealers may require any agent who handles, sells, or delivers firearms to obtain and provide to the dealer a certificate of eligibility from the department pursuant to paragraph (4) of subdivision (a). The agent or employee shall provide on the application, the name and California firearms dealer number of the firearms dealer with whom he or she is employed.

(B) The department shall notify the firearms dealer in the event that the agent or employee who has a certificate of eligibility is or becomes prohibited from possessing firearms.

(C) If the local jurisdiction requires a background check of the agents or employees of the firearms dealer, the agent or employee shall obtain a certificate of eligibility pursuant to subparagraph (A).

(D) Nothing in this paragraph shall be construed to preclude a local jurisdiction from conducting an additional background check pursuant to Section 11105 or prohibiting employment based on criminal history that does not appear as part of obtaining a certificate of eligibility, provided however, that the local jurisdiction may not charge a fee for the additional criminal history check.

(E) The licensee shall prohibit any agent who the licensee knows or reasonably should know is within a class of persons prohibited from possessing firearms pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code, from coming into contact with any firearm that is not secured and from accessing any key, combination, code, or other means to open any of the locking devices described in clause (ii) of subparagraph (G) of this paragraph.

(F) Nothing in this paragraph shall be construed as preventing a local government from enacting an ordinance imposing additional conditions on licensees with regard to agents.

(G) For purposes of this section, the following definitions shall apply:

(i) An "agent" is an employee of the licensee.

(ii) "Secured" means a firearm that is made inoperable in one or more of the following ways:

(I) The firearm is inoperable because it is secured by a firearms safety device listed on the department's roster of approved firearms safety devices pursuant to subdivision (d) of Section 12088 of this chapter.

(II) The firearm is stored in a locked gun safe or long-gun safe which meets the standards for department-approved gun safes set forth in Section 12088.2.

(III) The firearm is stored in a distinct locked room or area in the building that is used to store firearms that can only be unlocked by a key, a combination, or similar means.

(IV) The firearm is secured with a hardened steel rod or cable that is at least one-eighth of an inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

(c) (1) As used in this article, "clear evidence of his or her identity and age" means either of the following:

(A) A valid California driver's license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this section, a "secure facility" means a building that meets all of the following specifications:

(A) All perimeter doorways shall meet one of the following:

(i) A windowless steel security door equipped with both a dead bolt and a doorknob lock.

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least ½-inch diameter or metal grating of at least 9 gauge affixed to the exterior or interior of the door.

(iii) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(B) All windows are covered with steel bars.

(C) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(D) Any metal grates have spaces no larger than six inches wide measured in any direction.

(E) Any metal screens have spaces no larger than three inches wide measured in any direction.

(F) All steel bars shall be no further than six inches apart.

(3) As used in this section, "licensed premises," "licensed place of business," "licensee's place of business," or "licensee's business premises" means the building designated in the license.

(4) For purposes of paragraph (17) of subdivision (b):

(A) A "firearms transaction record" is a record containing the same information referred to in subdivision (a) of Section 478.124, Section 478.124a, and subdivision (e) of Section 478.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 478.124a and subdivision (e) of Section 478.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 478.124 of Title 27 of the Code of Federal Regulations.

(d) Upon written request from a licensee, the licensing authority may grant an exemption from compliance with the requirements of paragraph (14) of subdivision (b) if the licensee is unable to comply with those requirements because of local ordinances, covenants, lease conditions, or similar circumstances not under the control of the licensee.

(e) (1) Except as otherwise provided in this paragraph, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer's business is located.

(2) The department shall remove from the centralized list any person whose federal firearms license has expired or has been revoked.

(3) Information compiled from the list shall be made available, upon request, for the following purposes only:

(A) For law enforcement purposes.

(B) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(C) When information is requested by a person promoting, sponsoring, operating, or otherwise organizing a show or event as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a valid certificate of eligibility issued pursuant to Section 12071.1, if that information is requested by the person to determine the eligibility of a prospective participant in a gun show or event to conduct transactions as a firearms dealer pursuant to subparagraph (B) of paragraph (1) of subdivision (b).

(4) Information provided pursuant to paragraph (3) shall be limited to information necessary to corroborate an individual's current license status as being one of the following:

(A) A person licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a).

(B) A person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and who is not subject to the requirement that he or she be licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a).

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars ($115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the

cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to fund the activities of that corporation or the local chapters of the corporation.

(2) The firearms are not pistols, revolvers, or other firearms capable of being concealed upon the person.

SEC. 17. Section 12072 of the Penal Code is amended to read:

12072. (a) (1) No person, corporation, or firm shall knowingly supply, deliver, sell, or give possession or control of a firearm to any person within any of the classes prohibited by Section 12021 or 12021.1.

(2) No person, corporation, or dealer shall sell, supply, deliver, or give possession or control of a firearm to any person whom he or she has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(3) (A) No person, corporation, or firm shall sell, loan, or transfer a firearm to a minor, nor sell a handgun to an individual under 21 years of age.

(B) Subparagraph (A) shall not apply to or affect those circumstances set forth in subdivision (p) of Section 12078.

(4) No person, corporation, or dealer shall sell, loan, or transfer a firearm to any person whom he or she knows or has cause to believe is not the actual purchaser or transferee of the firearm, or to any person

who is not the person actually being loaned the firearm, if the person, corporation, or dealer has either of the following:

(A) Knowledge that the firearm is to be subsequently loaned, sold, or transferred to avoid the provisions of subdivision (c) or (d).

(B) Knowledge that the firearm is to be subsequently loaned, sold, or transferred to avoid the requirements of any exemption to the provisions of subdivision (c) or (d).

(5) No person, corporation, or dealer shall acquire a firearm for the purpose of selling, transferring, or loaning the firearm, if the person, corporation, or dealer has either of the following:

(A) In the case of a dealer, intent to violate subdivision (b) or (c).

(B) In any other case, intent to avoid either of the following:

(i) The provisions of subdivision (d).

(ii) The requirements of any exemption to the provisions of subdivision (d).

(6) The dealer shall comply with the provisions of paragraph (18) of subdivision (b) of Section 12071.

(7) The dealer shall comply with the provisions of paragraph (19) of subdivision (b) of Section 12071.

(8) No person shall sell or otherwise transfer his or her ownership in a pistol, revolver, or other firearm capable of being concealed upon the person unless the firearm bears either:

(A) The name of the manufacturer, the manufacturer's make or model, and a manufacturer's serial number assigned to that firearm.

(B) The identification number or mark assigned to the firearm by the Department of Justice pursuant to Section 12092.

(9) (A) No person shall make an application to purchase more than one pistol, revolver, or other firearm capable of being concealed upon the person within any 30-day period.

(B) Subparagraph (A) shall not apply to any of the following:

(i) Any law enforcement agency.

(ii) Any agency duly authorized to perform law enforcement duties.

(iii) Any state or local correctional facility.

(iv) Any private security company licensed to do business in California.

(v) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of his or her employment as a peace officer.

(vi) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(vii) Any person who may, pursuant to Section 12078, claim an exemption from the waiting period set forth in subdivision (c) of this section.

(viii) Any transaction conducted through a licensed firearms dealer pursuant to Section 12082.

(ix) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto and who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071.

(x) The exchange of a pistol, revolver, or other firearm capable of being concealed upon the person where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(xi) The replacement of a pistol, revolver, or other firearm capable of being concealed upon the person when the person's pistol, revolver, or other firearm capable of being concealed upon the person was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which he or she resides.

(xii) The return of any pistol, revolver, or other firearm capable of being concealed upon the person to its owner.

(b) No person licensed under Section 12071 shall supply, sell, deliver, or give possession or control of a pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer, whether or not acting pursuant to Section 12082, shall deliver a firearm to a person, as follows:

(1) Within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

(3) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(5) (A) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(B) Commencing January 1, 2003, no handgun shall be delivered unless the purchaser, transferee, or person being loaned the handgun presents a handgun safety certificate to the dealer.

(6) No pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person and that the previous application to purchase involved none of the entities specified in subparagraph (B) of paragraph (9) of subdivision (a).

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, the parties to the transaction shall complete the sale, loan, or transfer of that firearm through a licensed firearms dealer pursuant to Section 12082.

(e) No person may commit an act of collusion relating to Article 8 (commencing with Section 12800) of Chapter 6. For purposes of this section and Section 12071, collusion may be proven by any one of the following factors:

(1) Answering a test applicant's questions during an objective test relating to firearms safety.

(2) Knowingly grading the examination falsely.

(3) Providing an advance copy of the test to an applicant.

(4) Taking or allowing another person to take the basic firearms safety course for one who is the applicant for a basic firearms safety certificate or a handgun safety certificate.

(5) Allowing another to take the objective test for the applicant, purchaser, or transferee.

(6) Using or allowing another to use one's identification, proof of residency, or thumbprint.

(7) Allowing others to give unauthorized assistance during the examination.

(8) Reference to unauthorized materials during the examination and cheating by the applicant.

(9) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as authorized by the department.

(f) (1) (A) Commencing July 1, 2008, a person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code may not deliver, sell, or transfer a firearm to a

person in California who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code unless, prior to delivery, the person intending to deliver, sell, or transfer the firearm obtains a verification number via the Internet for the intended delivery, sale, or transfer, from the department. If Internet service is unavailable to either the department or the licensee due to a technical or other malfunction, or a federal firearms licensee who is located outside of California does not possess a computer or have Internet access, alternate means of communication, including facsimile or telephone, shall be made available for a licensee to obtain a verification number in order to comply with this section. This subdivision shall not apply to the delivery, sale, or transfer of a short-barreled rifle, or short-barreled shotgun, as defined in Section 12020, or to a machinegun as defined in Section 12200, or to an assault weapon as defined in Sections 12276, 12276.1, and 12276.5.

(B) For every identification number request received pursuant to this section, the department shall determine whether the intended recipient is on the centralized list of firearms dealers pursuant to this section, or the centralized list of exempted federal firearms licensees pursuant to subdivision (a) of Section 12083, or the centralized list of firearms manufacturers pursuant to subdivision (f) of Section 12086.

(C) If the department finds that the intended recipient is on one of these lists, the department shall issue to the inquiring party, a unique identification number for the intended delivery, sale, or transfer. In addition to the unique verification number, the department may provide to the inquiring party information necessary for determining the eligibility of the intended recipient to receive the firearm. The person intending to deliver, sell, or transfer the firearm shall provide the unique verification number to the recipient along with the firearm upon delivery, in a manner to be determined by the department.

(D) If the department finds that the intended recipient is not on one of these lists, the department shall notify the inquiring party that the intended recipient is ineligible to receive the firearm.

(E) The department shall prescribe the manner in which the verification numbers may be requested via the Internet, or by alternate means of communication, such as by facsimile or telephone, including all required enrollment information and procedures.

(2) (A) On or after January 1, 1998, within 60 days of bringing a pistol, revolver, or other firearm capable of being concealed upon the person into this state, a personal handgun importer shall do one of the following:

(i) Forward by prepaid mail or deliver in person to the Department of Justice, a report prescribed by the department including information concerning that individual and a description of the firearm in question.

(ii) Sell or transfer the firearm in accordance with the provisions of subdivision (d) or in accordance with the provisions of an exemption from subdivision (d).

(iii) Sell or transfer the firearm to a dealer licensed pursuant to Section 12071.

(iv) Sell or transfer the firearm to a sheriff or police department.

(B) If the personal handgun importer sells or transfers the pistol, revolver, or other firearm capable of being concealed upon the person pursuant to subdivision (d) of Section 12072 and the sale or transfer cannot be completed by the dealer to the purchaser or transferee, and the firearm can be returned to the personal handgun importer, the personal handgun importer shall have complied with the provisions of this paragraph.

(C) The provisions of this paragraph are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and different provisions of the Penal Code shall not be punished under more than one provision.

(D) (i) On and after January 1, 1998, the department shall conduct a public education and notification program regarding this paragraph to ensure a high degree of publicity of the provisions of this paragraph.

(ii) As part of the public education and notification program described in this subparagraph, the department shall do all of the following:

(I) Work in conjunction with the Department of Motor Vehicles to ensure that any person who is subject to this paragraph is advised of the provisions of this paragraph, and provided with blank copies of the report described in clause (i) of subparagraph (A) at the time that person applies for a California driver's license or registers his or her motor vehicle in accordance with the Vehicle Code.

(II) Make the reports referred to in clause (i) of subparagraph (A) available to dealers licensed pursuant to Section 12071.

(III) Make the reports referred to in clause (i) of subparagraph (A) available to law enforcement agencies.

(IV) Make persons subject to the provisions of this paragraph aware of the fact that reports referred to in clause (i) of subparagraph (A) may be completed at either the licensed premises of dealers licensed pursuant to Section 12071 or at law enforcement agencies, that it is advisable to do so for the sake of accuracy and completeness of the reports, that prior to transporting a pistol, revolver, or other firearm capable of being concealed upon the person to a law enforcement agency in order to

comply with subparagraph (A), the person should give prior notice to the law enforcement agency that he or she is doing so, and that in any event, the pistol, revolver, or other firearm capable of being concealed upon the person should be transported unloaded and in a locked container.

(iii) Any costs incurred by the department to implement this paragraph shall be absorbed by the department within its existing budget and the fees in the Dealers' Record of Sale Special Account allocated for implementation of this subparagraph pursuant to Section 12076.

(3) Where a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, acquires a pistol, revolver, or other firearm capable of being concealed upon the person that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, outside of this state, takes actual possession of that firearm outside of this state pursuant to the provisions of subsection (j) of Section 923 of Title 18 of the United States Code, as amended by Public Law 104-208, and transports that firearm into this state, within five days of that licensed collector transporting that firearm into this state, he or she shall report to the department in a format prescribed by the department his or her acquisition of that firearm.

(4) (A) It is the intent of the Legislature that a violation of paragraph (2) or (3) shall not constitute a "continuing offense" and the statute of limitations for commencing a prosecution for a violation of paragraph (2) or (3) commences on the date that the applicable grace period specified in paragraph (2) or (3) expires.

(B) Paragraphs (2) and (3) shall not apply to a person who reports his or her ownership of a pistol, revolver, or other firearm capable of being concealed upon the person after the applicable grace period specified in paragraph (2) or (3) expires if evidence of that violation arises only as the result of the person submitting the report described in paragraph (2) or (3).

(g) (1) Except as provided in paragraph (2), (3), or (5), a violation of this section is a misdemeanor.

(2) If any of the following circumstances apply, a violation of this section is punishable by imprisonment in the state prison for two, three, or four years.

(A) If the violation is of paragraph (1) of subdivision (a).

(B) If the defendant has a prior conviction of violating the provisions, other than paragraph (9) of subdivision (a), of this section or former Section 12100 of this code or Section 8101 of the Welfare and Institutions Code.

(C) If the defendant has a prior conviction of violating any offense specified in subdivision (b) of Section 12021.1 or of a violation of Section 12020, 12220, or 12520, or of former Section 12560.

(D) If the defendant is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(E) A violation of this section by a person who actively participates in a "criminal street gang" as defined in Section 186.22.

(F) A violation of subdivision (b) involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(3) If any of the following circumstances apply, a violation of this section shall be punished by imprisonment in a county jail not exceeding one year or in the state prison, or by a fine not to exceed one thousand dollars ($1,000), or by both that fine and imprisonment.

(A) A violation of paragraph (2), (4), or (5) of subdivision (a).

(B) A violation of paragraph (3) of subdivision (a) involving the sale, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor.

(C) A violation of subdivision (b) involving the delivery of a pistol, revolver, or other firearm capable of being concealed upon the person.

(D) A violation of paragraph (1), (3), (4), (5), or (6) of subdivision (c) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(E) A violation of subdivision (d) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(F) A violation of subdivision (e).

(4) If both of the following circumstances apply, an additional term of imprisonment in the state prison for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed.

(A) A violation of paragraph (2) of subdivision (a) or subdivision (b).

(B) The firearm transferred in violation of paragraph (2) of subdivision (a) or subdivision (b) is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

(5) (A) A first violation of paragraph (9) of subdivision (a) is an infraction punishable by a fine of fifty dollars ($50).

(B) A second violation of paragraph (9) of subdivision (a) is an infraction punishable by a fine of one hundred dollars ($100).

(C) A third or subsequent violation of paragraph (9) of subdivision (a) is a misdemeanor.

(D) For purposes of this paragraph each application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person in violation of paragraph (9) of subdivision (a) shall be deemed a separate offense.

SEC. 18. Section 12076 of the Penal Code is amended to read:

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

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

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

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

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

(b) (1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor, provided however, that any person who is prohibited from obtaining a firearm pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code who knowingly furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required to be provided for the register shall be punished by imprisonment in a county jail not exceeding one year or imprisonment in the state prison for a term of 8, 12, or 18 months.

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

pistols, revolvers, or other firearms capable of being concealed upon the person.

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

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

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

(c) (1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the electronic or telephonic transfer and any person violating any provision of this section is guilty of a misdemeanor, provided however, that any person who is prohibited from obtaining a firearm pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code who knowingly furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required to be provided for the register shall be punished by imprisonment in a county jail not exceeding one year or imprisonment in the state prison for a term of 8, 12, or 18 months.

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

(3) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order. Each original shall become the permanent record of the transaction that shall be retained for not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives upon the

presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

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

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

(d) (1) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in subparagraph (A) of paragraph (9) of subdivision (a) of Section 12072, or is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

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

(3) If the department determines that the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm or is a person described in subparagraph (A) of paragraph (9) of subdivision (a) of Section 12072, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(4) If the department determines that the copies of the register submitted to it pursuant to paragraph (3) of subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (e) is not submitted by the dealer in conjunction with submission of

copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (e), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 19. Section 12077.5 of the Penal Code is amended to read:

12077.5. (a) An individual may request that the Department of Justice perform a firearms eligibility check for that individual. The applicant requesting the eligibility check shall provide the information required by subdivision (c) of Section 12077 to the department, in an application specified by the department.

(b) The department shall charge a fee of twenty dollars ($20) for performing the eligibility check authorized by this section, but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged may increase at a rate not to exceed the legislatively approved cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act.

(c) An applicant for the eligibility check pursuant to subdivision (a) shall complete the application, have it notarized by any licensed California Notary Public, and submit it by mail to the department. Upon receipt of a notarized application and fee, the department shall do all of the following:

(1) Examine its records, and the records it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, to determine if the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) Notify the applicant by mail of its determination of whether the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. The department's notification shall state either "eligible to possess firearms as of the date the check was

completed" or "ineligible to possess firearms as of the date the check was completed."

(d) If the department determines that the information submitted to it in the application contains any blank spaces, or inaccurate, illegible, or incomplete information, preventing identification of the applicant, or if the required fee is not submitted, the department shall not be required to perform the firearms eligibility check.

(e) The department shall make applications to conduct a firearms eligibility check as described in this section available to licensed firearms dealers and on the department's Web site.

(f) The department shall be immune from any liability arising out of the performance of the firearms eligibility check, or any reliance upon the firearms eligibility check.

(g) No person or agency may require or request another person to obtain a firearms eligibility check or notification of a firearms eligibility check pursuant to this section. A violation of this subdivision is a misdemeanor.

(h) The department shall include on the application specified in subdivision (a) and the notification of eligibility specified in subdivision (c) the following statements:

"No person or agency may require or request another person to obtain a firearms eligibility check or notification of firearms eligibility check pursuant to Section 12077.5 of the Penal Code. A violation of these provisions is a misdemeanor."

"If the applicant for a firearms eligibility check purchases, transfers, or receives a firearm through a licensed dealer as required by law, a waiting period and background check are both required."

SEC. 20. 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 by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(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 state or federal law from possessing, receiving, owning, or purchasing a firearm.

(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 state or federal law from possessing, receiving, owning, or purchasing a firearm 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. 21. Section 12086 of the Penal Code is amended to read:

12086. (a) (1) As used in this section, "licensee" means a person, firm, or corporation that satisfies both of the following:

(A) Has a license issued pursuant to paragraph (2) of subdivision (b).

(B) Is among those recorded in the centralized list specified in subdivision (f).

(2) As used in this section, "department" means the Department of Justice.

(b) (1) The Department of Justice shall accept applications for, and shall grant licenses permitting, the manufacture of firearms within this state. The department shall inform applicants who are denied licenses of the reasons for the denial in writing.

(2) No license shall be granted by the department unless and until the applicant presents proof that he or she has all of the following:

(A) A valid license to manufacture firearms issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller's permit or resale certificate issued by the State Board of Equalization, if applicable.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4) of subdivision (a) of Section 12071.

(3) The department shall adopt regulations to administer this section and Section 12085 and shall recover the full costs of administering the program by collecting fees from license applicants. Recoverable costs shall include, but not be limited to, the costs of inspections and maintaining a centralized list of licensed firearm manufacturers. The fee for licensed manufacturers who produce fewer than 500 firearms in a calendar year within this state shall not exceed two hundred fifty dollars ($250) per year or the actual costs of inspections and maintaining a

centralized list of firearm manufacturers and any other duties of the department required pursuant to this section and Section 12085, whichever is less.

(4) A license granted by the department shall be valid for no more than one year from the date of issuance and shall be in the form prescribed by the Attorney General.

(c) A licensee shall comply with the following prohibitions and requirements:

(1) The business shall be conducted only in the buildings designated in the license.

(2) The license or a copy thereof, certified by the department, shall be displayed on the premises where it can easily be seen.

(3) Whenever a licensee discovers that a firearm has been stolen or is missing from the licensee's premises, the licensee shall report the loss or theft within 48 hours of the discovery to all of the following:

(A) The Department of Justice, in a manner prescribed by the department.

(B) The federal Bureau of Alcohol, Tobacco, and Firearms.

(C) The police department in the city or city and county where the building designated in the license is located.

(D) If there is no police department in the city or city and county where the building designated in the license is located, the sheriff of the county where the building designated in the license is located.

(4) (A) The licensee shall require that each employee obtain a certificate of eligibility pursuant to paragraph (4) of subdivision (a) of Section 12071, which shall be renewed annually, prior to being allowed to come into contact with any firearm.

(B) The licensee shall prohibit any employee who the licensee knows or reasonably should know is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm from coming into contact with any firearm.

(5) (A) Each firearm the licensee manufactures in this state shall be identified with a unique serial number stamped onto the firearm utilizing the method of compression stamping.

(B) Licensed manufacturers who produce fewer than 500 firearms in a calendar year within this state may serialize long guns only by utilizing a method of compression stamping or by engraving the serial number onto the firearm.

(C) The licensee shall stamp the serial number onto the firearm within one business day of the time the receiver or frame is manufactured.

(D) The licensee shall not use the same serial number for more than one firearm.

(6) (A) The licensee shall record the type, model, caliber, or gauge, and serial number of each firearm manufactured or acquired, and the date of the manufacture or acquisition, within one business day of the manufacture or acquisition.

(B) The licensee shall maintain permanently within the building designated in the license the records required pursuant to subparagraph (A).

(C) Backup copies of the records described in subparagraph (A), whether electronic or hard copy, shall be made at least once a month. These backup records shall be maintained in a facility separate from the one in which the primary records are stored.

(7) (A) The licensee shall allow the department to inspect the building designated in the license to ensure compliance with the requirements of this section.

(B) The licensee shall allow any peace officer, authorized law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, to inspect facilities and records during business hours to ensure compliance with the requirements of this section.

(8) The licensee shall store in a secure facility all firearms manufactured and all barrels for firearms manufactured.

(9) (A) The licensee shall notify the chief of police or other head of the municipal police department in the city or city and county where the building designated in the license is located that the licensee is manufacturing firearms within that city or city and county and the location of the licensed premises.

(B) If there is no police department in the city or city and county where the building designated in the license is located, the licensee shall notify the sheriff of the county where the building designated in the license is located that the licensee is manufacturing firearms within that county and the location of the licensed premises.

(10) For at least 10 years, the licensee shall maintain records of all firearms that are lost or stolen, as prescribed by the department.

(d) Except as otherwise provided in subdivision (e), as used in this section, a "secure facility" means that the facility satisfies all of the following:

(1) The facility is equipped with a burglar alarm with central monitoring.

(2) All perimeter entries to areas in which firearms are stored other than doors, including windows and skylights, are secured with steel window guards or an audible, silent, or sonic alarm to detect entry.

(3) All perimeter doorways are designed in one of the following ways:

(A) A windowless steel security door equipped with both a deadbolt and a doorknob lock.

(B) A windowed metal door equipped with both a deadbolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window is covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

(C) A metal grate that is padlocked and affixed to the licensee's premises independent of the door and doorframe.

(D) Hinges and hasps attached to doors by welding, riveting, or bolting with nuts on the inside of the door.

(E) Hinges and hasps installed so that they cannot be removed when the doors are closed and locked.

(4) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.

(5) No perimeter metal grates are capable of being entered by any person.

(6) Steel bars used to satisfy the requirements of this subdivision are not capable of being entered by any person.

(7) Perimeter walls of rooms in which firearms are stored are constructed of concrete or at least 10-gauge expanded steel wire mesh utilized along with typical wood frame and drywall construction. If firearms are not stored in a vault, the facility shall use an exterior security-type door along with a high security, single-key deadbolt, or other door that is more secure. All firearms shall be stored in a separate room away from any general living area or work area. Any door to the storage facility shall be locked while unattended.

(8) Perimeter doorways, including the loading dock area, are locked at all times when not attended by paid employees or contracted employees, including security guards.

(9) Except when a firearm is currently being tested, any ammunition on the premises is removed from all manufactured guns and stored in a separate and locked room, cabinet, or box away from the storage area for the firearms. Ammunition may be stored with a weapon only in a locked safe.

(e) For purposes of this section, any licensed manufacturer who produces fewer than 500 firearms in a calendar year within this state may maintain a "secure facility" by complying with all of the requirements described in subdivision (d), or may design a security plan that is approved by the Department of Justice or the federal Bureau of Alcohol, Tobacco, and Firearms.

(1) If a security plan is approved by the federal Bureau of Alcohol, Tobacco, and Firearms, the approved plan, along with proof of approval,

shall be filed with the Department of Justice and the local police department. If there is no police department, the filing shall be with the county sheriff's office.

(2) If a security plan is approved by the Department of Justice, the approved plan, along with proof of approval, shall be filed with the local police department. If there is no police department, the filing shall be with the county sheriff's office.

(f) (1) Except as otherwise provided in this subdivision, the Department of Justice shall maintain a centralized list of all persons licensed pursuant to paragraph (2) of subdivision (b). The centralized list shall be provided annually to each police department and county sheriff within the state.

(2) Except as provided in paragraph (3), the license of any licensee who violates this section may be revoked.

(3) The license of any licensee who knowingly or with gross negligence violates this section or violates this section three times shall be revoked, and that person, firm, or corporation shall become permanently ineligible to obtain a license pursuant to this section.

(g) (1) Upon the revocation of the license, notification shall be provided to local law enforcement authorities in the jurisdiction where the licensee's business is located and to the federal Bureau of Alcohol, Tobacco, and Firearms.

(2) The department shall make information concerning the location and name of a licensee available, upon request, for the following purposes only:

(A) Law enforcement.

(B) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(3) Notwithstanding paragraph (2), the department shall make the name and business address of a licensee available to any person upon written request.

(h) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to paragraph (3) of subdivision (b), the number of licensees removed from the centralized list described in subdivision (f), and the number of licensees found to have violated this section.

SEC. 22. Section 12094 of the Penal Code is amended to read:

12094. (a) Any person with knowledge of any change, alteration, removal, or obliteration described herein, who buys, receives, disposes of, sells, offers for sale, or has in his or her possession any pistol,

revolver, or other firearm which has had the name of the maker, model, or the manufacturer's number or other mark of identification including any distinguishing number or mark assigned by the Department of Justice changed, altered, removed, or obliterated is guilty of a misdemeanor.

(b) Subdivision (a) does not apply to any of the following:

(1) The acquisition or possession of a firearm described in subdivision (a) by any member of the military forces of this state or of the United States, while on duty and acting within the scope and course of his or her employment.

(2) The acquisition or possession of a firearm described in subdivision (a) by any peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, while on duty and acting within the scope and course of his or her employment.

(3) The acquisition or possession of a firearm described in subdivision (a) by any employee of a forensic laboratory, while on duty and acting within the scope and course of his or her employment.

(4) The possession and disposition of a firearm described in subdivision (a) by a person who meets all of the following:

(A) He or she is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(B) The person possessed the firearm no longer than was necessary to deliver the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency in order to deliver the firearm to the law enforcement agency for the agency's disposition according to law.

(D) If the person is transporting the firearm to a law enforcement agency, he or she has given prior notice to the law enforcement agency that he or she is transporting the firearm to that law enforcement agency for that agency's disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

SEC. 23. Section 12101 of the Penal Code is amended to read:

12101. (a) (1) A minor shall not possess a pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Paragraph (1) shall not apply if one of the following circumstances exists:

(A) The minor is accompanied by his or her parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, 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 this use of a firearm.

(B) The minor is accompanied by a responsible adult, the minor has the prior written consent of his or her parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, 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 minor is at least 16 years of age, the minor has the prior written consent of his or her parent or legal guardian and the minor is actively engaged in, or is in direct transit to or from, 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.

(D) The minor has the prior written consent of his or her parent or legal guardian, the minor is on lands owned or lawfully possessed by his or her parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, 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) (1) A minor shall not possess live ammunition.

(2) Paragraph (1) shall not apply if one of the following circumstances exists:

(A) The minor has the written consent of his or her parent or legal guardian to possess live ammunition.

(B) The minor is accompanied by his or her parent or legal guardian.

(C) The minor is actively engaged in, or is going to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, the nature of which involves the use of a firearm.

(c) Every minor who violates this section shall be punished as follows:

(1) By imprisonment in the state prison or in a county jail if one of the following applies:

(A) The minor has been found guilty previously of violating this section.

(B) The minor has been found guilty previously of an offense specified in subdivision (b) of Section 12021.1 or in Section 12020, 12220, 12520, or 12560.

(C) The minor has been found guilty of a violation of paragraph (1) of subdivision (a).

(2) Violations of this section other than those violations specified in paragraph (1) shall be punishable as a misdemeanor.

(d) In a proceeding to enforce this section brought pursuant to Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of the Welfare and Institutions Code, the court may require the custodial parent or legal guardian of a minor who violates this section to participate in classes on parenting education that meet the requirements established in Section 16507.7 of the Welfare and Institutions Code.

(e) As used in this section, "responsible adult" means a person at least 21 years of age who is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(f) It is not the intent of the Legislature in enacting the amendments to this section or to Section 12078 to expand or narrow the application of current statutory or judicial authority as to the rights of minors to be loaned or to possess live ammunition or a firearm for the purpose of self-defense or the defense of others.

SEC. 24. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon or any .50 BMG rifle, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon or any .50 BMG rifle to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(3) Except in the case of a first violation involving not more than two firearms as provided in subdivisions (b) and (c), for purposes of this section, if more than one assault weapon or .50 BMG rifle is involved in any violation of this section, there shall be a distinct and separate offense for each.

(b) Any person who, within this state, possesses any assault weapon, except as provided in this chapter, shall be punished by imprisonment in a county jail for a period not exceeding one year, or by imprisonment in the state prison. However, a first violation of these provisions is punishable by a fine not exceeding five hundred dollars ($500) if the person was found in possession of no more than two firearms in compliance with subdivision (c) of Section 12285 and the person meets all of the following conditions:

(1) The person proves that he or she lawfully possessed the assault weapon prior to the date it was defined as an assault weapon pursuant to Section 12276, 12276.1, or 12276.5.

(2) The person has not previously been convicted of a violation of this section.

(3) The person was found to be in possession of the assault weapon within one year following the end of the one-year registration period established pursuant to subdivision (a) of Section 12285.

(4) The person relinquished the firearm pursuant to Section 12288, in which case the assault weapon shall be destroyed pursuant to Section 12028.

(c) Any person who, within this state, possesses any .50 BMG rifle, except as provided in this chapter, shall be punished by a fine of one thousand dollars ($1,000), imprisonment in a county jail for a period not to exceed one year, or by both that fine and imprisonment. However, a first violation of these provisions is punishable by a fine not exceeding five hundred dollars ($500) if the person was found in possession of no more than two firearms in compliance with subdivision (a) of Section 12285 and the person meets the conditions set forth in paragraphs (1), (2), and (3):

(1) The person proves that he or she lawfully possessed the .50 BMG rifle prior to January 1, 2005.

(2) The person has not previously been convicted of a violation of this section.

(3) The person was found to be in possession of the .50 BMG rifle within one year following the end of the .50 BMG rifle registration period established pursuant to subdivision (a) of Section 12285.

(4) Firearms seized pursuant to this subdivision from persons who meet all of the conditions set forth in paragraphs (1), (2), and (3) shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the .50 BMG rifle should be destroyed pursuant to Section 12028. Firearms seized from persons who do not meet the conditions set forth in paragraphs (1), (2), and (3) shall be destroyed pursuant to Section 12028.

(d) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

(e) Subdivisions (a), (b), and (c) shall not apply to the sale to, purchase by, importation of, or possession of assault weapons or a .50 BMG rifle by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Department of Corrections and Rehabilitation, the

Department of the California Highway Patrol, district attorneys' offices, Department of Fish and Game, Department of Parks and Recreation, or the military or naval forces of this state or of the United States, or any federal law enforcement agency for use in the discharge of their official duties.

(f) (1) Subdivisions (b) and (c) shall not prohibit the possession or use of assault weapons or a .50 BMG rifle by sworn peace officer members of those agencies specified in subdivision (e) for law enforcement purposes, whether on or off duty.

(2) Subdivisions (a), (b), and (c) shall not prohibit the delivery, transfer, or sale of an assault weapon or a .50 BMG rifle to, or the possession of an assault weapon or a .50 BMG rifle by, a sworn peace officer member of an agency specified in subdivision (e) if the peace officer is authorized by his or her employer to possess or receive the assault weapon or the .50 BMG rifle. Required authorization is defined as verifiable written certification from the head of the agency, identifying the recipient or possessor of the assault weapon as a peace officer and authorizing him or her to receive or possess the specific assault weapon. For this exemption to apply, in the case of a peace officer who possesses or receives the assault weapon prior to January 1, 2002, the officer shall register the assault weapon pursuant to Section 12285 on or before April 1, 2002, and in the case of a peace officer who possesses or receives the assault weapon on or after January 1, 2002, the officer shall register the assault weapon pursuant to Section 12285 not later than 90 days after possession or receipt. In the case of a peace officer who possesses or receives a .50 BMG rifle on or before January 1, 2005, the officer shall register the .50 BMG rifle on or before April 30, 2006. In the case of a peace officer who possesses or receives a .50 BMG rifle after January 1, 2005, the officer shall register the .50 BMG rifle not later than one year after possession or receipt. The peace officer must include with the registration, a copy of the authorization required pursuant to this paragraph.

(3) Nothing in this section shall be construed to limit or prohibit the delivery, transfer, or sale of an assault weapon or a .50 BMG rifle to, or the possession of an assault weapon or a .50 BMG rifle by, a member of a federal law enforcement agency provided that person is authorized by the employing agency to possess the assault weapon or .50 BMG rifle.

(g) Subdivision (b) shall not apply to the possession of an assault weapon during the 90-day period immediately after the date it was specified as an assault weapon pursuant to Section 12276.5, or during the one-year period after the date it was defined as an assault weapon pursuant to Section 12276.1, if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon.

(2) The person lawfully possessed the particular assault weapon prior to the date it was specified as an assault weapon pursuant to Section 12276.5, or prior to the date it was defined as an assault weapon pursuant to Section 12276.1.

(3) The person is otherwise in compliance with this chapter.

(h) Subdivisions (a), (b), and (c) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons or .50 BMG rifles for sale to the following:

(1) Exempt entities listed in subdivision (e).

(2) Entities and persons who have been issued permits pursuant to Section 12286 or 12287.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(i) Subdivision (a) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon or a .50 BMG rifle registered under Section 12285 or that was possessed pursuant to paragraph (1) of subdivision (f) that is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.

(j) Subdivisions (b) and (c) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon or a .50 BMG rifle registered under Section 12285 or that was possessed pursuant to paragraph (1) of subdivision (f) if the assault weapon or .50 BMG rifle is possessed at a place set forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the probate court.

(k) Subdivision (a) shall not apply to either of the following:

(1) A person who lawfully possesses and has registered an assault weapon or .50 BMG rifle pursuant to this chapter who lends that assault weapon or .50 BMG rifle to another if all the following apply:

(A) The person to whom the assault weapon or .50 BMG rifle is lent is 18 years of age or over and is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(B) The person to whom the assault weapon or .50 BMG rifle is lent remains in the presence of the registered possessor of the assault weapon or .50 BMG rifle.

(C) The assault weapon or .50 BMG rifle is possessed at any of the following locations:

(i) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(iii) While attending any exhibition, display, or educational project that is about firearms and that is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(2) The return of an assault weapon or .50 BMG rifle to the registered possessor, or the lawful possessor, which is lent by the same pursuant to paragraph (1).

(*l*) Subdivisions (b) and (c) shall not apply to the possession of an assault weapon or .50 BMG rifle by a person to whom an assault weapon or .50 BMG rifle is lent pursuant to subdivision (k).

(m) Subdivisions (a), (b), and (c) shall not apply to the possession and importation of an assault weapon or a .50 BMG rifle into this state by a nonresident if all of the following conditions are met:

(1) The person is attending or going directly to or coming directly from an organized competitive match or league competition that involves the use of an assault weapon or a .50 BMG rifle.

(2) The competition or match is conducted on the premises of one of the following:

(A) A target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(B) A target range of a public or private club or organization that is organized for the purpose of practicing shooting at targets.

(3) The match or competition is sponsored by, conducted under the auspices of, or approved by, a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(4) The assault weapon or .50 BMG rifle is transported in accordance with Section 12026.1 or 12026.2.

(5) The person is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(n) Subdivisions (b) and (c) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12286 or 12287.

(2) A person who has a permit to possess an assault weapon or a .50 BMG rifle issued pursuant to Section 12286 or 12287 when he or she is acting in accordance with Section 12285, 12286, or 12287.

(o) Subdivisions (a), (b), and (c) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12285.

(2) A person acting in accordance with Section 12286, 12287, or 12290.

(p) Subdivisions (b) and (c) shall not apply to the registered owner of an assault weapon or a .50 BMG rifle possessing that firearm in accordance with subdivision (c) of Section 12285.

(q) Subdivision (a) shall not apply to the importation into this state of an assault weapon or a .50 BMG rifle by the registered owner of that assault weapon or a .50 BMG rifle if it is in accordance with the provisions of subdivision (c) of Section 12285.

(r) Subdivision (a) shall not apply during the first 180 days of the 2005 calendar year to the importation into this state of a .50 BMG rifle by a person who lawfully possessed that .50 BMG rifle in this state prior to January 1, 2005.

(s) Subdivision (c) shall not apply to the possession of a .50 BMG rifle that is not defined or specified as an assault weapon pursuant to this chapter, by any person prior to May 1, 2006, if all of the following are applicable:

(1) The person is eligible under this chapter to register that .50 BMG rifle.

(2) The person lawfully possessed the .50 BMG rifle prior to January 1, 2005.

(3) The person is otherwise in compliance with this chapter.

(t) Subdivisions (a), (b), and (c) shall not apply to the sale of assault weapons or .50 BMG rifles by persons who are issued permits pursuant to Section 12287 to any of the following:

(1) Exempt entities listed in subdivision (e).

(2) Entities and persons who have been issued permits pursuant to Section 12286 or 12287.

(3) Federal military and law enforcement agencies.

(4) Law enforcement and military agencies of other states.

(5) Foreign governments and agencies approved by the United States State Department.

(6) Officers described in subdivision (f) who are authorized to possess assault weapons or .50 BMG rifles pursuant to subdivision (f).

(u) As used in this chapter, the date a firearm is an assault weapon is the earliest of the following:

(1) The effective date of an amendment to Section 12276 that adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 that adds or changes the designation of the specified firearm.

(3) The operative date of Section 12276.1, as specified in subdivision (d) of that section.

SEC. 25. Section 12285 of the Penal Code is amended to read:

12285. (a) (1) Any person who lawfully possesses an assault weapon, as defined in Section 12276, prior to June 1, 1989, shall register the firearm by January 1, 1991, and any person who lawfully possessed an assault weapon prior to the date it was specified as an assault weapon pursuant to Section 12276.5 shall register the firearm within 90 days with the Department of Justice pursuant to those procedures that the department may establish. Except as provided in subdivision (a) of Section 12280, any person who lawfully possessed an assault weapon prior to the date it was defined as an assault weapon pursuant to Section 12276.1, and which was not specified as an assault weapon under Section 12276 or 12276.5, shall register the firearm within one year of the effective date of Section 12276.1, with the department pursuant to those procedures that the department may establish. The registration shall contain a description of the firearm that identifies it uniquely, including all identification marks, the full name, address, date of birth, and thumbprint of the owner, and any other information that the department may deem appropriate. The department may charge a fee for registration of up to twenty dollars ($20) per person but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act. The fees shall be deposited into the Dealers' Record of Sale Special Account.

(2) Except as provided in subdivision (a) of Section 12280, any person who lawfully possesses any .50 BMG rifle prior to January 1, 2005, that is not specified as an assault weapon under Section 12276 or 12276.5 or defined as an assault weapon pursuant to Section 12276.1, shall register the .50 BMG rifle with the department no later than April 30, 2006, pursuant to those procedures that the department may establish. The registration shall contain a description of the firearm that identifies it uniquely, including all identification marks, the full name, address, date of birth, and thumbprint of the owner, and any other information that the department may deem appropriate. The department may charge a fee for registration of twenty-five dollars ($25) per person to cover the actual processing and public education campaign costs of the department. The fees shall be deposited into the Dealers' Record of Sale Special Account. Data-processing costs associated with modifying the department's data system to accommodate .50 caliber BMG rifles shall not be paid from the Dealers Record of Sale Special Account.

(b) (1) Except as provided in paragraph (2), no assault weapon possessed pursuant to this section may be sold or transferred on or after January 1, 1990, to anyone within this state other than to a licensed gun dealer, as defined in subdivision (c) of Section 12290, or as provided in Section 12288. Any person who (A) obtains title to an assault weapon registered under this section or that was possessed pursuant to paragraph (1) of subdivision (f) of Section 12280 by bequest or intestate succession, or (B) lawfully possessed a firearm subsequently declared to be an assault weapon pursuant to Section 12276.5, or subsequently defined as an assault weapon pursuant to Section 12276.1, shall, within 90 days, render the weapon permanently inoperable, sell the weapon to a licensed gun dealer, obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, or remove the weapon from this state. A person who lawfully possessed a firearm that was subsequently declared to be an assault weapon pursuant to Section 12276.5 may alternatively register the firearm within 90 days of the declaration issued pursuant to subdivision (f) of Section 12276.5.

(2) A person moving into this state, otherwise in lawful possession of an assault weapon, shall do one of the following:

(A) Prior to bringing the assault weapon into this state, that person shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

(B) The person shall cause the assault weapon to be delivered to a licensed gun dealer, as defined in subdivision (c) of Section 12290, in this state in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. If the person obtains a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, the dealer shall redeliver that assault weapon to the person. If the licensed gun dealer, as defined in subdivision (c) of Section 12290, is prohibited from delivering the assault weapon to a person pursuant to this paragraph, the dealer shall possess or dispose of the assault weapon as allowed by this chapter.

(3) Except as provided in paragraph (4), no .50 BMG rifle possessed pursuant to this section may be sold or transferred on or after January 1, 2005, to anyone within this state other than to a licensed gun dealer, as defined in subdivision (c) of Section 12290, or as provided in Section 12288. Any person who obtains title to a .50 BMG rifle registered under this section or that was possessed pursuant to paragraph (1) of subdivision (f) of Section 12280 by bequest or intestate succession shall, within 180 days of receipt, render the weapon permanently inoperable, sell the weapon to a licensed gun dealer, obtain a permit from the Department

of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, or remove the weapon from this state.

(4) A person moving into this state, otherwise in lawful possession of a .50 BMG rifle, shall do one of the following:

(A) Prior to bringing the .50 BMG rifle into this state, that person shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

(B) The person shall cause the .50 BMG rifle to be delivered to a licensed gun dealer, as defined in subdivision (c) of Section 12290 in this state in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. If the person obtains a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, the dealer shall redeliver that .50 BMG rifle to the person. If the licensed gun dealer, as defined in subdivision (c) of Section 12290 is prohibited from delivering the .50 caliber BMG rifle to a person pursuant to this paragraph, the dealer shall dispose of the .50 BMG rifle as allowed by this chapter.

(c) A person who has registered an assault weapon or registered a .50 BMG rifle under this section may possess it only under any of the following conditions unless a permit allowing additional uses is first obtained under Section 12286:

(1) At that person's residence, place of business, or other property owned by that person, or on property owned by another with the owner's express permission.

(2) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(3) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(4) While on the premises of a shooting club which is licensed pursuant to the Fish and Game Code.

(5) While attending any exhibition, display, or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(6) While on publicly owned land if the possession and use of a firearm described in Section 12276, 12276.1, 12276.5, or 12278, is specifically permitted by the managing agency of the land.

(7) While transporting the assault weapon or .50 BMG rifle between any of the places mentioned in this subdivision, or to any licensed gun dealer, as defined in subdivision (c) of Section 12290, for servicing or

repair pursuant to subdivision (b) of Section 12290, if the assault weapon is transported as required by Section 12026.1.

(d) No person who is under the age of 18 years, and no person who is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm may register or possess an assault weapon or .50 BMG rifle.

(e) The department's registration procedures shall provide the option of joint registration for assault weapons or .50 BMG rifle owned by family members residing in the same household.

(f) For 90 days following January 1, 1992, a forgiveness period shall exist to allow persons specified in subdivision (b) of Section 12280 to register with the Department of Justice assault weapons that they lawfully possessed prior to June 1, 1989.

(g) (1) Any person who registered a firearm as an assault weapon pursuant to the provisions of law in effect prior to January 1, 2000, where the assault weapon is thereafter defined as an assault weapon pursuant to Section 12276.1, shall be deemed to have registered the weapon for purposes of this chapter and shall not be required to reregister the weapon pursuant to this section.

(2) Any person who legally registered a firearm as an assault weapon pursuant to the provisions of law in effect prior to January 1, 2005, where the assault weapon is thereafter defined as a .50 caliber BMG rifle pursuant to Section 12278, shall be deemed to have registered the weapon for purposes of this chapter and shall not be required to reregister the weapon pursuant to this section.

(h) Any person who registers his or her assault weapon during the 90-day forgiveness period described in subdivision (f), and any person whose registration form was received by the Department of Justice after January 1, 1991, and who was issued a temporary registration prior to the end of the forgiveness period, shall not be charged with a violation of subdivision (b) of Section 12280, if law enforcement becomes aware of that violation only as a result of the registration of the assault weapon. This subdivision shall have no effect upon persons charged with a violation of subdivision (b) of Section 12280 of the Penal Code prior to January 1, 1992, provided that law enforcement was aware of the violation before the weapon was registered.

SEC. 26. Section 12305 of the Penal Code is amended to read:

12305. (a) Every dealer, manufacturer, importer, and exporter of any destructive device, or any motion picture or television studio using destructive devices in the conduct of its business, shall obtain a permit for the conduct of that business from the Department of Justice.

(b) Any person, firm, or corporation not mentioned in subdivision (a) shall obtain a permit from the Department of Justice in order to possess

or transport any destructive device. No permit shall be issued to any person who meets any of the following criteria:

(1) Has been convicted of any felony.

(2) Is addicted to the use of any narcotic drug.

(3) Is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(c) Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the destructive devices are to be put.

(d) Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

(e) Each applicant for a permit shall pay at the time of filing his or her application a fee not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient in amount to cover processing costs, the amount of the fees shall only increase at a rate not to exceed the legislatively approved cost-of-living adjustment for the department.

(f) Except as provided in subdivision (g), the Department of Justice shall, for every person, firm, or corporation to whom a permit is issued pursuant to this article, annually conduct an inspection for security and safe storage purposes, and to reconcile the inventory of destructive devices.

(g) A person, firm, or corporation with an inventory of fewer than five devices that require any Department of Justice permit shall be subject to an inspection for security and safe storage purposes, and to reconcile inventory, once every five years, or more frequently if determined by the department.

SEC. 27. Section 13511.5 of the Penal Code is amended to read:

13511.5. Each applicant for admission to a basic course of training certified by the Commission on Peace Officer Standards and Training that includes the carrying and use of firearms, as prescribed by subdivision (a) of Section 832 and subdivision (a) of Section 832.3, who is not sponsored by a local or other law enforcement agency, or is not a peace officer employed by a state or local agency, department, or district, shall be required to submit written certification from the Department of Justice pursuant to Sections 11122, 11123, and 11124 that the applicant has no criminal history background which would disqualify him or her,

pursuant to state or federal law, from owning, possessing, or having under his or her control a firearm.

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## CHAPTER 699

An act to amend Section 56.103 of the Civil Code, to amend Sections 3130, 3425, and 3448 of the Family Code, to amend Sections 1031 and 15029 of the Government Code, to repeal Section 11648 of the Health and Safety Code, to amend Section 227 of the Labor Code, to amend Sections 290.3, 538d, 830.2, 1126, 1170.11, 1298, 11102.1, 11112.5, 11167.5, 12020, 12076, 12082, 13825.3, and 14204 of, and to repeal Section 12091 of, the Penal Code, to amend Sections 10652, 13352, and 40002 of the Vehicle Code, and to amend Sections 731.1, 733, 1731.5, 1766, and 1767.35 of the Welfare and Institutions Code, relating to public safety.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 56.103 of the Civil Code is amended to read:

56.103. (a) A provider of health care may disclose medical information to a county social worker, a probation officer, or any other person who is legally authorized to have custody or care of a minor for the purpose of coordinating health care services and medical treatment provided to the minor.

(b) For purposes of this section, health care services and medical treatment includes one or more providers of health care providing, coordinating, or managing health care and related services, including, but not limited to, a provider of health care coordinating health care with a third party, consultation between providers of health care and medical treatment relating to a minor, or a provider of health care referring a minor for health care services to another provider of health care.

(c) For purposes of this section, a county social worker, a probation officer, or any other person who is legally authorized to have custody or care of a minor shall be considered a third party who may receive any of the following:

(1) Medical information described in Sections 56.05 and 56.10.

(2) Protected health information described in Section 160.103 of Title 45 of the Code of Federal Regulations.

(d) Medical information disclosed to a county social worker, probation officer, or any other person who is legally authorized to have custody or care of a minor shall not be further disclosed by the recipient unless the disclosure is for the purpose of coordinating health care services and medical treatment of the minor and the disclosure is authorized by law. Medical information disclosed pursuant to this section may not be admitted into evidence in any criminal or delinquency proceeding against the minor. Nothing in this subdivision shall prohibit identical evidence from being admissible in a criminal proceeding if that evidence is derived solely from lawful means other than this section and is permitted by law.

(e) (1) Notwithstanding Section 56.104, if a provider of health care determines that the disclosure of medical information concerning the diagnosis and treatment of a mental health condition of a minor is reasonably necessary for the purpose of assisting in coordinating the treatment and care of the minor, that information may be disclosed to a county social worker, probation officer, or any other person who is legally authorized to have custody or care of the minor. The information shall not be further disclosed by the recipient unless the disclosure is for the purpose of coordinating mental health services and treatment of the minor and the disclosure is authorized by law.

(2) As used in this subdivision, "medical information" does not include psychotherapy notes as defined in Section 164.501 of Title 45 of the Code of Federal Regulations.

(f) The disclosure of information pursuant to this section is not intended to limit the disclosure of information when that disclosure is otherwise required by law.

(g) For purposes of this section, "minor" means a minor taken into temporary custody or as to who a petition has been filed with the court, or who has been adjudged to be a dependent child or ward of the juvenile court pursuant to Section 300 or 602 of the Welfare and Institutions Code.

(h) (1) Except as described in paragraph (1) of subdivision (e), nothing in this section shall be construed to limit or otherwise affect existing privacy protections provided for in state or federal law.

(2) Nothing in this section shall be construed to expand the authority of a social worker, probation officer, or custodial caregiver beyond the authority provided under existing law to a parent or a patient representative regarding access to medical information.

SEC. 2. Section 3130 of the Family Code is amended to read:

3130. If a petition to determine custody of a child has been filed in a court of competent jurisdiction, or if a temporary order pending determination of custody has been entered in accordance with Chapter 3 (commencing with Section 3060), and the whereabouts of a party in

possession of the child are not known, or there is reason to believe that the party may not appear in the proceedings although ordered to appear personally with the child pursuant to Section 3430, the district attorney shall take all actions necessary to locate the party and the child and to procure compliance with the order to appear with the child for purposes of adjudication of custody. The petition to determine custody may be filed by the district attorney.

SEC. 3. Section 3425 of the Family Code is amended to read:

3425. (a) Before a child custody determination is made under this part, notice and an opportunity to be heard in accordance with the standards of Section 3408 must be given to all persons entitled to notice under the law of this state as in child custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

(b) This part does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this part are governed by the law of this state as in child custody proceedings between residents of this state.

SEC. 4. Section 3448 of the Family Code is amended to read:

3448. (a) A petition under this chapter must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child custody determination must state all of the following:

(1) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was.

(2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this part and, if so, identify the court, the case number, and the nature of the proceeding.

(3) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding.

(4) The present physical address of the child and the respondent, if known.

(5) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

(6) If the child custody determination has been registered and confirmed under Section 3445, the date and place of registration.

(c) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(d) An order issued under subdivision (c) must state the time and place of the hearing and advise the respondent that, at the hearing, the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under Section 3452, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes either of the following:

(1) That the child custody determination has not been registered and confirmed under Section 3445 and all of the following are true:

(A) The issuing court did not have jurisdiction under Chapter 2 (commencing with Section 3421).

(B) The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under Chapter 2 (commencing with Section 3421).

(C) The respondent was entitled to notice, but notice was not given in accordance with the standards of Section 3408, in the proceedings before the court that issued the order for which enforcement is sought.

(2) That the child custody determination for which enforcement is sought was registered and confirmed under Section 3445, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Chapter 2 (commencing with Section 3421).

SEC. 5. Section 1031 of the Government Code is amended to read:

1031. Each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards:

(a) Be a citizen of the United States or a permanent resident alien who is eligible for and has applied for citizenship, except as provided in Section 2267 of the Vehicle Code.

(b) Be at least 18 years of age.

(c) Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose a criminal record.

(d) Be of good moral character, as determined by a thorough background investigation.

(e) Be a high school graduate, pass the General Education Development Test indicating high school graduation level, pass the California High School Proficiency Examination, or have attained a two-year, four-year, or advanced degree from an accredited college or university. The high school shall be either a United States public school, an accredited United States Department of Defense high school, or an accredited or approved public or nonpublic high school. Any accreditation or approval required by this paragraph shall be from a state or local government educational agency using local or state government approved accreditation, licensing, registration, or other approval standards, a regional accrediting association, an accrediting association recognized by the Secretary of the United States Department of Education, an accrediting association holding full membership in the National Council for Private School Accreditation (NCPSA), an organization holding full membership in the Commission on International and Trans-Regional Accreditation (CITA), an organization holding full membership in the Council for American Private Education (CAPE), or an accrediting association recognized by the National Federation of Nonpublic School State Accrediting Associations (NFNSSAA).

(f) Be found to be free from any physical, emotional, or mental condition that might adversely affect the exercise of the powers of a peace officer.

(1) Physical condition shall be evaluated by a licensed physician and surgeon.

(2) Emotional and mental condition shall be evaluated by either of the following:

(A) A physician and surgeon who holds a valid California license to practice medicine, has successfully completed a postgraduate medical residency education program in psychiatry accredited by the Accreditation Council for Graduate Medical Education, and has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued after completion of the psychiatric residency program.

(B) A psychologist licensed by the California Board of Psychology who has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued postdoctorate.

The physician and surgeon or psychologist shall also have met any applicable education and training procedures set forth by the California

Commission on Peace Officer Standards and Training designed for the conduct of preemployment psychological screening of peace officers.

(g) This section shall not be construed to preclude the adoption of additional or higher standards, including age.

(h) This section shall become operative on January 1, 2005.

SEC. 6. Section 15029 of the Government Code is amended to read:

15029. (a) The Crack Down Task Force Program is hereby created within the Department of Justice with responsibility for establishing, conducting, supporting, and coordinating crack down task forces composed of state and local law enforcement agencies targeting the investigation and apprehension of the Colombian cartel-street gang cocaine networks.

(b) The department shall coordinate all investigations undertaken by task forces operating under the Crack Down Task Force Program with all local agencies having law enforcement responsibilities within the jurisdictions involved. The department shall also solicit participation by appropriate federal agencies with task force investigations whenever possible.

The department's Bureau of Narcotic Enforcement, Bureau of Forensic Services, and Bureau of Investigations shall provide staffing and logistical support for the crackdown task forces, supplying special agents, criminal intelligence analysts, forensic experts, financial auditors, equipment, and funding to the task forces as needed.

(c) Local law enforcement agencies participating in the Crack Down Task Force Program shall be reimbursed by the department for personnel overtime costs and equipment or supplies required for task force activities.

SEC. 7. Section 11648 of the Health and Safety Code is repealed.

SEC. 8. Section 227 of the Labor Code is amended to read:

227. Whenever an employer has agreed with any employee to make payments to a health or welfare fund, pension fund or vacation plan, or other similar plan for the benefit of the employees, or a negotiated industrial promotion fund, or has entered into a collective bargaining agreement providing for these payments, it shall be unlawful for that employer willfully or with intent to defraud to fail to make the payments required by the terms of that agreement. A violation of any provision of this section where the amount the employer failed to pay into the fund or funds exceeds five hundred dollars ($500) shall be punishable by imprisonment in the state prison, or in a county jail for a period of not more than one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine. All other violations shall be punishable as a misdemeanor.

SEC. 9. Section 290.3 of the Penal Code is amended to read:

290.3. (a) Every person who is convicted of any offense specified in subdivision (c) of Section 290 shall, in addition to any imprisonment or fine, or both, imposed for commission of the underlying offense, be punished by a fine of three hundred dollars ($300) upon the first conviction or a fine of five hundred dollars ($500) upon the second and each subsequent conviction, unless the court determines that the defendant does not have the ability to pay the fine.

An amount equal to all fines collected pursuant to this subdivision during the preceding month upon conviction of, or upon the forfeiture of bail by, any person arrested for, or convicted of, committing an offense specified in subdivision (c) of Section 290, shall be transferred once a month by the county treasurer to the Controller for deposit in the General Fund. Moneys deposited in the General Fund pursuant to this subdivision shall be transferred by the Controller as provided in subdivision (b).

(b) Except as provided in subdivision (d), out of the moneys deposited pursuant to subdivision (a) as a result of second and subsequent convictions of Section 290, one-third shall first be transferred to the Department of Justice Sexual Habitual Offender Fund, as provided in paragraph (1) of this subdivision. Out of the remainder of all moneys deposited pursuant to subdivision (a), 50 percent shall be transferred to the Department of Justice Sexual Habitual Offender Fund, as provided in paragraph (1), 25 percent shall be transferred to the DNA Identification Fund, as established by Section 76104.6 of the Government Code, and 25 percent shall be allocated equally to counties that maintain a local DNA testing laboratory, as provided in paragraph (2).

(1) Those moneys so designated shall be transferred to the Department of Justice Sexual Habitual Offender Fund created pursuant to paragraph (5) of subdivision (b) of Section 11170 and, when appropriated by the Legislature, shall be used for the purposes of Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4 for the purpose of monitoring, apprehending, and prosecuting sexual habitual offenders.

(2) Those moneys so designated shall be allocated equally and distributed quarterly to counties that maintain a local DNA testing laboratory. Before making any allocations under this paragraph, the Controller shall deduct the estimated costs that will be incurred to set up and administer the payment of these funds to the counties. Any funds allocated to a county pursuant to this paragraph shall be used by that county for the exclusive purpose of testing DNA samples for law enforcement purposes.

(c) Notwithstanding any other provision of this section, the Department of Corrections and Rehabilitation may collect a fine imposed pursuant to this section from a person convicted of a violation of any

offense listed in subdivision (c) of Section 290, that results in incarceration in a facility under the jurisdiction of the Department of Corrections and Rehabilitation. All moneys collected by the Department of Corrections and Rehabilitation under this subdivision shall be transferred, once a month, to the Controller for deposit in the General Fund, as provided in subdivision (a), for transfer by the Controller, as provided in subdivision (b).

(d) An amount equal to one-third of every first conviction fine collected and one-fifth of every second conviction fine collected pursuant to subdivision (a) shall be transferred to the Department of Corrections and Rehabilitation to help defray the cost of the global positioning system used to monitor sex offender parolees.

SEC. 10. Section 538d of the Penal Code is amended to read:

538d. (a) Any person other than one who by law is given the authority of a peace officer, who willfully wears, exhibits, or uses the authorized uniform, insignia, emblem, device, label, certificate, card, or writing, of a peace officer, with the intent of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor.

(b) (1) Any person, other than the one who by law is given the authority of a peace officer, who willfully wears, exhibits, or uses the badge of a peace officer with the intent of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars ($2,000), or by both that imprisonment and fine.

(2) Any person who willfully wears or uses any badge that falsely purports to be authorized for the use of one who by law is given the authority of a peace officer, or which so resembles the authorized badge of a peace officer as would deceive any ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of a peace officer, for the purpose of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars ($2,000), or by both that imprisonment and fine.

(c) Any person who willfully wears, exhibits, or uses, or who willfully makes, sells, loans, gives, or transfers to another, any badge, insignia, emblem, device, or any label, certificate, card, or writing, which falsely purports to be authorized for the use of one who by law is given the authority of a peace officer, or which so resembles the authorized badge, insignia, emblem, device, label, certificate, card, or writing of a peace officer as would deceive an ordinary reasonable person into believing

that it is authorized for the use of one who by law is given the authority of a peace officer, is guilty of a misdemeanor, except that any person who makes or sells any badge under the circumstances described in this subdivision is subject to a fine not to exceed fifteen thousand dollars ($15,000).

(d) (1) Vendors of law enforcement uniforms shall verify that a person purchasing a uniform identifying a law enforcement agency is an employee of the agency identified on the uniform. Presentation and examination of a valid identification card with a picture of the person purchasing the uniform and identification, on the letterhead of the law enforcement agency, of the person buying the uniform as an employee of the agency identified on the uniform shall be sufficient verification.

(2) Any uniform vendor who sells a uniform identifying a law enforcement agency, without verifying that the purchaser is an employee of the agency, is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000).

(3) This subdivision shall not apply if the uniform is to be used solely as a prop for a motion picture, television, video production, or a theatrical event, and prior written permission has been obtained from the identified law enforcement agency.

SEC. 11. Section 830.2 of the Penal Code is amended to read:

830.2. The following persons are peace officers whose authority extends to any place in the state:

(a) Any member of the Department of the California Highway Patrol including those members designated under subdivision (a) of Section 2250.1 of the Vehicle Code, provided that the primary duty of the peace officer is the enforcement of any law relating to the use or operation of vehicles upon the highways, or laws pertaining to the provision of police services for the protection of state officers, state properties, and the occupants of state properties, or both, as set forth in the Vehicle Code and Government Code.

(b) A member of the University of California Police Department appointed pursuant to Section 92600 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 92600 of the Education Code.

(c) A member of the California State University Police Departments appointed pursuant to Section 89560 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 89560 of the Education Code.

(d) (1) Any member of the Office of Correctional Safety of the Department of Corrections and Rehabilitation, provided that the primary duties of the peace officer shall be the investigation or apprehension of inmates, wards, parolees, parole violators, or escapees from state

institutions, the transportation of those persons, the investigation of any violation of criminal law discovered while performing the usual and authorized duties of employment, and the coordination of those activities with other criminal justice agencies.

(2) Any member of the Office of Internal Affairs of the Department of Corrections and Rehabilitation, provided that the primary duties shall be criminal investigations of Department of Corrections and Rehabilitation personnel and the coordination of those activities with other criminal justice agencies. For purposes of this subdivision, the member of the Office of Internal Affairs shall possess certification from the Commission on Peace Officer Standards and Training for investigators, or have completed training pursuant to Section 6126.1 of the Penal Code.

(e) Employees of the Department of Fish and Game designated by the director, provided that the primary duty of those peace officers shall be the enforcement of the law as set forth in Section 856 of the Fish and Game Code.

(f) Employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as set forth in Section 5008 of the Public Resources Code.

(g) The Director of Forestry and Fire Protection and employees or classes of employees of the Department of Forestry and Fire Protection designated by the director pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(h) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any of these peace officers shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(i) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace officers shall be the enforcement of the law as prescribed in that section.

(j) The Inspector General, pursuant to Section 6125, and the Chief Deputy Inspector General In Charge, the Senior Deputy Inspector General, the Deputy Inspector General, and those employees of the Inspector General as designated by the Inspector General, are peace

officers, provided that the primary duty of these peace officers shall be conducting audits of investigatory practices and other audits, as well as conducting investigations, of the Department of Corrections and Rehabilitation, Division of Juvenile Justice and the Board of Parole Hearings.

SEC. 12. Section 1126 of the Penal Code is amended to read:

1126. In a trial for any offense, questions of law are to be decided by the court, and questions of fact by the jury. Although the jury has the power to find a general verdict, which includes questions of law as well as of fact, they are bound, nevertheless, to receive as law what is laid down as such by the court.

SEC. 13. Section 1170.11 of the Penal Code is amended to read:

1170.11. As used in Section 1170.1, the term "specific enhancement" means an enhancement that relates to the circumstances of the crime. It includes, but is not limited to, the enhancements provided in Sections 186.10, 186.11, 186.22, 186.26, 186.33, 192.5, 273.4, 289.5, 290.4, 290.45, 290.46, 347, and 368, subdivisions (a) and (b) of Section 422.75, paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 451.1, paragraphs (2), (3), and (4) of subdivision (a) of Section 452.1, subdivision (g) of Section 550, Sections 593a, 600, 667.8, 667.85, 667.9, 667.10, 667.15, 667.16, 667.17, 674, 675, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 12022.6, 12022.7, 12022.75, 12022.8, 12022.85, 12022.9, 12022.95, 12072, and 12280 of this code, and in Sections 1522.01 and 11353.1, subdivision (b) of Section 11353.4, Sections 11353.6, 11356.5, 11370.4, 11379.7, 11379.8, 11379.9, 11380.1, 11380.7, 25189.5, and 25189.7 of the Health and Safety Code, and in Sections 20001 and 23558 of the Vehicle Code, and in Sections 10980 and 14107 of the Welfare and Institutions Code.

SEC. 14. Section 1298 of the Penal Code is amended to read:

1298. In lieu of a deposit of money, the defendant or any other person may deposit bonds of the United States or of the State of California of the face value of the cash deposit required, and these bonds shall be treated in the same manner as a deposit of money or the defendant or any other person may give as security any equity in real property which he or she owns, provided that no charge is made to the defendant or any other person for the giving as security of any equity in real property. A hearing, at which witnesses may be called or examined, shall be held before the magistrate to determine the value of the equity and if the magistrate finds that the value of the equity is equal to twice the amount of the cash deposit required he or she shall allow the bail. The clerk shall, under order of the court, when occasion arises therefor, sell the bonds or the equity and apply the proceeds of the sale in the manner that a deposit of cash may be required to be applied.

SEC. 15. Section 11102.1 of the Penal Code is amended to read:

11102.1. (a) (1) Notwithstanding any other law, the Department of Justice shall establish, implement, and maintain a certification program to process fingerprint-based criminal background clearances on individuals who roll fingerprint impressions, manually or electronically, for non-law-enforcement purposes. Except as provided in paragraph (2), no person shall roll fingerprints for non-law-enforcement purposes unless certified.

(2) The following persons shall be exempt from this section if they have received training pertaining to applicant fingerprint rolling and have undergone a criminal offender record information background investigation:

(A) Law enforcement personnel and state employees.

(B) Employees of a tribal gaming agency or a tribal gaming operation, provided that the fingerprints are rolled and submitted to the Department of Justice for purposes of compliance with a tribal-state compact.

(3) The department shall not accept fingerprint impressions for non-law-enforcement purposes unless they were rolled by an individual certified or exempted pursuant to this section.

(b) Individuals who roll fingerprint impressions, either manually or electronically, for non-law-enforcement purposes, must submit to the Department of Justice fingerprint images and related information, along with the appropriate fees and documentation. The department shall retain one copy of the fingerprint impressions to process a state level criminal background clearance, and it shall submit one copy of the fingerprint impressions to the Federal Bureau of Investigation to process a federal level criminal background clearance.

(c) The department shall retain the fingerprint impressions for subsequent arrest notification pursuant to Section 11105.2.

(d) Every individual certified as a fingerprint roller shall meet the following criteria:

(1) Be a legal resident of this state at the time of certification.

(2) Be at least 18 years of age.

(3) Have satisfactorily completed a notarized written application prescribed by the department to determine the fitness of the person to exercise the functions of a fingerprint roller.

(e) Prior to granting a certificate as a fingerprint roller, the department shall determine that the applicant possesses the required honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the position.

(f) (1) The department shall refuse to certify any individual as a fingerprint roller, and shall revoke the certification of any fingerprint roller, upon either of the following:

(A) Conviction of a felony offense.

(B) Conviction of any other offense that both involves moral turpitude, dishonesty, or fraud, and bears on the applicant's ability to perform the duties or responsibilities of a fingerprint roller.

(2) A conviction after a plea of nolo contendere is deemed to be a conviction for purposes of this subdivision.

(g) In addition to subdivision (f), the department may refuse to certify any individual as a fingerprint roller, and may revoke or suspend the certification of any fingerprint roller upon any of the following:

(1) Substantial and material misstatement or omission in the application submitted to the department.

(2) Arrest pending adjudication for a felony.

(3) Arrest pending adjudication for a lesser offense that both involves moral turpitude, dishonesty, or fraud, and bears on the applicant's ability to perform the duties or responsibilities of a fingerprint roller.

(4) Revocation, suspension, restriction, or denial of a professional license, if the revocation, suspension, restriction, or denial was for misconduct, dishonesty, or for any cause substantially related to the duties or responsibilities of a fingerprint roller.

(5) Failure to discharge fully and faithfully any of the duties or responsibilities required of a fingerprint roller.

(6) When adjudged liable for damages in any suit grounded in fraud, misrepresentation, or in violation of the state regulatory laws, or in any suit based upon a failure to discharge fully and faithfully the duties of a fingerprint roller.

(7) Use of false or misleading advertising in which the fingerprint roller has represented that he or she has duties, rights, or privileges that he or she does not possess by law.

(8) Commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the fingerprint roller or another, or to substantially injure another.

(9) Failure to submit any remittance payable upon demand by the department or failure to satisfy any court ordered money judgment, including restitution.

(h) The Department of Justice shall work with applicant regulatory entities to improve and make more efficient the criminal offender record information request process related to employment, licensing, and certification background investigations.

(i) The Department of Justice may adopt regulations as necessary to implement the provisions of this section.

(j) The department shall charge a fee sufficient to cover its costs under this section.

SEC. 16. Section 11112.5 of the Penal Code is amended to read:

11112.5. (a) Costs for equipment purchases based upon the master plan approved by the Attorney General, including state sales tax, freight, insurance, and installation, shall be prorated between the state and local governmental entity. The state's share shall be 70 percent. The local government's share shall be 30 percent, paid in legal tender. Purchases may be made under the existing Cal-ID contract through the Department of General Services.

(b) Alternatively, at the discretion of the local board, an independent competitive procurement may be initiated under the following conditions:

(1) Prior to submitting a bid in an independent procurement, any prospective bidder must demonstrate the ability to meet or exceed performance levels established in the existing Cal-ID contract and demonstrate the ability to interface with Cal-ID and meet or exceed performance levels established in the existing Cal-ID contract without degrading the performance of the Cal-ID system.

(2) Both qualifying benchmarks will be at the prospective bidder's expense and will be conducted by the Department of Justice.

(3) In the event that no vendor other than the existing contract vendor qualifies to bid, purchases shall be made by the Department of General Services on behalf of local agencies pursuant to the existing Cal-ID contract.

(c) Competitive local procurements must adhere to the following guidelines:

(1) Administrative requirements contained within Section 5200 of the State Administrative Manual shall be met.

(2) Local procurements shall not increase the costs the state would otherwise be obligated to pay.

(3) Final bids submitted in an independent procurement shall contain a signed contract that represents an irrevocable offer that does not materially deviate from the terms and conditions of the existing Cal-ID contract.

(4) The selected vendor shall post a performance bond in an amount equal to 25 percent of the local equipment costs. The bond shall remain in effect until the local acceptance test has been successfully completed.

(5) Requests for tender, including contract language, shall be approved by the Department of General Services prior to release. The Department of General Services and the Department of Justice shall be represented on the evaluation and selection team.

(d) The local government agency shall be responsible for all costs related to conducting a local bid, site preparation, equipment maintenance, ongoing operational costs, file conversion over and above those records that are available on magnetic media from the Department of Justice, and equipment enhancements or systems design which exceed

the basic design specifications of the Department of Justice. The state shall provide sufficient circuitry to each county, or group of counties to handle all fingerprint data traffic. The state shall provide for annual maintenance of that line.

SEC. 17. Section 11167.5 of the Penal Code is amended to read:

11167.5. (a) The reports required by Sections 11166 and 11166.2, or authorized by Section 11166.05, and child abuse or neglect investigative reports that result in a summary report being filed with the Department of Justice pursuant to subdivision (a) of Section 11169 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article is a misdemeanor punishable by imprisonment in a county jail not to exceed six months, by a fine of five hundred dollars ($500), or by both that imprisonment and fine.

(b) Reports of suspected child abuse or neglect and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170 or subdivision (a) of Section 11170.5.

(3) Persons or agencies with whom investigations of child abuse or neglect are coordinated under the regulations promulgated under Section 11174.

(4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.

(5) Persons or agencies responsible for the licensing of facilities which care for children, as specified in Section 11165.7.

(6) The State Department of Social Services or any county licensing agency which has contracted with the state, as specified in paragraph (4) of subdivision (b) of Section 11170, when an individual has applied for a community care license or child day care license, or for employment in an out-of-home care facility, or when a complaint alleges child abuse or neglect by an operator or employee of an out-of-home care facility.

(7) Hospital scan teams. As used in this paragraph, "hospital scan team" means a team of three or more persons established by a hospital, or two or more hospitals in the same county, consisting of health care professionals and representatives of law enforcement and child protective services, the members of which are engaged in the identification of child abuse or neglect. The disclosure authorized by this section includes disclosure among all hospital scan teams.

(8) Coroners and medical examiners when conducting a post mortem examination of a child.

(9) The Board of Parole Hearings, which may subpoena an employee of a county welfare department who can provide relevant evidence and reports that both (A) are not unfounded, pursuant to Section 11165.12, and (B) concern only the current incidents upon which parole revocation proceedings are pending against a parolee charged with child abuse or neglect. The reports and information shall be confidential pursuant to subdivision (d) of Section 11167.

(10) Personnel from an agency responsible for making a placement of a child pursuant to Section 361.3 of, and Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code.

(11) Persons who have been identified by the Department of Justice as listed in the Child Abuse Central Index pursuant to paragraph (7) of subdivision (b) of Section 11170 or subdivision (c) of Section 11170, or persons who have verified with the Department of Justice that they are listed in the Child Abuse Central Index as provided in subdivision (f) of Section 11170. Disclosure under this paragraph is required notwithstanding the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code. Nothing in this paragraph shall preclude a submitting agency prior to disclosure from redacting any information necessary to maintain confidentiality as required by law.

(12) Out-of-state law enforcement agencies conducting an investigation of child abuse or neglect only when an agency makes the request for reports of suspected child abuse or neglect in writing and on official letterhead, or as designated by the Department of Justice, identifying the suspected abuser or victim by name and date of birth or approximate age. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written request shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports is to be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure provided by the requesting state or the applicable interstate compact provision. In the absence of both (A) a specific out-of-state statute or interstate compact provision that requires that the information contained within these reports be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and (B) criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(13) Out-of-state agencies responsible for approving prospective foster or adoptive parents or relative caregivers for placement of a child only when the agency makes the request for information in writing on

official letterhead, transmitted by mail, fax, or electronic transmission, or as designated by the Department of Justice. The request shall identify the prospective foster or adoptive parent or relative caregiver, and any other adult living in the home, by name and date of birth or approximate age. The request shall be signed by the department supervisor of the requesting agency. The request shall cite the out-of-state statute or interstate compact provision that requires that the information contained in the reports shall be disclosed and used for no purpose other than conducting background checks in foster or adoptive cases. The request shall also cite the criminal penalties for unlawful disclosure provided by the requesting state or the applicable interstate compact provision. In the absence of an out-of-state statute or interstate compact provision that requires that the information contained within the reports be disclosed and used for no purpose other than conducting background checks in foster or adoptive cases, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(14) Each chairperson of a county child death review team, or his or her designee, to whom disclosure of information is permitted under this article, relating to the death of one or more children and any prior child abuse or neglect investigation reports maintained involving the same victim, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(c) Authorized persons within county health departments shall be permitted to receive copies of any reports made by health practitioners, as defined in paragraphs (21) to (28), inclusive, of subdivision (a) of Section 11165.7, and pursuant to Section 11165.13, and copies of assessments completed pursuant to Sections 123600 and 123605 of the Health and Safety Code, to the extent permitted by federal law. Any information received pursuant to this subdivision is protected by subdivision (e).

(d) Nothing in this section requires the Department of Justice to disclose information contained in records maintained under Section 11170 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

(e) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse or neglect if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse or neglect.

SEC. 18. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who does any of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

(1) Manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any fléchette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, any metal military practice handgrenade or metal replica handgrenade, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag.

(2) Commencing January 1, 2000, manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends, any large-capacity magazine.

(3) Carries concealed upon his or her person any explosive substance, other than fixed ammunition.

(4) Carries concealed upon his or her person any dirk or dagger.

However, a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1). A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, the Department of Corrections and Rehabilitation, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled rifles by peace officer members of a police department, sheriff's office, marshal's office, the California Highway Patrol, the Department of Justice, or the Department of Corrections and Rehabilitation, when on duty and the use is authorized by the agency and is within the course and scope of their duties and the peace officer

has completed a training course in the use of these weapons certified by the Commission on Peace Officer Standards and Training.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition that is a curio or relic as defined in Section 478.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who

obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(9) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event 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.

(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred to in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of their official duties, or the possession of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by peace officers thereof when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(13) Weapons, devices, and ammunition, other than a short-barreled rifle or short-barreled shotgun, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by, persons who are in the business of selling weapons, devices, and ammunition listed in subdivision (a) solely to the entities referred to in paragraph (12) when engaging in transactions with those entities.

(14) The manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 12002 by entities that are in the business

of selling wooden batons or clubs to special police officers and uniformed security guards when engaging in transactions with those persons.

(15) Any plastic toy handgrenade, or any metal military practice handgrenade or metal replica handgrenade that is a relic, curio, memorabilia, or display item, that is filled with a permanent inert substance or that is otherwise permanently altered in a manner that prevents ready modification for use as a grenade.

(16) Any instrument, ammunition, weapon, or device listed in subdivision (a) that is not a firearm that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the instrument, ammunition, weapon, or device no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the listed item, he or she is transporting the listed item to a law enforcement agency for disposition according to law.

(17) Any firearm, other than a short-barreled rifle or short-barreled shotgun, that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency for disposition according to law.

(D) Prior to transporting the firearm to a law enforcement agency, he or she has given prior notice to that law enforcement agency that he or she is transporting the firearm to that law enforcement agency for disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

(18) The possession of any weapon, device, or ammunition, by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.

(19) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(20) The sale to, lending to, transfer to, purchase by, receipt of, or importation into this state of, a large-capacity magazine by a sworn peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

(21) The sale or purchase of any large-capacity magazine to or by a person licensed pursuant to Section 12071.

(22) The loan of a lawfully possessed large-capacity magazine between two individuals if all of the following conditions are met:

(A) The person being loaned the large-capacity magazine is not prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition.

(B) The loan of the large-capacity magazine occurs at a place or location where the possession of the large-capacity magazine is not otherwise prohibited and the person who lends the large-capacity magazine remains in the accessible vicinity of the person to whom the large-capacity magazine is loaned.

(23) The importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000, lawfully took it out of the state, and is returning to the state with the large-capacity magazine previously lawfully possessed in the state.

(24) The lending or giving of any large-capacity magazine to a person licensed pursuant to Section 12071, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(25) The return to its owner of any large-capacity magazine by a person specified in paragraph (24).

(26) The importation into this state of, or sale of, any large-capacity magazine by a person who has been issued a permit to engage in those activities pursuant to Section 12079, when those activities are in accordance with the terms and conditions of that permit.

(27) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine, to or by entities that operate armored vehicle businesses pursuant to the laws of this state.

(28) The lending of large-capacity magazines by the entities specified in paragraph (27) to their authorized employees, while in the course and scope of their employment for purposes that pertain to the entity's armored vehicle business.

(29) The return of those large-capacity magazines to those entities specified in paragraph (27) by those employees specified in paragraph (28).

(30) (A) The manufacture of a large-capacity magazine for any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(B) The manufacture of a large-capacity magazine for use by a sworn peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

(C) The manufacture of a large-capacity magazine for export or for sale to government agencies or the military pursuant to applicable federal regulations.

(31) The loan of a large-capacity magazine for use solely as a prop for a motion picture, television, or video production.

(32) The purchase of a large-capacity magazine by the holder of a special weapons permit issued pursuant to Section 12095, 12230, 12250, 12286, or 12305, for any of the following purposes:

(A) For use solely as a prop for a motion picture, television, or video production.

(B) For export pursuant to federal regulations.

(C) For resale to law enforcement agencies, government agencies, or the military, pursuant to applicable federal regulations.

(c) (1) As used in this section, a "short-barreled shotgun" means any of the following:

(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a "short-barreled rifle" means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(3) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire, or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(4) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.

(5) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if the firearm may be fired while mounted or enclosed therein.

(6) As used in this section, a "fléchette dart" means a dart, capable of being fired from a firearm, that measures approximately one inch in length, with tail fins that take up approximately five-sixteenths of an inch of the body.

(7) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a

shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(8) As used in this section, a "ballistic knife" means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater speargun.

(9) As used in this section, a "camouflaging firearm container" means a container which meets all of the following criteria:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

"Camouflaging firearm container" does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(10) As used in this section, a "zip gun" means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and Subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(11) As used in this section, a "shuriken" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(12) As used in this section, an "unconventional pistol" means a firearm that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a "belt buckle knife" is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2 ½ inches.

(14) As used in this section, a "lipstick case knife" means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a "cane sword" means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a "shobi-zue" means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(17) As used in this section, a "leaded cane" means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an "air gauge knife" means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a "writing pen knife" means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, a "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, a "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, an "undetectable firearm" means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(C) For purposes of this paragraph, the terms "firearm," "major component," and "Security Exemplar" have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

All firearm detection equipment newly installed in nonfederal public buildings in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting an undetectable firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one's person sufficient for reasonable passage of the public.

(23) As used in this section, a "multiburst trigger activator" means one of the following devices:

(A) A device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

(B) A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.

(24) As used in this section, a "dirk" or "dagger" means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 653k, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

(25) As used in this section, "large-capacity magazine" means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include any of the following:

(A) A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.

(B) A .22 caliber tube ammunition feeding device.

(C) A tubular magazine that is contained in a lever-action firearm.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 19. Section 12076 of the Penal Code is amended to read:

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

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

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

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

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

(b) (1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor, provided however, that any person who is prohibited from obtaining a firearm pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code who knowingly furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required to be provided for the register shall be punished by imprisonment in a county jail not exceeding one year or imprisonment in the state prison for a term of 8, 12, or 18 months.

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

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

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

(5) If the transaction is a private party transfer conducted pursuant to Section 12082, a photocopy of the original shall be provided to the seller

or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser's personal information, as required pursuant to paragraph (1) of subdivision (b) and paragraph (1) of subdivision (c) of Section 12077, from the seller's copy, and the seller's personal information from the purchaser's copy.

(c) (1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the electronic or telephonic transfer and any person violating any provision of this section is guilty of a misdemeanor, provided however, that any person who is prohibited from obtaining a firearm pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code who knowingly furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required to be provided for the register shall be punished by imprisonment in a county jail not exceeding one year or imprisonment in the state prison for a term of 8, 12, or 18 months.

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

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

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

(5) If the transaction is a private party transfer conducted pursuant to Section 12082, a copy shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser's

personal information, as required pursuant to paragraph (1) of subdivision (b) and paragraph (1) of subdivision (c) of Section 12077, from the seller's copy, and the seller's personal information from the purchaser's copy.

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

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

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

(4) If the department determines that the copies of the register submitted to it pursuant to paragraph (3) of subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (e) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (e), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to subdivision (*l*) of Section 12078 or paragraph (18) of subdivision (b) of Section 12071, or

clause (i) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, or paragraph (3) of subdivision (f) of Section 12072.

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

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

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

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

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

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

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

(j) Only one fee shall be charged pursuant to this section for a single transaction on the same date for taking title or possession of any number of firearms pursuant to paragraph (18) of subdivision (b) of Section 12071 or subdivision (c) or (i) of Section 12078.

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

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

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

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

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

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

SEC. 20. 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 fees that may be charged pursuant to Sections 12076, 12076.5, and 12088.9 and forwarded to the Department of Justice, and the fees set forth in Section 12805. Nothing in these provisions shall prevent a dealer from charging a smaller fee. The dealer may not charge any additional fees.

(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. 21. Section 12091 of the Penal Code is repealed.

SEC. 22. Section 13825.3 of the Penal Code is amended to read:

13825.3. All funds made available to the Department of Justice for purposes of this chapter shall be disbursed in accordance with this chapter to community-based organizations and nonprofit agencies that comply with the program requirements of Section 13825.4 and the funding criteria of Section 13825.5 of this chapter.

(a) Funds disbursed under this chapter may enhance, but shall not supplant local, state, or federal funds that would, in the absence of the California Gang, Crime, and Violence Prevention Partnership Program, be made available for the prevention or intervention of youth involvement in gangs, crime, or violence.

(b) The applicant community-based organization or nonprofit agency may enter into interagency agreements between it and a fiscal agent that will allow the fiscal agent to manage the funds awarded to the community-based organization or nonprofit agency.

(c) Before April 15, 1998, the department shall prepare and file administrative guidelines and procedures for the California Gang, Crime, and Violence Prevention Partnership Program consistent with this chapter.

(d) Before July 1, 1998, the department shall issue a "request for funding proposal" that informs applicants of the purposes and availability of funds to be awarded under this chapter and solicits proposals from community-based organizations and nonprofit agencies to provide services consistent with this chapter.

(e) The department shall conduct an evaluation of the California Gang, Crime, and Violence Prevention Partnership Program after two years of program operation and each year thereafter, for purposes of identifying the effectiveness and results of the program. The evaluation shall be conducted by staff or an independent body that has experience in evaluating programs operated by community-based organizations or nonprofit agencies.

(f) After two years of program operation, and each year thereafter, the department shall prepare and submit an annual report to the Legislature describing in detail the operation of the program and the results obtained from the California Gang, Crime, and Violence Prevention Partnership Program receiving funds under this chapter. The report shall also list the full costs applicable to the department for processing and reviewing applications, and for administering the California Gang, Crime, and Violence Prevention Partnership Program. The department shall be required to submit an annual report to the Legislature only in years in which the California Gang, Crime, and Violence Prevention Partnership Program receives funds under this chapter.

SEC. 23. Section 14204 of the Penal Code is amended to read:

14204. The Attorney General shall provide training on the services provided by the center to line personnel, supervisors, and investigators in the following fields: law enforcement, district attorneys' offices, the Department of Corrections and Rehabilitation, probation departments, court mediation services, and the judiciary.

SEC. 24. Section 10652 of the Vehicle Code is amended to read:

10652. Whenever any vehicle of a type subject to registration under this code has been stored in a garage, repair shop, parking lot, or trailer park for 30 days, the keeper shall report such fact to the Department of Justice by receipted mail, which shall at once notify the legal owner as of record. This section shall not apply to any vehicle stored by a peace officer or employee designated in Section 22651 pursuant to Article 3 (commencing with Section 22850) of Chapter 10 of Division 11.

SEC. 25. 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, subdivision (a) of

Section 23109, or Section 23109.1, 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 or Section 23109.1. 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 Section 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. 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. 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. 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 (g) 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

paragraph (4) of subdivision (b) of Section 23562. 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 (g) 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, 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 (g) 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, 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 (g) 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, 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 (g) 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 Section 23109.1 or 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 or Section 23109.1, 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. 26. Section 40002 of the Vehicle Code is amended to read:

40002. (a) (1) When there is a violation of Section 40001, an owner or any other person subject to Section 40001, who was not driving the vehicle involved in the violation, may be mailed a written notice to appear. An exact and legible duplicate copy of that notice when filed with the court, in lieu of a verified complaint, is a complaint to which the defendant may plead "guilty."

(2) If, however, the defendant fails to appear in court or does not deposit lawful bail, or pleads other than "guilty" of the offense charged, a verified complaint shall be filed which shall be deemed to be an original complaint, and thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by the defendant and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

(3) A verified complaint pursuant to paragraph (2) shall include a paragraph that informs the person that unless he or she appears in the court designated in the complaint within 21 days after being given the complaint and answers the charge, renewal of registration of the vehicle involved in the offense may be precluded by the department, or a warrant of arrest may be issued against him or her.

(b) (1) If a person mailed a notice to appear pursuant to paragraph (1) of subdivision (a) fails to appear in court or deposit bail, a warrant of arrest shall not be issued based on the notice to appear, even if that notice is verified. An arrest warrant may only be issued after a verified complaint pursuant to paragraph (2) of subdivision (a) is given the person and the person fails to appear in court to answer that complaint.

(2) If a person mailed a notice to appear pursuant to paragraph (1) of subdivision (a) fails to appear in court or deposit bail, the court may give by mail to the person a notice of noncompliance. A notice of noncompliance shall include a paragraph that informs the person that unless he or she appears in the court designated in the notice to appear within 21 days after being given by mail the notice of noncompliance and answers the charge on the notice to appear, or pays the applicable fine and penalties if an appearance is not required, renewal of registration of the vehicle involved in the offense may be precluded by the department.

(c) A verified complaint filed pursuant to this section shall conform to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code.

(d) (1) The giving by mail of a notice to appear pursuant to paragraph (1) of subdivision (a) or a notice of noncompliance pursuant to paragraph (2) of subdivision (b) shall be done in a manner prescribed by Section 22.

(2) The verified complaint pursuant to paragraph (2) of subdivision (a) shall be given in a manner prescribed by Section 22.

SEC. 27. Section 731.1 of the Welfare and Institutions Code is amended to read:

731.1. Notwithstanding any other law, the court committing a ward to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, upon the recommendation of the chief probation officer of the county, may recall that commitment in the case of any ward whose commitment offense was not an offense listed in subdivision (b) of Section 707, unless the offense was a sex offense set forth in subdivision (c) of Section 290.008 of the Penal Code, and who remains confined in an institution operated by the division on or after September 1, 2007. Upon recall of the ward, the court shall set and convene a recall disposition hearing for the purpose of ordering an alternative disposition for the ward that is appropriate under all of the circumstances prevailing in the case. The court shall provide to the division no less than 15 days advance notice of the recall hearing date, and the division shall transport and deliver the ward to the custody of the probation department of the committing county no less than five days prior to the scheduled date of the recall hearing. Pending the recall disposition hearing, the ward shall be detained or housed in the manner and place, consistent with the requirements of law, as may be directed by the court in its order of recall. The timing and procedure of the recall disposition hearing shall be consistent with the rules, rights, and procedures applicable to delinquency disposition hearings, as described in Article 17 (commencing with Section 675).

SEC. 28. Section 733 of the Welfare and Institutions Code is amended to read:

733. A ward of the juvenile court who meets any condition described below shall not be committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities:

(a) The ward is under 11 years of age.

(b) The ward is suffering from any contagious, infectious, or other disease that would probably endanger the lives or health of the other inmates of any facility.

(c) The ward has been or is adjudged a ward of the court pursuant to Section 602, and the most recent offense alleged in any petition and admitted or found to be true by the court is not described in subdivision (b) of Section 707, unless the offense is a sex offense set forth in subdivision (c) of Section 290.008 of the Penal Code. This subdivision shall be effective on and after September 1, 2007.

SEC. 29. Section 1731.5 of the Welfare and Institutions Code is amended to read:

1731.5. (a) After certification to the Governor as provided in this article, a court may commit to the Division of Juvenile Facilities any person who meets all of the following:

(1) Is convicted of an offense described in subdivision (b) of Section 707 or subdivision (c) of Section 290.008 of the Penal Code.

(2) Is found to be less than 21 years of age at the time of apprehension.

(3) Is not sentenced to death, imprisonment for life, with or without the possibility of parole, whether or not pursuant to Section 190 of the Penal Code, imprisonment for 90 days or less, or the payment of a fine, or after having been directed to pay a fine, defaults in the payment thereof, and is subject to imprisonment for more than 90 days under the judgment.

(4) Is not granted probation, or was granted probation and that probation is revoked and terminated.

(b) The Division of Juvenile Facilities shall accept a person committed to it pursuant to this article if it believes that the person can be materially benefitted by its reformatory and educational discipline, and if it has adequate facilities to provide that care.

(c) Any person under 18 years of age who is not committed to the division pursuant to this section may be transferred to the authority by the Secretary of the Department of Corrections and Rehabilitation with the approval of the Chief Deputy Secretary for the Division of Juvenile Justice. In sentencing a person under 18 years of age, the court may order that the person shall be transferred to the custody of the Division of Juvenile Facilities pursuant to this subdivision. If the court makes this order and the division fails to accept custody of the person, the person

shall be returned to court for resentencing. The transfer shall be solely for the purposes of housing the inmate, allowing participation in the programs available at the institution by the inmate, and allowing division parole supervision of the inmate, who, in all other aspects shall be deemed to be committed to the Department of Corrections and Rehabilitation and shall remain subject to the jurisdiction of the Secretary of the Department of Corrections and Rehabilitation and the Board of Parole Hearings. Notwithstanding subdivision (b) of Section 2900 of the Penal Code, the secretary, with the concurrence of the chief deputy secretary, may designate a facility under the jurisdiction of the chief deputy secretary as a place of reception for any person described in this subdivision.

The chief deputy secretary shall have the same powers with respect to an inmate transferred pursuant to this subdivision as if the inmate had been committed or transferred to the Division of Juvenile Facilities either under the Arnold-Kennick Juvenile Court Law or subdivision (a).

The duration of the transfer shall extend until any of the following occurs:

(1) The chief deputy secretary orders the inmate returned to the Department of Corrections and Rehabilitation.

(2) The inmate is ordered discharged by the Board of Parole Hearings.

(3) The inmate reaches 18 years of age. However, if the inmate's period of incarceration would be completed on or before the inmate's 21st birthday, the chief deputy secretary may continue to house the inmate until the period of incarceration is completed.

SEC. 30. Section 1766 of the Welfare and Institutions Code is amended to read:

1766. (a) Subject to Sections 733 and 1767.35, and subdivision (b) of this section, if a person has been committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, the Board of Parole Hearings, according to standardized review and appeal procedures established by the board in policy and regulation and subject to the powers and duties enumerated in subdivision (a) of Section 1719, may do any of the following:

(1) Permit the ward his or her liberty under supervision and upon conditions it believes are best designed for the protection of the public.

(2) Order his or her confinement under conditions it believes best designed for the protection of the public pursuant to the purposes set forth in Section 1700, except that a person committed to the division pursuant to Sections 731 or 1731.5 may not be held in physical confinement for a total period of time in excess of the maximum periods of time set forth in Section 731. Nothing in this subdivision limits the

power of the board to retain the minor or the young adult on parole status for the period permitted by Sections 1769, 1770, and 1771.

(3) Order reconfinement or renewed release under supervision as often as conditions indicate to be desirable.

(4) Revoke or modify any parole or disciplinary appeal order.

(5) Modify an order of discharge if conditions indicate that such modification is desirable and when that modification is to the benefit of the person committed to the division.

(6) Discharge him or her from its control when it is satisfied that discharge is consistent with the protection of the public.

(b) The following provisions shall apply to any ward eligible for release on parole on or after September 1, 2007, who was committed to the custody of the Division of Juvenile Facilities for an offense other than one described in subdivision (b) of Section 707 or paragraph (3) of subdivision (d) of Section 290 of the Penal Code:

(1) The county of commitment shall supervise the reentry of any ward released on parole on or after September 1, 2007, who was committed to the custody of the division for committing an offense other than those described in subdivision (b) of Section 707 or subdivision (c) of Section 290.008 of the Penal Code.

(2) Not less than 60 days prior to the scheduled parole consideration hearing of a ward described in this subdivision, the division shall provide to the probation department and the court of the committing county, and the ward's counsel, if known, the most recent written review prepared pursuant to Section 1720, along with notice of the parole consideration hearing date.

(3) Not less than 30 days prior to the scheduled parole consideration hearing of a ward described in this subdivision, the probation department of the committing county may provide the division with its written plan for the reentry supervision of the ward. At the parole consideration hearing, the Board of Parole Hearings shall, in determining whether the ward is to be released, consider a reentry supervision plan submitted by the county.

(4) Any ward described in this subdivision who is granted parole shall be placed on parole jurisdiction for up to 15 court days following his or her release. The board shall notify the probation department and the court of the committing county within 48 hours of a decision to release a ward.

(5) Within 15 court days of the release by the division of a ward described in this subdivision, the committing court shall convene a reentry disposition hearing for the ward. The purpose of the hearing shall be for the court to identify those conditions of probation that are appropriate under all the circumstances of the case. The court shall, to

the extent it deems appropriate, incorporate a reentry plan submitted by the county probation department and reviewed by the board into its disposition order. At the hearing the ward shall be fully informed of the terms and conditions of any order entered by the court, including the consequences for any violation thereof. The procedure of the reentry disposition hearing shall otherwise be consistent with the rules, rights, and procedures applicable to delinquency disposition hearings as described in Article 17 (commencing with Section 675) of Chapter 2 of Part 1 of Division 2.

(6) The division shall have no further jurisdiction over a ward described in this subdivision who is released on parole by the board upon the ward's court appearance pursuant to paragraph (5).

(c) Within 60 days of intake, the division shall provide the court and the probation department with a treatment plan for the ward.

(d) A ward shall be entitled to an appearance hearing before a panel of board commissioners for any action that would result in the extension of a parole consideration date pursuant to subdivision (d) of Section 5076.1 of the Penal Code.

(e) The department shall promulgate policies and regulations to implement this section.

(f) Commencing on July 1, 2004, and annually thereafter, for the preceding fiscal year, the department shall collect and make available to the public the following information:

(1) The total number of ward case reviews conducted by the division and the board, categorized by guideline category.

(2) The number of parole consideration dates for each category set at guideline, above guideline, and below guideline.

(3) The number of ward case reviews resulting in a change to a parole consideration date, including the category assigned to the ward, the amount of time added to or subtracted from the parole consideration date, and the specific reason for the change.

(4) The percentage of wards who have had a parole consideration date changed to a later date, the percentage of wards who have had a parole consideration date changed to an earlier date, and the average annual time added or subtracted per case.

(5) The number and percentage of wards who, while confined or on parole, are charged with a new misdemeanor or felony criminal offense.

(6) Any additional data or information identified by the department as relevant.

(g) As used in subdivision (f), the term "ward case review" means any review of a ward that changes, maintains, or appreciably affects the programs, treatment, or placement of a ward.

SEC. 31. Section 1767.35 of the Welfare and Institutions Code is amended to read:

1767.35. Commencing on September 1, 2007, any parolee under the jurisdiction of the Division of Juvenile Parole Operations shall be returned to custody upon the suspension, cancellation, or revocation of parole as follows:

(a) To the custody of the Division of Juvenile Facilities if the parolee is under the jurisdiction of the division for the commission of an offense described in subdivision (b) of Section 707 or an offense described in subdivision (c) of Section 290.008 of the Penal Code.

(b) To the county of commitment if the parolee is under the jurisdiction of the division for the commission of an offense not described in subdivision (b) of Section 707 or paragraph (3) of subdivision (d) of Section 290 of the Penal Code. If a ward subject to this subdivision is detained by the Division of Juvenile Parole Operations for the purpose of initiating proceedings to suspend, cancel, or revoke the ward's parole, the division shall notify the court and probation department of the committing county within 48 hours of the ward's detention that the ward is subject to parole violation proceedings. Within 15 days of a parole violation notice from the division, the committing court shall conduct a reentry disposition hearing for the ward. Pending the hearing, the ward may be detained by the division, provided that the division shall deliver the ward to the custody of the probation department in the county of commitment not more than three judicial days nor less than two judicial days prior to the reentry disposition hearing. At the hearing, at which the ward shall be entitled to representation by counsel, the court shall consider the alleged violation of parole, the risks and needs presented by the ward, and the reentry disposition programs and sanctions that are available for the ward, and enter a disposition order consistent with these considerations and the protection of the public. The ward shall be fully informed by the court of the terms, conditions, responsibilities, and sanctions that are relevant to the reentry plan that is adopted by the court. Upon delivery to the custody of the probation department for local proceedings under this subdivision, the Division of Juvenile Facilities and the Board of Parole Hearings shall have no further jurisdiction or parole supervision responsibility for a ward subject to this subdivision. The procedure of the reentry disposition hearing, including the detention status of the ward in the event continuances are ordered by the court, shall be consistent with the rules, rights, and procedures applicable to delinquency disposition hearings, as described in Article 17 (commencing with Section 675) of Chapter 2 of Part 1 of Division 2.

SEC. 32. It is the intent of the Legislature, in enacting the amendments to Section 227 of the Labor Code, that these changes are

for the sole purpose of correcting an obsolete penalty provision, and no other consequence is intended.

SEC. 33. Any section of any act, other than Senate Bill 1498, enacted by the Legislature during the 2008 calendar year that takes effect on or before January 1, 2009, and that amends, amends and renumbers, adds, repeals and adds, or repeals any one or more of the sections affected by this act shall prevail over this act, whether this act is enacted prior to, or subsequent to, the enactment of that act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act, other than Senate Bill 1498, that is enacted by the Legislature during the 2008 calendar year and takes effect on or before January 1, 2009, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

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## CHAPTER 700

An act to amend Section 56.103 of the Civil Code, and to add Section 5328.04 to the Welfare and Institutions Code, relating to confidential information.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 56.103 of the Civil Code is amended to read:

56.103. (a) A provider of health care may disclose medical information to a county social worker, a probation officer, or any other person who is legally authorized to have custody or care of a minor for the purpose of coordinating health care services and medical treatment provided to the minor.

(b) For purposes of this section, health care services and medical treatment includes one or more providers of health care providing, coordinating, or managing health care and related services, including, but not limited to, a provider of health care coordinating health care with a third party, consultation between providers of health care and medical treatment relating to a minor, or a provider of health care referring a minor for health care services to another provider of health care.

(c) For purposes of this section, a county social worker, a probation officer, or any other person who is legally authorized to have custody

or care of a minor shall be considered a third party who may receive any of the following:

(1) Medical information described in Sections 56.05 and 56.10.

(2) Protected health information described in Section 160.103 of Title 45 of the Code of Federal Regulations.

(d) Medical information disclosed to a county social worker, probation officer, or any other person who is legally authorized to have custody or care of a minor shall not be further disclosed by the recipient unless the disclosure is for the purpose of coordinating health care services and medical treatment of the minor and the disclosure is authorized by law. Medical information disclosed pursuant to this section may not be admitted into evidence in any criminal or delinquency proceeding against the minor. Nothing in this subdivision shall prohibit identical evidence from being admissible in a criminal proceeding if that evidence is derived solely from lawful means other than this section and is permitted by law.

(e) (1) Notwithstanding Section 56.104, if a provider of health care determines that the disclosure of medical information concerning the diagnosis and treatment of a mental health condition of a minor is reasonably necessary for the purpose of assisting in coordinating the treatment and care of the minor, that information may be disclosed to a county social worker, probation officer, or any other person who is legally authorized to have custody or care of the minor. The information shall not be further disclosed by the recipient unless the disclosure is for the purpose of coordinating mental health services and treatment of the minor and the disclosure is authorized by law.

(2) As used in this subdivision, "medical information" does not include psychotherapy notes as defined in Section 164.501 of Title 45 of the Code of Federal Regulations.

(f) The disclosure of information pursuant to this section is not intended to limit the disclosure of information when that disclosure is otherwise required by law.

(g) For purposes of this section, "minor" means a minor taken into temporary custody or as to who a petition has been filed with the court, or who has been adjudged to be a dependent child or ward of the juvenile court pursuant to Section 300 or 601 of the Welfare and Institutions Code.

(h) (1) Except as described in paragraph (1) of subdivision (e), nothing in this section shall be construed to limit or otherwise affect existing privacy protections provided for in state or federal law.

(2) Nothing in this section shall be construed to expand the authority of a social worker, probation officer, or custodial caregiver beyond the authority provided under existing law to a parent or a patient representative regarding access to medical information.

SEC. 2 Section 5328.04 is added to the Welfare and Institutions Code, to read:

5328.04. (a) Notwithstanding Section 5328, information and records made confidential under that section may be disclosed to a county social worker, a probation officer, or any other person who is legally authorized to have custody or care of a minor, for the purpose of coordinating health care services and medical treatment, as defined in subdivision (b) of Section 56.103 of the Civil Code, mental health services, or services for developmental disabilities, for the minor.

(b) Information disclosed under subdivision (a) shall not be further disclosed by the recipient unless the disclosure is for the purpose of coordinating health care services and medical treatment, or mental health or developmental disability services, for the minor and only to a person who would otherwise be able to obtain the information under subdivision (a) or any other provision of law.

(c) Information disclosed pursuant to this section shall not be admitted into evidence in any criminal or delinquency proceeding against the minor. Nothing in this subdivision shall prohibit identical evidence from being admissible in a criminal proceeding if that evidence is derived solely from lawful means other than this section and is permitted by law.

(d) Nothing in this section shall be construed to compel a physician, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, nurse, attorney, or other professional person to reveal information, including notes, that has been given to him or her in confidence by the minor or members of the minor's family.

(e) The disclosure of information pursuant to this section is not intended to limit disclosure of information when that disclosure is otherwise required by law.

(f) Nothing in this section shall be construed to expand the authority of a social worker, probation officer, or custodial caregiver beyond the authority provided under existing law to a parent or a patient representative regarding access to confidential information.

(g) As used in this section, "minor" means a minor taken into temporary custody or for whom a petition has been filed with the court, or who has been adjudged a dependent child or ward of juvenile court pursuant to Section 300 or 601.

(h) Information and records that may be disclosed pursuant to this section do not include psychotherapy notes, as defined in Section 164.501 of Title 45 of the Code of Federal Regulations.

# CHAPTER 701

An act to amend Sections 8712, 8811, and 8908 of the Family Code, to amend Sections 1522, 1522.1, 1524, 1550, and 1551 of the Health and Safety Code, to amend Sections 11167.5 and 11170 of the Penal Code, and to amend Sections 309, 361.4, and 16501.1 of the Welfare and Institutions Code, relating to children, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 8712 of the Family Code is amended to read:

8712. (a) The department or licensed adoption agency shall require each person filing an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The department or a licensed adoption agency may also secure the person's full criminal record, if any. Any federal-level criminal offender record requests to the Department of Justice shall be submitted with 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 an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or arrests for which the Department of Justice establishes that the person is free on bail, or on his or her own recognizance pending trial or appeal. The Department of Justice shall forward to the Federal Bureau of Investigation any 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 shall compile and disseminate a response to the department or a licensed adoption agency.

(b) Notwithstanding subdivision (c), the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c) (1) Under no circumstances shall the department or a licensed adoption agency give final approval for an adoptive placement in any home where the prospective adoptive parent or any adult living in the prospective adoptive home has either of the following:

(A) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subdivision, crimes involving violence means those violent crimes contained in clause (i) of subparagraph (A), and subparagraph (B), of paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code.

(B) A felony conviction that occurred within the last five years for physical assault, battery, or a drug- or alcohol-related offense.

(2) This subdivision shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. 670 and following).

(d) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant shall be paid by the applicant. The department or licensed adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to prospective adoptive parents detrimental to the welfare of the adopted child, when the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

SEC. 2. Section 8811 of the Family Code is amended to read:

8811. (a) The department or delegated county adoption agency shall require each person filing an adoption petition to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The department or delegated county adoption agency may also secure the person's full criminal record, if any. Any federal-level criminal offender record requests to the Department of Justice shall be submitted with 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 an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or arrests for which the Department of Justice establishes that the person is free on bail, or on his or her own recognizance pending trial or appeal. The Department of Justice shall forward to the Federal Bureau of Investigation any 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 shall

compile and disseminate a response to the department or delegated county adoption agency.

(b) Notwithstanding subdivision (c), the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c) (1) Under no circumstances shall the department or a delegated county adoption agency give final approval for an adoptive placement in any home where the prospective adoptive parent or any adult living in the prospective adoptive home has either of the following:

(A) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subdivision, crimes involving violence means those violent crimes contained in clause (i) of subparagraph (A), and subparagraph (B), of paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code.

(B) A felony conviction that occurred within the last five years for physical assault, battery, or a drug- or alcohol-related offense.

(2) This subdivision shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. 670 and following).

(d) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the petitioner shall be paid by the petitioner. The department or delegated county adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to the prospective adoptive parents detrimental to the welfare of the adopted child, when the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

SEC. 3. Section 8908 of the Family Code is amended to read:

8908. (a) A licensed adoption agency shall require each person filing an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The licensed adoption agency may also secure the person's full criminal record, if any. Any federal-level criminal offender record requests to the Department of Justice shall be submitted with 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 an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or arrests for which the Department of Justice establishes that the person is free on bail, or on his or her own recognizance pending trial or appeal. The Department of Justice shall forward to the Federal Bureau of Investigation any 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 shall compile and disseminate a fitness determination to the licensed adoption agency.

(b) Notwithstanding subdivision (c), the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c) (1) Under no circumstances shall a licensed adoption agency give final approval for an adoptive placement in any home where the prospective adoptive parent or any adult living in the prospective adoptive home, has a felony conviction for either of the following:

(A) Any felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subdivision, crimes involving violence means those violent crimes contained in clause (i) of subparagraph (A), and subparagraph (B), of paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code.

(B) A felony conviction that occurred within the last five years for physical assault, battery, or a drug- or alcohol-related offense.

(2) This subdivision shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. 670 and following).

(d) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant shall be paid by the applicant. The licensed adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to the prospective adoptive parents detrimental to the welfare of the adopted child.

SEC. 4. Section 1522 of the Health and Safety Code is amended to read:

1522. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a community care facility, foster family home, or a certified family home of a licensed foster family agency. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a community care facility.

(a) (1) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the State Department of Social Services shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, of the Penal Code, subdivision (b) of Section 273a of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) Except during the 2003–04, 2004–05, 2005–06, 2006–07, and 2007–08 fiscal years, neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section.

(4) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be

denied, unless the director grants an exemption pursuant to subdivision (g).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (1) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (g).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) meet all of the conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal offender record information search response for the applicant or any of the persons described in subdivision (b), the department may issue a license if the applicant and each person described in subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or any other person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1550. The department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.

(F) The State Department of Social Services shall develop procedures to provide the individual's state and federal criminal history information with the written notification of his or her exemption denial or revocation based on the criminal record. Receipt of the criminal history information shall be optional on the part of the individual, as set forth in the agency's procedures. The procedure shall protect the confidentiality and privacy of the individual's record, and the criminal history information shall not be made available to the employer.

(G) Notwithstanding any other provision of law, the department is authorized to provide an individual with a copy of his or her state- or federal-level criminal offender record information search response as

provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state- or federal-level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

(b) (1) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility.

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of his or her current certification, prior to providing care, to the community care facility. The facility shall maintain the copy of the certification on file as long as care is being provided by the certified nurse assistant or certified home health aide at the facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility pursuant to Section 1558.

(D) Any staff person, volunteer, or employee who has contact with the clients.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(F) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(2) The following persons are exempt from the requirements applicable under paragraph (1):

(A) A medical professional as defined in department regulations who holds a valid license or certification from the person's governing

California medical care regulatory entity and who is not employed, retained, or contracted by the licensee if all of the following apply:

(i) The criminal record of the person has been cleared as a condition of licensure or certification by the person's governing California medical care regulatory entity.

(ii) The person is providing time-limited specialized clinical care or services.

(iii) The person is providing care or services within the person's scope of practice.

(iv) The person is not a community care facility licensee or an employee of the facility.

(B) A third-party repair person or similar retained contractor if all of the following apply:

(i) The person is hired for a defined, time-limited job.

(ii) The person is not left alone with clients.

(iii) When clients are present in the room in which the repair person or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(C) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client or resident of the facility and are in the facility at the request of that client or resident's legal decisionmaker. The exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(D) Clergy and other spiritual caregivers who are performing services in common areas of the community care facility or who are advising an individual client at the request of, or with the permission of, the client or legal decisionmaker, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care licensee or employee of the facility.

(E) Members of fraternal, service, or similar organizations who conduct group activities for clients if all of the following apply:

(i) Members are not left alone with clients.

(ii) Members do not transport clients off the facility premises.

(iii) The same organization does not conduct group activities for clients more often than defined by the department's regulations.

(3) In addition to the exemptions in paragraph (2), the following persons in foster family homes, certified family homes, and small family homes are exempt from the requirements applicable under paragraph (1):

(A) Adult friends and family of the licensed or certified foster parent, who come into the home to visit for a length of time no longer than

defined by the department in regulations, provided that the adult friends and family of the licensee are not left alone with the foster children. However, the licensee, acting as a reasonable and prudent parent, as defined in paragraph (2) of subdivision (a) of Section 362.04 of the Welfare and Institutions Code, may allow his or her adult friends and family to provide short-term care to the foster child and act as an appropriate occasional short-term babysitter for the child.

(B) Parents of a foster child's friend when the foster child is visiting the friend's home and the friend, licensed or certified foster parent, or both are also present. However, the licensee, acting as a reasonable and prudent parent, may allow the parent of the foster child's friend to act as an appropriate short-term babysitter for the child without the friend being present.

(C) Individuals who are engaged by any licensed or certified foster parent to provide short-term care to the child for periods not to exceed 24 hours. Caregivers shall use a reasonable and prudent parent standard in selecting appropriate individuals to act as appropriate occasional short-term babysitters.

(4) In addition to the exemptions specified in paragraph (2), the following persons in adult day care and adult day support centers are exempt from the requirements applicable under paragraph (1):

(A) Unless contraindicated by the client's individualized program plan (IPP) or needs and service plan, a spouse, significant other, relative, or close friend of a client, or an attendant or a facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the licensee. This exemption applies only if the person is visiting the client or providing direct care and supervision to the client.

(B) A volunteer if all of the following applies:

(i) The volunteer is supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(ii) The volunteer is never left alone with clients.

(iii) The volunteer does not provide any client assistance with dressing, grooming, bathing, or personal hygiene other than washing of hands.

(5) (A) In addition to the exemptions specified in paragraph (2), the following persons in adult residential and social rehabilitation facilities, unless contraindicated by the client's individualized program plan (IPP) or needs and services plan, are exempt from the requirements applicable under paragraph (1): a spouse, significant other, relative, or close friend of a client, or an attendant or a facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the licensee. This exemption applies only if

the person is visiting the client or providing direct care and supervision to that client.

(B) Nothing in this subdivision shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

(6) Any person similar to those described in this subdivision, as defined by the department in regulations.

(c) (1) Subsequent to initial licensure, any person specified in subdivision (b) who is not exempted from fingerprinting shall obtain either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g) from the State Department of Social Services prior to employment, residence, or initial presence in the facility. Any person specified in subdivision (b) who is not exempt from fingerprinting shall be fingerprinted and shall 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 comply with paragraph (1) of subdivision (h). These fingerprint images and related information shall be sent by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice for the purpose of obtaining a permanent set of fingerprints, and shall be submitted to the Department of Justice by the licensee. A licensee's failure to prohibit the employment, residence, or initial presence of any person specified in subdivision (b) who is not exempt from fingerprinting and who has not received either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g) or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency and the immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548. The fingerprint images and related information shall then be submitted to the Department of Justice for processing. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(2) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in subdivision (a). If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. Documentation of the individual's clearance or exemption from disqualification shall be maintained by the licensee and be available for inspection. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible, the Department of Justice shall notify the State Department of Social Services, as required by Section 1522.04, and shall also notify the licensee by mail, within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal history recorded. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548.

(3) Except for persons specified in subdivision (b) who are exempt from fingerprinting, the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted. If it is determined by the State Department of Social Services, on the basis of the fingerprint images and related information submitted to the Department of Justice, that subsequent to obtaining a criminal record clearance or exemption from disqualification pursuant to subdivision (g), the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption from disqualification pursuant to subdivision (g). If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (A) terminate the person's

employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (B) seek an exemption from disqualification pursuant to subdivision (g). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption from disqualification 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 a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day and shall be grounds for disciplining the licensee pursuant to Section 1550.

(4) The department may issue an exemption from disqualification on its own motion pursuant to subdivision (g) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption from disqualification pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption from disqualification pursuant to subdivision (g). The individual may seek an exemption from disqualification only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d) (1) Before issuing a license or certificate of approval to any person or persons to operate a foster family home or certified family home as described in Section 1506, the State Department of Social Services or other approving authority shall secure California and Federal Bureau of Investigation criminal history information to determine whether the applicant or any person specified in subdivision (b) who is not exempt from fingerprinting has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in subdivision (c) of 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. The State Department of Social Services or other approving authority shall not issue a license or certificate of approval to any foster family home or certified family home applicant who has not obtained both a California and Federal Bureau of Investigation criminal record clearance or exemption from disqualification pursuant to subdivision (g).

(2) The criminal history information shall include the full criminal record, if any, of those persons.

(3) Neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant.

(4) The following shall apply to the criminal record information:

(A) If the applicant or other persons specified in subdivision (b) who are not exempt from fingerprinting have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, or certificate of approval shall be denied.

(B) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b) who is not exempt from fingerprinting is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services or other approving authority may cease processing the application until the conclusion of the trial.

(C) For the purposes of this subdivision, a criminal record clearance provided under Section 8712 of the Family Code may be used by the department or other approving agency.

(D) To the same extent required for federal funding, an applicant for a foster family home license or for certification as a family home, and any other person specified in subdivision (b) who is not exempted from fingerprinting shall submit a set of fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state- and federal-level criminal offender record information search, in addition to the criminal records search required by subdivision (a).

(5) Any person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions or arrests for any crime against a child, spousal or cohabitant abuse or, any crime for which the department cannot grant an exemption if the person was convicted and shall submit these fingerprints to the licensing agency or other approving authority.

(6) (A) Subsequent to initial licensure or certification, any person specified in subdivision (b) who is not exempt from fingerprinting shall obtain both a California and Federal Bureau of Investigation criminal record clearance, or an exemption from disqualification pursuant to subdivision (g), prior to employment, residence, or initial presence in the foster family or certified family home. A foster family home licensee

or foster family agency shall submit fingerprint images and related information of persons specified in subdivision (b) who are not exempt from fingerprinting to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state- and federal-level criminal offender record information search, or to comply with paragraph (1) of subdivision (h). A foster family home licensee's or a foster family agency's failure to either prohibit the employment, residence, or initial presence of any person specified in subdivision (b) who is not exempt from fingerprinting and who has not received either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g), or comply with paragraph (1) of subdivision (h), as required in this section, shall result in a citation of a deficiency, and the immediate civil penalties of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. A violation of the regulation adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the foster family home licensee or foster family agency pursuant to Section 1550. The State Department of Social Services may assess penalties for continued violations, as permitted by Section 1548. The fingerprint images shall then be submitted to the Department of Justice for processing.

(B) Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the Department of Justice shall verify receipt of the fingerprints. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the applicant of any criminal arrests or convictions. If no arrests or convictions are recorded, the Department of Justice shall provide the foster family home licensee or the foster family agency with a statement of that fact concurrent with providing the information to the State Department of Social Services.

(7) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b) who is not exempt from fingerprinting, has been convicted of a crime other than a minor traffic

violation, the application shall be denied, unless the director grants an exemption from disqualification pursuant to subdivision (g).

(8) If the State Department of Social Services finds after licensure or the granting of the certificate of approval that the licensee, certified foster parent, or any other person specified in subdivision (b) who is not exempt from fingerprinting, has been convicted of a crime other than a minor traffic violation, the license or certificate of approval may be revoked by the department or the foster family agency, whichever is applicable, unless the director grants an exemption from disqualification pursuant to subdivision (g). A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by paragraph (3) of subdivision (c) shall be grounds for disciplining the licensee pursuant to Section 1550.

(e) The State Department of Social Services may not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the State Department of Social Services is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law

prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(g) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraph (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4), (7), and (8) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, an exemption shall not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) (i) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (c) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(ii) Notwithstanding clause (i), the director may grant an exemption regarding the conviction for an offense described in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, if the employee or prospective employee has been rehabilitated as provided in Section 4852.03 of the Penal Code, has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years, and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code. This clause shall not apply to foster care providers, including relative caregivers, nonrelated extended family members, or any other person specified in subdivision (b), in those homes where the individual has been convicted of an offense described in paragraph (1) of 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.

(C) Under no circumstances shall an exemption be granted pursuant to this subdivision to any foster care provider applicant if that applicant or any other person specified in subdivision (b) in those homes, has a felony conviction for either of the following offenses:

(i) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subparagraph, a crime involving violence means any violent crime specified in clause (i) of subparagraph (A), or subparagraph (B).

(ii) A felony conviction, within the last five years, for physical assault, battery, or a drug-or alcohol-related offense.

(iii) This subparagraph shall not apply to licenses or approvals wherein a caregiver was granted an exemption to a criminal conviction described in clause (i) or (ii) before October 1, 2008.

(iv) This subparagraph shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. 670 and following).

(2) The department may not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1558.

(h) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the State Department of Social Services, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the State Department of Social Services shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of three years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

(3) The following shall apply to a criminal record clearance or exemption from the department or a county office with department-delegated licensing authority:

(A) A county office with department-delegated licensing authority may accept a clearance or exemption from the department.

(B) The department may accept a clearance or exemption from any county office with department-delegated licensing authority.

(C) A county office with department-delegated licensing authority may accept a clearance or exemption from any other county office with department-delegated licensing authority.

(4) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code concerning an individual whose criminal record clearance was originally processed by the department or a county office with department-delegated licensing authority, all of the following shall apply:

(A) The Department of Justice shall process a request from the department or a county office with department-delegated licensing authority to receive the notice only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department of Justice.

(B) (i) On or before January 7, 2005, the department shall notify the Department of Justice of all county offices that have department-delegated licensing authority.

(ii) The department shall notify the Department of Justice within 15 calendar days of the date on which a new county office receives department-delegated licensing authority or a county's delegated licensing authority is rescinded.

(C) The Department of Justice shall charge the department, a county office with department-delegated licensing authority, or a county child welfare agency with criminal record clearance and exemption authority, a fee for each time a request to substitute the recipient agency is received for purposes of this paragraph. This fee shall not exceed the cost of providing the service.

(5) (A) A county child welfare agency with authority to secure clearances pursuant to Section 16504.5 of the Welfare and Institutions Code and to grant exemptions pursuant to Section 361.4 of the Welfare and Institutions Code may accept a clearance or exemption from another

county with criminal record and exemption authority pursuant to these sections.

(B) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code concerning an individual whose criminal record clearance was originally processed by a county child welfare agency with criminal record clearance and exemption authority, the Department of Justice shall process a request from a county child welfare agency with criminal record and exemption authority to receive the notice only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the State Department of Social Services and the Department of Justice.

(i) The full criminal record obtained for purposes of this section may be used by the department or by a licensed adoption agency as a clearance required for adoption purposes.

(j) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1558, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(k) The State Department of Social Services may charge a fee for the costs of processing electronic fingerprint images and related information.

(*l*) Amendments to this section made in the 1999 portion of the 1999–2000 Regular Session shall be implemented commencing 60 days after the effective date of the act amending this section in the 1999 portion of the 1999–2000 Regular Session, except that those provisions for the submission of fingerprints for searching the records of the Federal Bureau of Investigation shall be implemented 90 days after the effective date of that act.

SEC. 5. Section 1522.1 of the Health and Safety Code is amended to read:

1522.1. (a) Prior to granting a license to, or otherwise approving, any individual to care for or reside with children, the department shall check the Child Abuse Central Index pursuant to paragraph (4) of subdivision (b) of Section 11170 of the Penal Code. The Department of Justice shall maintain and continually update an index of reports of child abuse by providers and shall inform the department of subsequent reports received from the Child Abuse Central Index pursuant to Section 11170

of the Penal Code and the criminal history. The department shall investigate any reports received from the Child Abuse Central Index. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency which investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse Central Index unless child abuse or severe neglect is substantiated.

(b) For any application received on or after January 1, 2008, if any prospective licensed or certified foster parent, or adoptive parent, or any person 18 years of age or older residing in their household, has lived in another state in the preceding five years, the licensing agency or licensed adoption agency shall check that state's child abuse and neglect registry, in addition to checking the Child Abuse Central Index as provided for in subdivision (a). The department, in consultation with the County Welfare Directors Association, shall develop and promulgate the process and criteria to be used to review and consider other states' findings of child abuse or neglect.

(c) If any person in the household is 18 years of age or older and has lived in another state in the preceding five years, the department or its designated representative shall check the other state's child abuse and neglect registry to the same extent required for federal funding, in addition to checking the Child Abuse Central Index as provided for in subdivision (a), prior to granting a license to, or otherwise approving, any foster family home, certified family home, or person for whom an adoption home study is conducted or who has filed to adopt.

SEC. 6. Section 1524 of the Health and Safety Code is amended to read:

1524. A license shall be forfeited by operation of law when one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when the transfer of stock does not constitute a majority change of ownership.

(b) The licensee surrenders the license to the department.

(c) (1) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that the facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

(2) This subdivision shall not apply to a licensed foster family home, a home certified by a licensed foster family agency, or a home approved pursuant to Sections 309, 361.4, and 361.45 of the Welfare and Institutions Code. When a foster family home licensee, certified home parent, or a person approved to care for children pursuant to Sections

309, 361.4, and 361.45 of the Welfare and Institutions Code moves to a new location, the existing license, certification, or approval may be transferred to the new location. All caregivers to whom this paragraph applies shall be required to meet all applicable licensing laws and regulations at the new location.

(d) The licensee is convicted of an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

(e) The licensee dies. If an adult relative notifies the department of his or her desire to continue operation of the facility and submits an application, the department shall expedite the application. The department shall promulgate regulations for expediting applications submitted pursuant to this subdivision.

(f) The licensee abandons the facility.

(g) When the certification issued by the State Department of Developmental Services to a licensee of an Adult Residential Facility for Persons with Special Health Care Needs, licensed pursuant to Article 9 (commencing with Section 1567.50), is rescinded.

SEC. 7. Section 1550 of the Health and Safety Code is amended to read:

1550. The department may deny an application for, or suspend or revoke, any license, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter, or may deny a transfer of a license pursuant to paragraph (2) of subdivision (b) of Section 1524 for any of the following grounds:

(a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

SEC. 8. Section 1551 of the Health and Safety Code is amended to read:

1551. (a) Proceedings for the suspension, revocation, or denial of a license, registration, special permit, or any administrator certificate under this chapter, or denial of transfer of a license pursuant to paragraph (2) of subdivision (c) of Section 1524, shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In the event of conflict between this chapter and the Government Code, the Government Code shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by the preponderance of the evidence.

(c) If the license is not temporarily suspended pursuant to Section 1550, the hearing shall be held within 90 calendar days after receipt of the notice of defense, unless a continuance of the hearing is granted by the department or the administrative law judge. When the matter has been set for hearing only the administrative law judge may grant a continuance of the hearing. The administrative law judge may, but need not, grant a continuance of the hearing only upon finding the existence of one or more of the following:

(1) The death or incapacitating illness of a party, a representative or attorney of a party, a witness to an essential fact, or of the parent, child, or member of the household of such person, when it is not feasible to substitute another representative, attorney, or witness because of the proximity of the hearing date.

(2) Lack of notice of hearing as provided in Section 11509 of the Government Code.

(3) A material change in the status of the case where a change in the parties or pleadings requires postponement, or an executed settlement or stipulated findings of fact obviate the need for hearing. A partial amendment of the pleadings shall not be good cause for continuance to the extent that the unamended portion of the pleadings is ready to be heard.

(4) A stipulation for continuance signed by all parties or their authorized representatives, including, but not limited to, a representative, which is communicated with the request for continuance to the administrative law judge no later than 25 business days before the hearing.

(5) The substitution of the representative or attorney of a party upon showing that the substitution is required.

(6) The unavailability of a party, representative, or attorney of a party, or witness to an essential fact due to a conflicting and required appearance in a judicial matter if when the hearing date was set, the person did not know and could neither anticipate nor at any time avoid the conflict, and the conflict with request for continuance is immediately communicated to the administrative law judge.

(7) The unavailability of a party, a representative or attorney of a party, or a material witness due to an unavoidable emergency.

(8) Failure by a party to comply with a timely discovery request if the continuance request is made by the party who requested the discovery.

SEC. 9. Section 11167.5 of the Penal Code is amended to read:

11167.5. (a) The reports required by Sections 11166 and 11166.2, or authorized by Section 11166.05, and child abuse or neglect investigative reports that result in a summary report being filed with the Department of Justice pursuant to subdivision (a) of Section 11169 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article is a misdemeanor punishable by imprisonment in a county jail not to exceed six months, by a fine of five hundred dollars ($500), or by both that imprisonment and fine.

(b) Reports of suspected child abuse or neglect and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170 or subdivision (a) of Section 11170.5.

(3) Persons or agencies with whom investigations of child abuse or neglect are coordinated under the regulations promulgated under Section 11174.

(4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.

(5) Persons or agencies responsible for the licensing of facilities which care for children, as specified in Section 11165.7.

(6) The State Department of Social Services or any county licensing agency which has contracted with the state, as specified in paragraph (4) of subdivision (b) of Section 11170, when an individual has applied for a community care license or child day care license, or for employment in an out-of-home care facility, or when a complaint alleges child abuse or neglect by an operator or employee of an out-of-home care facility.

(7) Hospital scan teams. As used in this paragraph, "hospital scan team" means a team of three or more persons established by a hospital, or two or more hospitals in the same county, consisting of health care

professionals and representatives of law enforcement and child protective services, the members of which are engaged in the identification of child abuse or neglect. The disclosure authorized by this section includes disclosure among all hospital scan teams.

(8) Coroners and medical examiners when conducting a post mortem examination of a child.

(9) The Board of Parole Hearings, which may subpoena an employee of a county welfare department who can provide relevant evidence and reports that both (A) are not unfounded, pursuant to Section 11165.12, and (B) concern only the current incidents upon which parole revocation proceedings are pending against a parolee charged with child abuse or neglect. The reports and information shall be confidential pursuant to subdivision (d) of Section 11167.

(10) Personnel from an agency responsible for making a placement of a child pursuant to Section 361.3 of, and Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code.

(11) Persons who have been identified by the Department of Justice as listed in the Child Abuse Central Index pursuant to paragraph (7) of subdivision (b) of Section 11170 or subdivision (c) of Section 11170, or persons who have verified with the Department of Justice that they are listed in the Child Abuse Central Index as provided in subdivision (f) of Section 11170. Disclosure under this paragraph is required notwithstanding the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code. Nothing in this paragraph shall preclude a submitting agency prior to disclosure from redacting any information necessary to maintain confidentiality as required by law.

(12) Out-of-state law enforcement agencies conducting an investigation of child abuse or neglect only when an agency makes the request for reports of suspected child abuse or neglect in writing and on official letterhead, or as designated by the Department of Justice, identifying the suspected abuser or victim by name and date of birth or approximate age. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written request shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports is to be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the safeguards in place to prevent unlawful disclosure provided by the requesting state or the applicable interstate compact provision.

(13) Out-of-state agencies responsible for approving prospective foster or adoptive parents for placement of a child only when the agency

makes the request in compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248). The request shall also cite the safeguards in place to prevent unlawful disclosure provided by the requesting state or the applicable interstate compact provision and indicate that the requesting state shall maintain continual compliance with the requirement in paragraph (20) of subdivision (a) of Section 671 of Title 42 of the United States Code that requires the state have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state and prevent the information from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases.

(14) Each chairperson of a county child death review team, or his or her designee, to whom disclosure of information is permitted under this article, relating to the death of one or more children and any prior child abuse or neglect investigation reports maintained involving the same victim, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(c) Authorized persons within county health departments shall be permitted to receive copies of any reports made by health practitioners, as defined in paragraphs (21) to (28), inclusive, of subdivision (a) of Section 11165.7, and pursuant to Section 11165.13, and copies of assessments completed pursuant to Sections 123600 and 123605 of the Health and Safety Code, to the extent permitted by federal law. Any information received pursuant to this subdivision is protected by subdivision (e).

(d) Nothing in this section requires the Department of Justice to disclose information contained in records maintained under Section 11170 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

(e) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse or neglect if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse or neglect.

SEC. 10. 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, or to a tribal court or tribal child welfare agency of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code, 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 interest 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, or as designated by the department, identifying the suspected abuser or victim by name and date of birth or approximate age. 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 safeguards in place to prevent unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision.

(e) (1) The department shall make available to an out-of-state agency, for purposes of approving a prospective foster or adoptive parent in compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248), information regarding a known or suspected child abuser maintained pursuant to subdivision (a) concerning the prospective foster or adoptive parent, and any other adult living in the home of the prospective foster or adoptive parent. The department shall make that information available only when the out-of-state agency makes the request indicating that continual compliance will be maintained with the requirement in paragraph (20) of subdivision (a) of Section 671 of Title 42 of the United States Code that requires the state to have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state and prevent the information from being used for a purpose other than the conducting of background checks in foster or adoption placement cases.

(2) With respect to any information provided by the department in response to the out-of-state agency's request, the out-of-state agency is 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 the approval of prospective foster or adoptive parents.

(3) (A) Whenever information contained in the index is furnished pursuant to this subdivision, the department shall charge the out-of-state agency 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 subdivision shall be deposited in the Department of Justice Child Abuse Fund, established under subparagraph (B) of paragraph (10) of subdivision (b). Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process requests for information pursuant to this subdivision.

(f) (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.

(g) 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.

SEC. 10.1. 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 the suspected child abuser was a minor at the time of the report, the information shall be deleted after five years if no subsequent report concerning the same suspected child abuser is received within that time period. If a subsequent report is received within the 10-year period for adult child abuse suspects or the five-year period for child abuse suspects who were themselves minors at the time of the report, 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, or to a tribal court or tribal child welfare agency of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code, 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 interest 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, or as designated by the department, identifying the suspected abuser or victim by name and date of birth or approximate age. 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 safeguards in place to prevent the unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision.

(e) (1) The department shall make available to an out-of-state agency, for purposes of approving a prospective foster or adoptive parent in compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248), information regarding a known or suspected child abuser maintained pursuant to subdivision (a) concerning the prospective foster or adoptive parent, and any other adult living in the home of the prospective foster or adoptive parent. The department shall make that information available only when the out-of-state agency makes the request indicating that continual compliance will be maintained with the requirement in paragraph (20) of subdivision (a) of Section 671 of Title 42 of the United States Code that requires the state to have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state and prevent the information from being used for a purpose other than the conducting of background checks in foster or adoption placement cases.

(2) With respect to any information provided by the department in response to the out-of-state agency's request, the out-of-state agency is 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 the approval of prospective foster or adoptive parents.

(3) (A) Whenever information contained in the index is furnished pursuant to this subdivision, the department shall charge the out-of-state agency 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 subdivision shall be deposited in the Department of Justice Child Abuse Fund, established under subparagraph (B) of paragraph (10) of subdivision (b). Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process requests for information pursuant to this subdivision.

(f) (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.

(g) 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.

(h) (1) If a person is listed in the Child Abuse Central Index as a suspect in a child abuse or neglect investigation due to an incident that occurred when the person was under 18 years of age, and the incident did not result in a delinquency adjudication or criminal conviction, that person may make a written request to the Department of Justice to have his or her name removed from the index as a suspect with respect to that incident. The request shall be notarized and include the person's name, address, social security number, and date of birth. Upon receipt of the request, the department shall inquire of the submitting agency whether the incident resulted in a delinquency adjudication or criminal conviction. Unless the submitting agency responds to the department in the affirmative within 30 days, the department shall remove the person's name from the index as the person suspected in that incident.

(2) If a person is listed in the index as a suspect with respect to more than one reported incident, the process set forth in paragraph (1) shall

be followed with respect to each incident for which the person wishes to have his or her name removed from the index.

SEC. 10.2. 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, or to a tribal court or tribal child welfare agency of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code, 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 interest 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) The Department of Justice shall make available to a county child welfare agency or delegated county adoption agency, as defined in Section 8515 of the Family Code, conducting a background investigation, or a government agency conducting a background investigation on behalf of one of those agencies, information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any applicant seeking employment or volunteer status with the agency who, in the course of his or her employment or volunteer work, will have direct contact with children who are alleged to have been, are at risk of, or have suffered, abuse or neglect.

(10) (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), or a county child welfare agency or delegated county adoption agency conducting a background investigation of an applicant seeking employment or volunteer status who, in the course of his or her employment or volunteer work, will have direct contact which children who are alleged to have been, are at risk of, or have suffered, abuse or neglect, pursuant to paragraph (9), 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.

(11) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing or volunteer status pursuant to paragraph (4), (5), (8), or (9), 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, or as designated by the department, identifying the suspected abuser or victim by name and date of birth or approximate age. 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 safeguards in place to prevent unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision.

(e) (1) The department shall make available to an out-of-state agency, for purposes of approving a prospective foster or adoptive parent in compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248), information regarding a known or suspected child abuser maintained pursuant to subdivision (a) concerning the prospective foster or adoptive parent, and any other adult living in the home of the prospective foster or adoptive parent. The department shall make that information available only when the out-of-state agency makes the request indicating that continual compliance will be maintained with the requirement in paragraph (20) of subdivision (a) of Section 671 of Title 42 of the United States Code that requires the state to have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state and prevent the information from being used for a purpose other than the conducting of background checks in foster or adoption placement cases.

(2) With respect to any information provided by the department in response to the out-of-state agency's request, the out-of-state agency is 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 the approval of prospective foster or adoptive parents.

(3) (A) Whenever information contained in the index is furnished pursuant to this subdivision, the department shall charge the out-of-state agency 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 subdivision shall be deposited in the Department of Justice Child Abuse Fund, established under subparagraph (B) of paragraph (11) of subdivision (b). Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process requests for information pursuant to this subdivision.

(f) (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.

(g) 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.

SEC. 10.3. 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 the suspected child abuser was a minor at the time of the report, the information shall be deleted after five years if no subsequent report concerning the same suspected child abuser is received within that time period. If a subsequent report is received within the 10-year period for adult child abuse suspects or the five-year period for child abuse suspects who were themselves minors at the time of the report, 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, or to a tribal court or tribal child welfare agency of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code, 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 interest 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) The Department of Justice shall make available to a county child welfare agency or delegated county adoption agency, as defined in Section 8515 of the Family Code, conducting a background investigation, or a government agency conducting a background investigation on behalf of one of those agencies, information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any applicant seeking employment or volunteer status with the agency who, in the course of his or her employment or volunteer work, will have direct contact with children who are alleged to have been, are at risk of, or have suffered, abuse or neglect.

(10) (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), or a county child welfare agency or delegated county adoption agency conducting a background investigation of an applicant seeking employment or volunteer status who, in the course of his or her employment or volunteer work, will have direct contact which children who are alleged to have been, are at risk of, or have suffered, abuse or neglect, pursuant to paragraph (9), 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.

(11) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing or volunteer status pursuant to paragraph (4), (5), (8), or (9), 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, or as designated by the department, identifying the suspected abuser or victim by name and date of birth or approximate age. 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 safeguards in place to prevent the unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision.

(e) (1) The department shall make available to an out-of-state agency, for purposes of approving a prospective foster or adoptive parent in compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248), information regarding a known or suspected child abuser maintained pursuant to subdivision (a) concerning the prospective foster or adoptive parent, and any other adult living in the home of the prospective foster or adoptive parent. The department shall make that information available only when the out-of-state agency makes the request indicating that continual compliance will be maintained with the requirement in paragraph (20) of subdivision (a) of Section 671 of Title 42 of the United States Code that requires the state to have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state and prevent the information from being used for a purpose other than the conducting of background checks in foster or adoption placement cases.

(2) With respect to any information provided by the department in response to the out-of-state agency's request, the out-of-state agency is 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 the approval of prospective foster or adoptive parents.

(3) (A) Whenever information contained in the index is furnished pursuant to this subdivision, the department shall charge the out-of-state agency 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 subdivision shall be deposited in the Department of Justice Child Abuse Fund, established under subparagraph (B) of paragraph (11) of

subdivision (b). Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process requests for information pursuant to this subdivision.

(f) (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.

(g) 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.

(h) (1) If a person is listed in the Child Abuse Central Index as a suspect in a child abuse or neglect investigation due to an incident that occurred when the person was under 18 years of age, and the incident did not result in a delinquency adjudication or criminal conviction, that person may make a written request to the Department of Justice to have his or her name removed from the index as a suspect with respect to that incident. The request shall be notarized and include the person's name, address, social security number, and date of birth. Upon receipt of the request, the department shall inquire of the submitting agency whether the incident resulted in a delinquency adjudication or criminal conviction. Unless the submitting agency responds to the department in the affirmative within 30 days, the department shall remove the person's name from the index as the person suspected in that incident.

(2) If a person is listed in the index as a suspect with respect to more than one reported incident, the process set forth in paragraph (1) shall be followed with respect to each incident for which the person wishes to have his or her name removed from the index.

SEC. 11. Section 309 of the Welfare and Institutions Code is amended to read:

309. (a) Upon delivery to the social worker of a child who has been taken into temporary custody under this article, the social worker shall immediately investigate the circumstances of the child and the facts surrounding the child's being taken into custody and attempt to maintain the child with the child's family through the provision of services. The social worker shall immediately release the child to the custody of the child's parent, guardian, or responsible relative unless one or more of the following conditions exist:

(1) The child has no parent, guardian, or responsible relative; or the child's parent, guardian, or responsible relative is not willing to provide care for the child.

(2) Continued detention of the child is a matter of immediate and urgent necessity for the protection of the child and there are no reasonable means by which the child can be protected in his or her home or the home of a responsible relative.

(3) There is substantial evidence that a parent, guardian, or custodian of the child is likely to flee the jurisdiction of the court.

(4) The child has left a placement in which he or she was placed by the juvenile court.

(5) The parent or other person having lawful custody of the child voluntarily surrendered physical custody of the child pursuant to Section 1255.7 of the Health and Safety Code and did not reclaim the child within the 14-day period specified in subdivision (e) of that section.

(b) In any case in which there is reasonable cause for believing that a child who is under the care of a physician or surgeon or a hospital, clinic, or other medical facility and cannot be immediately moved and is a person described in Section 300, the child shall be deemed to have been taken into temporary custody and delivered to the social worker for the purposes of this chapter while the child is at the office of the physician or surgeon or the medical facility.

(c) If the child is not released to his or her parent or guardian, the child shall be deemed detained for purposes of this chapter.

(d) (1) If an able and willing relative, as defined in Section 319, or an able and willing nonrelative extended family member, as defined in Section 362.7, is available and requests temporary placement of the child pending the detention hearing, the county welfare department shall initiate an assessment of the relative's or nonrelative extended family member's suitability, which shall include an in-home inspection to assess the safety of the home and the ability of the relative or nonrelative extended family member to care for the child's needs, and a consideration of the results of a criminal records check conducted pursuant to subdivision (a) of Section 16504.5 and a check of allegations of prior child abuse or neglect concerning the relative or nonrelative extended

family member and other adults in the home. Upon completion of this assessment, the child may be placed in the assessed home. For purposes of this paragraph, and except for the criminal records check conducted pursuant to subdivision (a) of Section 16504.5, the standards used to determine suitability shall be the same standards set forth in the regulations for the licensing of foster family homes.

(2) Immediately following the placement of a child in the home of a relative or a nonrelative extended family member, the county welfare department shall evaluate and approve or deny the home for purposes of AFDC-FC eligibility pursuant to Section 11402. The standards used to evaluate and grant or deny approval of the home of the relative and of the home of a nonrelative extended family member, as described in Section 362.7, shall be the same standards set forth in regulations for the licensing of foster family homes which prescribe standards of safety and sanitation for the physical plant and standards for basic personal care, supervision, and services provided by the caregiver.

(3) To the extent allowed by federal law, as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.), if a relative or nonrelative extended family member meets all other conditions for approval, except for the receipt of the Federal Bureau of Investigation's criminal history information for the relative or nonrelative extended family member, and other adults in the home, as indicated, the county welfare department may approve the home and document that approval, if the relative or nonrelative extended family member, and each adult in the home, 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 the approval has been granted, the department determines that the relative or nonrelative extended family member or other adult in the home has a criminal record, the approval may be terminated.

(4) If the criminal records check indicates that the person has been convicted of a crime for which the Director of Social Services cannot grant an exemption under Section 1522 of the Health and Safety Code, the child shall not be placed in the home. If the criminal records check indicates that the person has been convicted of a crime for which the Director of Social Services may grant an exemption under Section 1522 of the Health and Safety Code, the child shall not be placed in the home unless a criminal records exemption has been granted by the county based on substantial and convincing evidence to support a reasonable belief that the person with the criminal conviction is of such good character as to justify the placement and not present a risk of harm to the child.

SEC. 12. Section 361.4 of the Welfare and Institutions Code is amended to read:

361.4. (a) Prior to placing a child in the home of a relative, or the home of any prospective guardian or other person who is not a licensed or certified foster parent, the county social worker shall visit the home to ascertain the appropriateness of the placement.

(b) Whenever a child may be placed in the home of a relative, or the home of any prospective guardian or other person who is not a licensed or certified foster parent, the court or county social worker placing the child shall cause a state-level criminal records check to be conducted by an appropriate government agency through the California Law Enforcement Telecommunications System (CLETS) pursuant to Section 16504.5. The criminal records check shall be conducted with regard to all persons over 18 years of age living in the home, and on any other person over 18 years of age, other than professionals providing professional services to the child, known to the placing entity who may have significant contact with the child, including any person who has a familial or intimate relationship with any person living in the home. A criminal records check may be conducted pursuant to this section on any person over 14 years of age living in the home who the county social worker believes may have a criminal record. Within 10 calendar days following the criminal records check conducted through the California Law Enforcement Telecommunications System, the social worker shall ensure that a fingerprint clearance check of the relative and any other person whose criminal record was obtained pursuant to this subdivision is initiated through the Department of Justice to ensure the accuracy of the criminal records check conducted through the California Law Enforcement Telecommunications System and shall review the results of any criminal records check to assess the safety of the home. The Department of Justice shall forward fingerprint requests for federal-level criminal history information to the Federal Bureau of Investigation pursuant to this section.

(c) Whenever a child may be placed in the home of a relative, or a prospective guardian or other person who is not a licensed or certified foster parent, the county social worker shall cause a check of the Child Abuse Central Index pursuant to subdivision (a) of Section 11170 of the Penal Code to be requested from the Department of Justice. The Child Abuse Central Index check shall be conducted on all persons over 18 years of age living in the home. For any application received on or after January 1, 2008, if any person in the household is 18 years of age or older and has lived in another state in the preceding five years, the county social worker shall check the other state's child abuse and neglect registry to the extent required by federal law.

(d) (1) If the results of the California and federal criminal records check indicates that the person has no criminal record, the county social worker and court may consider the home of the relative, prospective guardian, or other person who is not a licensed or certified foster parent for placement of a child.

(2) If the criminal records check indicates that the person has been convicted of a crime that the Director of Social Services cannot grant an exemption for under Section 1522 of the Health and Safety Code, the child may not be placed in the home. If the criminal records check indicates that the person has been convicted of a crime that the Director of Social Services may grant an exemption for under Section 1522 of the Health and Safety Code, the child may not be placed in the home unless a criminal records exemption has been granted by the county, based on substantial and convincing evidence to support a reasonable belief that the person with the criminal conviction is of such good character as to justify the placement and not present a risk of harm to the child pursuant to paragraph (3).

(3) (A) A county may issue a criminal records exemption only if that county has been granted permission by the Director of Social Services to issue criminal records exemptions. The county may file a request with the Director of Social Services seeking permission for the county to establish a procedure to evaluate and grant appropriate individual criminal records exemptions for persons described in subdivision (b). The director shall grant or deny the county's request within 14 days of receipt. The county shall evaluate individual criminal records in accordance with the standards and limitations set forth in paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code, and in no event shall the county place a child in the home of a person who is ineligible for an exemption under that provision.

(B) The department shall monitor county implementation of the authority to grant an exemption under this paragraph to ensure that the county evaluates individual criminal records and allows or disallows placements according to the standards set forth in paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code.

(4) The department shall conduct an evaluation of the implementation of paragraph (3) through random sampling of county exemption decisions.

(5) The State Department of Social Services shall not evaluate or grant criminal records exemption requests for persons described in subdivision (b), unless the exemption request is made by an Indian tribe pursuant to subdivision (f).

(6) If a county has not requested, or has not been granted, permission by the State Department of Social Services to establish a procedure to

evaluate and grant criminal records exemptions, the county may not place a child into the home of a person described in subdivision (b) if any person residing in the home has been convicted of a crime other than a minor traffic violation, except as provided in subdivision (f).

(e) Nothing in this section shall preclude a county from conducting a criminal background check that the county is otherwise authorized to conduct using fingerprints.

(f) Upon request from an Indian tribe, the State Department of Social Services shall evaluate an exemption request, if needed, to allow placement into an Indian home that the tribe has designated for placement under the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) that would otherwise be barred under this section. However, if the county with jurisdiction over the child that is the subject of the tribe's request has established an approved procedure pursuant to paragraph (3) of subdivision (d), the tribe may request that the county evaluate the exemption request. Once a tribe has elected to have the exemption request reviewed by either the State Department of Social Services or the county, the exemption decision may only be made by that entity. Nothing in this subdivision limits the duty of a county social worker to evaluate the home for placement or to gather information needed to evaluate an exemption request.

(g) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 13. Section 16501.1 of the Welfare and Institutions Code is amended to read:

16501.1. (a) (1) The Legislature finds and declares that the foundation and central unifying tool in child welfare services is the case plan.

(2) The Legislature further finds and declares that a case plan ensures that the child receives protection and safe and proper care and case management, and that services are provided to the child and parents or other caretakers, as appropriate, in order to improve conditions in the parent's home, to facilitate the safe return of the child to a safe home or the permanent placement of the child, and to address the needs of the child while in foster care.

(b) (1) A case plan shall be based upon the principles of this section and shall document that a preplacement assessment of the service needs of the child and family, and preplacement preventive services, have been provided, and that reasonable efforts to prevent out-of-home placement have been made.

(2) In determining the reasonable services to be offered or provided, the child's health and safety shall be the paramount concerns.

(3) Reasonable services shall be offered or provided to make it possible for a child to return to a safe home environment, unless, pursuant to subdivisions (b) and (e) of Section 361.5, the court determines that reunification services shall not be provided.

(4) If reasonable services are not ordered, or are terminated, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanent plan and to complete all steps necessary to finalize the permanent placement of the child.

(c) (1) If out-of-home placement is used to attain case plan goals, the decision regarding choice of placement shall be based upon selection of a safe setting that is the least restrictive or most familylike and the most appropriate setting that is available and in close proximity to the parent's home, proximity to the child's school, consistent with the selection of the environment best suited to meet the child's special needs and best interests, or both. The selection shall consider, in order of priority, placement with relatives, tribal members, and foster family, group care, and residential treatment pursuant to Section 7950 of the Family Code.

(2) In addition to the requirements of paragraph (1), and taking into account other statutory considerations regarding placement, the selection of the most appropriate home that will meet the child's special needs and best interests shall also promote educational stability by taking into consideration proximity to the child's school attendance area.

(d) A written case plan shall be completed within a maximum of 60 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the dispositional hearing pursuant to Section 358, whichever occurs first. The case plan shall be updated, as the service needs of the child and family dictate. At a minimum, the case plan shall be updated in conjunction with each status review hearing conducted pursuant to Section 366.21, and the hearing conducted pursuant to Section 366.26, but no less frequently than once every six months. Each updated case plan shall include a description of the services that have been provided to the child under the plan and an evaluation of the appropriateness and effectiveness of those services.

(1) It is the intent of the Legislature that extending the maximum time available for preparing a written case plan from 30 to 60 days will afford caseworkers time to actively engage families, and to solicit and integrate into the case plan the input of the child and the child's family, as well as the input of relatives and other interested parties.

(2) The extension of the maximum time available for preparing a written case plan from the 30 to 60 days shall be effective 90 days after the date that the department gives counties written notice that necessary

changes have been made to the Child Welfare Services Case Management System to account for the 60-day timeframe for preparing a written case plan.

(e) The child welfare services case plan shall be comprehensive enough to meet the juvenile court dependency proceedings requirements pursuant to Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2.

(f) The case plan shall be developed as follows:

(1) The case plan shall be based upon an assessment of the circumstances that required child welfare services intervention. The child shall be involved in developing the case plan as age and developmentally appropriate.

(2) The case plan shall identify specific goals and the appropriateness of the planned services in meeting those goals.

(3) The case plan shall identify the original allegations of abuse or neglect, as defined in Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the conditions cited as the basis for declaring the child a dependent of the court pursuant to Section 300, or all of these, and the other precipitating incidents that led to child welfare services intervention.

(4) The case plan shall include a description of the schedule of the social worker contacts with the child and the family or other caretakers. The frequency of these contacts shall be in accordance with regulations adopted by the State Department of Social Services. If the child has been placed in foster care out of state, the county social worker or a social worker on the staff of the social services agency in the state in which the child has been placed shall visit the child in a foster family home or the home of a relative, consistent with federal law and in accordance with the department's approved state plan. For children in out-of-state group home facilities, visits shall be conducted at least monthly, pursuant to Section 16516.5. At least once every six months, at the time of a regularly scheduled social worker contact with the foster child, the child's social worker shall inform the child of his or her rights as a foster child, as specified in Section 16001.9. The social worker shall provide the information to the child in a manner appropriate to the age or developmental level of the child.

(5) (A) When out-of-home services are used, the frequency of contact between the natural parents or legal guardians and the child shall be specified in the case plan. The frequency of those contacts shall reflect overall case goals, and consider other principles outlined in this section.

(B) Information regarding any court-ordered visitation between the child and the natural parents or legal guardians, and the terms and conditions needed to facilitate the visits while protecting the safety of

the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(6) When out-of-home placement is made, the case plan shall include provisions for the development and maintenance of sibling relationships as specified in subdivisions (b), (c), and (d) of Section 16002. If appropriate, when siblings who are dependents of the juvenile court are not placed together, the social worker for each child, if different, shall communicate with each of the other social workers and ensure that the child's siblings are informed of significant life events that occur within their extended family. Unless it has been determined that it is inappropriate in a particular case to keep siblings informed of significant life events that occur within the extended family, the social worker shall determine the appropriate means and setting for disclosure of this information to the child commensurate with the child's age and emotional well-being. These significant life events shall include, but shall not be limited to, the following:

(A) The death of an immediate relative.

(B) The birth of a sibling.

(C) Significant changes regarding a dependent child, unless the child objects to the sharing of the information with his or her siblings, including changes in placement, major medical or mental health diagnoses, treatments, or hospitalizations, arrests, and changes in the permanent plan.

(7) If out-of-home placement is made in a foster family home, group home, or other child care institution that is either a substantial distance from the home of the child's parent or out of state, the case plan shall specify the reasons why that placement is in the best interest of the child. When an out-of-state group home placement is recommended or made, the case plan shall, in addition, specify compliance with Section 7911.1 of the Family Code.

(8) (A) If out-of-home services are used, or if parental rights have been terminated and the case plan is placement for adoption, the case plan shall include a recommendation regarding the appropriateness of unsupervised visitation between the child and any of the child's siblings. This recommendation shall include a statement regarding the child's and the siblings' willingness to participate in unsupervised visitation. If the case plan includes a recommendation for unsupervised sibling visitation, the plan shall also note that information necessary to accomplish this visitation has been provided to the child or to the child's siblings.

(B) Information regarding the schedule and frequency of the visits between the child and siblings, as well as any court-ordered terms and conditions needed to facilitate the visits while protecting the safety of

the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(9) If out-of-home services are used and the goal is reunification, the case plan shall describe the services to be provided to assist in reunification and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail. The plan shall also consider in-state and out-of-state placements, the importance of developing and maintaining sibling relationships pursuant to Section 16002, and the desire and willingness of the caregiver to provide legal permanency for the child if reunification is unsuccessful.

(10) If out-of-home services are used, the child has been in care for at least 12 months, and the goal is not adoptive placement, the case plan shall include documentation of the compelling reason or reasons why termination of parental rights is not in the child's best interest. A determination completed or updated within the past 12 months by the department when it is acting as an adoption agency or by a licensed adoption agency that it is unlikely that the child will be adopted, or that one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, shall be deemed a compelling reason.

(11) (A) Parents and legal guardians shall have an opportunity to review the case plan, and to sign it whenever possible, and then shall receive a copy of the plan. In any voluntary service or placement agreement, the parents or legal guardians shall be required to review and sign the case plan. Whenever possible, parents and legal guardians shall participate in the development of the case plan.

(B) Parents and legal guardians shall be advised that, pursuant to Section 1228.1 of the Evidence Code, neither their signature on the child welfare services case plan nor their acceptance of any services prescribed in the child welfare services case plan shall constitute an admission of guilt or be used as evidence against the parent or legal guardian in a court of law. However, they shall also be advised that the parent's or guardian's failure to cooperate, except for good cause, in the provision of services specified in the child welfare services case plan may be used in any hearing held pursuant to Section 366.21 or 366.22 as evidence.

(12) A child shall be given a meaningful opportunity to participate in the development of the case plan and state his or her preference for foster care placement. A child who is 12 years of age or older and in a permanent placement shall also be given the opportunity to review the case plan, sign the case plan, and receive a copy of the case plan.

(13) The case plan shall be included in the court report and shall be considered by the court at the initial hearing and each review hearing. Modifications to the case plan made during the period between review hearings need not be approved by the court if the casework supervisor

for that case determines that the modifications further the goals of the plan. If out-of-home services are used with the goal of family reunification, the case plan shall consider and describe the application of subdivision (b) of Section 11203.

(14) If the case plan has as its goal for the child a permanent plan of adoption or placement in another permanent home, it shall include a statement of the child's wishes regarding their permanent placement plan and an assessment of those stated wishes. The agency shall also include documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangements for the child; to place the child with an adoptive family, an appropriate and willing relative, a legal guardian, or in another planned permanent living arrangement; and to finalize the adoption or legal guardianship. At a minimum, the documentation shall include child-specific recruitment efforts, such as the use of state, regional, and national adoption exchanges, including electronic exchange systems, when the child has been freed for adoption.

(15) When appropriate, for a child who is 16 years of age or older, the case plan shall include a written description of the programs and services that will help the child, consistent with the child's best interests, prepare for the transition from foster care to independent living. The case plan shall be developed with the child and individuals identified as important to the child, and shall include steps the agency is taking to ensure that the child has a connection to a caring adult.

(g) If the court finds, after considering the case plan, that unsupervised sibling visitation is appropriate and has been consented to, the court shall order that the child or the child's siblings, the child's current caregiver, and the child's prospective adoptive parents, if applicable, be provided with information necessary to accomplish this visitation. This section does not require or prohibit the social worker's facilitation, transportation, or supervision of visits between the child and his or her siblings.

(h) The case plan documentation on sibling placements required under this section shall not require modification of existing case plan forms until the Child Welfare Services Case Management System is implemented on a statewide basis.

(i) When a child who is 10 years of age or older and who has been in out-of-home placement for six months or longer, the case plan shall include an identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker shall ask every child who is 10 years of age or older and who has been in out-of-home placement for six months or longer to identify individuals

other than the child's siblings who are important to the child, and may ask any other child to provide that information, as appropriate. The social worker shall make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

(j) The child's caregiver shall be provided a copy of a plan outlining the child's needs and services.

(k) On or before June 30, 2008, the department, in consultation with the County Welfare Directors Association and other advocates, shall develop a comprehensive plan to ensure that 90 percent of foster children are visited by their caseworkers on a monthly basis by October 1, 2011, and that the majority of the visits occur in the residence of the child. The plan shall include any data reporting requirements necessary to comply with the provisions of the federal Child and Family Services Improvement Act of 2006 (Public Law 109-288).

(*l*) The implementation and operation of the amendments to subdivision (i) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 14. (a) Section 10.1 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by both this bill and SB 1022. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 11170 of the Penal Code, and (3) AB 2618 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1022, in which case Sections 10.2 and 10.3 of this bill shall not become operative, and Section 10 of this bill shall remain operative only until the operative date of SB 1022, at which time Section 10.1 of this bill shall become operative.

(b) Section 10.2 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by both this bill and AB 2618. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 11170 of the Penal Code, (3) SB 1022 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2618 in which case Sections 10.1 and 10.3 of this bill shall not become operative, and Section 10 of this bill shall remain operative only until the operative date of AB 2618, at which time Section 10.2 of this bill shall become operative.

(c) Section 10.3 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by this bill, SB 1022, and AB 2618. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2009, (2) all three bills amend Section 11170 of the Penal Code, and (3) this bill is enacted after SB 1022 and AB 2618, in which case Sections 10.1 and 10.2 of this bill shall not

become operative, and Section 10 of this bill shall remain operative only until the operative date of SB 1022 and AB 2618, at which time Section 10.3 of this bill shall become operative.

SEC. 15. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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

In order to secure necessary federal funding for the care of children in California, it is necessary for this act to take effect immediately.

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## CHAPTER 702

An act to add Section 41964 to the Health and Safety Code, relating to air pollution.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 41964 is added to the Health and Safety Code, to read:

41964. The state board shall not require a gasoline dispensing facility that meets all of the following requirements to undergo an Enhanced Vapor Recovery Phase II upgrade until April 1, 2011:

(a) As of January 1, 2009, have installed a state board certified Phase II vapor recovery system.

(b) Have an annual gasoline throughput of 240,000 gallons or less.

(c) Operate in a county that has a population of less than 100,000.

(d) Operate in a basin not classified as nonattainment for ozone.

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## CHAPTER 703

An act to amend Section 24304.2 of the Government Code, to amend Section 401 of the Scott Valley and Shasta Valley Watermaster District Act (Chapter 416 of the Statutes of 2007), and to amend Section 401 of

the Shasta-Tehama County Watermaster District Act (Chapter 434 of the Statutes of 2007), relating to local government.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION. 1. Section 24304.2 of the Government Code is amended to read:

24304.2. Notwithstanding Section 24300, in Mendocino County, Sonoma County, Trinity County, and Tulare County, the board of supervisors, by ordinance, may consolidate the duties of the offices of Auditor-Controller and Treasurer-Tax Collector into the elected office of Auditor-Controller-Treasurer-Tax Collector.

SEC. 2. Section 401 of the Scott Valley and Shasta Valley Watermaster District Act (Chapter 416 of the Statutes of 2007) is amended to read:

401. (a) The board of directors shall govern the district and shall exercise the powers of the district as set forth in this act.

(b) Except as specified in subdivision (d), the board of directors of the district shall consist of seven members, as follows:

(1) Two members who shall be voters holding water rights whose places of use under a decree are appointed or contracted parcels within the Scott Valley Service Area. These members shall be elected at large from the Scott Valley Service Area.

(2) Three members who shall be voters holding water rights whose places of use are appointed or contracted parcels within the Shasta Valley Service Area. These members shall be elected at large from the Shasta Valley Service Area.

(3) Two members appointed by the county board of supervisors. These members shall be residents of the county and shall not be voters, or officers, directors, shareholders, or employees of a voter.

(4) An officer, director, manager, or shareholder designated by a voter that is not a natural person is eligible to be elected as a member pursuant to paragraphs (1) and (2).

(c) A quorum of the board of directors shall be four members. A majority of affirmative votes of the full membership of the board shall be required to take an action.

(d) (1) On or before February 1, 2008, the county board of supervisors shall appoint the members of the board of directors with the qualifications required by subdivision (b), as if the court had appointed the district as the watermaster. The members of the board of directors appointed

pursuant to this paragraph shall hold office until their successors are elected or appointed and qualified in accordance with subdivision (b).

(2) At the first opportunity to conduct an election, the voters shall elect the members of the board of directors identified in paragraphs (1) and (2) of subdivision (b). At the first meeting of the board of directors following that election, the members of the board of directors shall classify themselves by lot into two classes. One class shall have four members and the other class shall have three members. For the class that has four members, the term of office shall be four years. For the class that has three members, the term of office shall be two years. Thereafter, the terms of all members of the board of directors shall be four years.

(3) Except as provided in paragraphs (1) and (2), the term of office for a member of the board of directors shall be four years.

(4) Members of the board of directors may be reelected or reappointed.

(e) Except as otherwise provided in this act, the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) shall apply to elections within the district.

(f) Any vacancy in the elective office of a member of the board of directors shall be filled pursuant to Section 1780 of the Government Code. Any vacancy in the appointive office of a member of the board of directors shall be filled pursuant to Section 1778 of the Government Code.

SEC. 3. Section 401 of the Shasta-Tehama County Watermaster District Act (Chapter 434 of the Statutes of 2007) is amended to read:

401. (a) The board of directors shall govern the district and shall exercise the powers of the district as set forth in this act.

(b) The board of directors of the district shall consist of seven members, as follows:

(1) One member shall be a voter within the Burney Creek Service Area. This member shall be elected by the voters within the Burney Creek Service Area.

(2) One member shall be a voter within the Hat Creek Service Area. This member shall be elected by the voters within the Hat Creek Service Area.

(3) One member shall be a voter within the North Fork Cottonwood Creek Service Area. This member shall be elected by the voters within the North Fork Cottonwood Creek Service Area.

(4) One member shall be a voter within the North Cow Creek Service Area. This member shall be elected by the voters within the North Cow Creek Service Area.

(5) One member shall be a voter within the Digger Creek Service Area. This member shall be elected by the voters within the Digger Creek Service Area.

(6) Two members shall be appointed by the Board of Supervisors of Shasta County. These members shall be residents of Shasta County and shall not be voters, or officers, directors, shareholders, or employees of a voter.

(7) An officer, director, manager, or shareholder designated by a voter that is not a natural person is eligible to be elected as a member pursuant to paragraphs (1) to (5), inclusive.

(c) If one or more service areas decides not to participate in the district, a number of board members equivalent to the number of service areas not participating shall be elected at large from among the participating service areas.

(d) A quorum of the board of directors shall be four members. A majority of affirmative votes of the full membership of the board shall be required to take an action.

(e) (1) On or before February 1, 2008, the Board of Supervisors of Shasta County shall appoint the members of the board of directors of the district with the qualifications required by subdivision (b), as if the Superior Court of Shasta County had appointed the district as watermaster. The Board of Supervisors of Tehama County shall appoint the Digger Creek Service Area member. The members of the board of directors appointed pursuant to this paragraph shall hold office until their successors are elected and qualified.

(2) At the first opportunity to conduct an election, the voters shall elect the members of the board of directors. At the first meeting of the board of directors following that election, the members of the board of directors shall classify themselves by lot into two classes. The first class shall have four members and the other class three members. For the first class, the term of office shall be four years. For the second class, the term of office shall be two years. Thereafter, the terms of all members of the board of directors shall be four years.

(3) Except as provided in paragraphs (1) and (2), the term of office for a member of the board of directors shall be four years.

(4) Members of the board of directors may be reelected.

(f) Except as otherwise provided in this act, the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) shall apply to elections within the district. For the purposes of the Uniform District Election Law, the district shall be deemed to be a landowner voting district.

(g) Any vacancy in the office of a member of the board of directors shall be filled pursuant to Section 1780 of the Government Code.

# CHAPTER 704

An act to add Sections 81053 and 81054 to the Education Code, relating to community colleges.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. It is the intent of the Legislature that:

(a) This act ensure the construction of community college facilities in a safe, cost-effective, and timely manner.

(b) The Department of General Services be staffed appropriately to perform the tasks assigned to it, including plan review and oversight, to ensure the timely, cost-effective, and safe delivery of community college facilities.

(c) The process created pursuant to this act be implemented in a manner to ensure that community college districts realize time and cost savings in the construction process while meeting the same seismic safety performance levels as the Field Act.

SEC. 2. Section 81053 is added to the Education Code, to read:

81053. (a) To ensure that community college districts are able to effectively exercise the option of utilizing the Field Act or the California Building Standards Code, as provided in Section 81052, and construct buildings safely, cost effectively, and in a timely manner, the Department of General Services shall develop and submit, in consultation with the Board of Governors of the California Community Colleges, by June 1, 2009, to the California Building Standards Commission proposed building standards for adoption as part of the California Building Standards Code that will govern the construction, reconstruction, modification, or expansion of school buildings of a community college district as provided in Section 81052, if the community college district elects not to utilize the Field Act. The Department of General Services shall review and include, where appropriate, in these standards the standards that govern the California State University. The proposed building standards shall provide for independent plan review and oversight to be performed by the Department of General Services. The standards shall become effective 30 days after adoption by the California Building Standards Commission.

(b) The Department of General Services shall be responsible for plan reviews consistent with Section 81133.

SEC. 3. Section 81054 is added to the Education Code, to read:

81054. (a) The Legislative Analyst's Office (LAO) shall undertake a fact-based analysis of the length of time the Department of General Services and the community colleges take to perform their respective functions to complete community college construction and alteration projects. This information shall be compiled in a report made available to the Legislature and the Governor by March 1, 2009.

(b) Following the issuance of the report described in subdivision (a), the Department of General Services shall convene a working group advisory committee consisting of a representative from the Department of General Services, the Board of Governors of the California Community Colleges, the Associated General Contractors of California, and the Professional Engineers in California Government. The working group shall analyze the report and the current process to complete community college construction and alteration projects and develop recommendations for changes, if any, in the project development and review process to ensure the public safety of community college facilities through a collaborative, consistent, cost-effective, and timely project development and review process. The recommendations shall include proposed timeframe goals for the performance of each specific task performed by the Department of General Services and by private design professionals performing services for a community college district and an assessment of the staffing and other resource needs of the Department of General Services to perform its tasks related to the construction or alteration of community college facilities. The recommendations shall be submitted in writing to the Department of General Services, working group members, the Senate and Assembly Committees on Appropriations, the Senate Committee on Education, the Assembly Committee on Higher Education, and the education budget subcommittees of the Assembly and Senate by December 31, 2009.

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## CHAPTER 705

An act to amend Section 14528.5 of, and to add Section 14528.55 to, the Government Code, relating to transportation.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 14528.5 of the Government Code is amended to read:

14528.5. (a) To resolve local transportation problems resulting from the infeasibility of planned state transportation facilities on State Highway Route 238 in the City of Hayward and Alameda County, the city or county in which the planned facilities were to be located, acting jointly with the transportation planning agency having jurisdiction over the city or county, may develop and file with the commission a local alternative transportation improvement program that addresses transportation problems and opportunities in the county which were to be served by the planned facilities. Priorities for funding in the local alternative program shall go to projects in the local voter-approved transportation sales tax measure.

(b) The commission shall have the final authority regarding the content and approval of the local alternative transportation improvement program. The commission shall not approve any local alternative transportation improvement program submitted under this section after July 1, 2010.

(c) All proceeds from the sale of the excess properties, less any reimbursements due to the federal government and all costs incurred in the sale of those excess properties, shall be allocated by the commission to fund the approved local alternative transportation improvement program and shall not be subject to Sections 188 and 188.8 of the Streets and Highways Code. The proceeds shall be used only for state highway purposes.

(d) This section does not apply to those highways that are in the National System of Interstate and Defense Highways.

(e) This section applies only to State Highway Route 238.

(f) Section 14528.8 does not apply to projects undertaken pursuant to this section.

SEC. 2. Section 14528.55 is added to the Government Code, to read:

14528.55. (a) To resolve local transportation problems resulting from the infeasibility of planned state transportation facilities on State Highway Route 84 in the Cities of Fremont and Union City, the cities or the county in which the planned facilities were to be located, acting jointly with the transportation planning agency having jurisdiction over the cities or county, may develop and file with the commission a local alternative transportation improvement program that addresses transportation problems and opportunities in the county that were to be served by the planned facilities. Priorities for funding in the local alternative program shall go to projects in the local voter-approved transportation sales tax measure.

(b) The commission shall have the final authority regarding the content and approval of the local alternative transportation improvement program. The commission shall not approve any local alternative transportation improvement program submitted under this section after July 1, 2010.

(c) All proceeds from the sale of the excess properties, less any reimbursements due to the federal government and all costs incurred in the sale of those excess properties, shall be allocated by the commission to fund the approved local alternative transportation improvement program and shall not be subject to Sections 188 and 188.8 of the Streets and Highways Code. The proceeds shall be used only for state highway purposes or for projects in the local alternative transportation improvement program that are also in the local voter-approved transportation sales tax measure, subject to approval by the department.

(d) This section does not apply to those highways that are in the National System of Interstate and Defense Highways.

(e) This section only applies to State Highway Route 84.

(f) Section 14528.8 does not apply to projects undertaken pursuant to this section.

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## CHAPTER 706

An act to amend Sections 5500, 5501, and 5513 of the Public Utilities Code, relating to commercial air carriers.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 5500 of the Public Utilities Code, as amended by Section 1 of Chapter 881 of the Statutes of 2004, is amended to read:

5500. (a) As used in this article, "commercial air operator" means any person owning, controlling, operating, renting, or managing aircraft for any commercial purpose for compensation. "Commercial air operator" does not include any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for entertainment, sporting, or recreational purposes.

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

SEC. 2. Section 5500 of the Public Utilities Code, as added by Section 1.5 of Chapter 881 of the Statutes of 2004, is amended to read:

5500. (a) As used in this article, "commercial air operator" means any person owning, controlling, operating, renting, or managing aircraft for any commercial purpose for compensation.

(b) This section shall become operative on January 1, 2013.

SEC. 3. Section 5501 of the Public Utilities Code, as amended by Section 2 of Chapter 881 of the Statutes of 2004, is amended to read:

5501. (a) As used in this article, "aircraft" means any contrivance used for navigation of, or flight in, the air. "Aircraft" does not include a hot air balloon furnished or providing transportation for entertainment, sporting, or recreational purposes.

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

SEC. 4. Section 5501 of the Public Utilities Code, as added by Section 2.5 of Chapter 881 of the Statutes of 2004, is amended to read:

5501. (a) As used in this article, "aircraft" means any contrivance used for navigation of, or flight in, the air.

(b) This section shall become operative on January 1, 2013.

SEC. 5. Section 5513 of the Public Utilities Code is amended to read:

5513. (a) Notwithstanding any other provision of this article, any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire shall maintain in force at least one million dollars ($1,000,000) of liability insurance for personal injury, wrongful death, and property damage resulting from the operation of a balloon carrying up to 10 passengers, with additional liability coverage of one hundred thousand dollars ($100,000) for each passenger for any balloon carrying more than 10 passengers. A notice shall be provided to every passenger that identifies both the insurer providing a policy of liability insurance to the person providing that transportation and the amount of insurance coverage provided by that policy.

(b) Any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire shall comply with any requirement of a city, county, or city and county that the person obtain a business license as a condition for operating in that city, county, or city and county. Whenever a city, county, or city and county requires a business license, any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire shall prominently display the license only within the city or county of the person's primary place of business frequented by customers and potential customers. Whenever a city, county, or city and county requires a business license, the person shall provide to the city, county, or city and county, a currently effective certificate of insurance evidencing insurance coverage as required in subdivision (a). A new certificate of insurance shall be provided to the city, county, or city and county, at least annually or whenever there is a material change in insurance coverage. A city, county,

or city and county shall give reasonable notice of this requirement with any business license renewal notification. Every business license issued by a city, county, or city and county to any person owning, controlling, operating, renting, managing, furnishing, or otherwise providing transportation by hot air balloon for hire and every currently effective certificate of insurance evidencing insurance coverage, shall be maintained as a public record. The city, county, or city and county may charge a reasonable fee for purposes of carrying out the provisions of this subdivision.

(c) Any person who violates subdivision (a) by failing to maintain insurance in force as required by subdivision (a) is guilty of a misdemeanor. Any person who violates subdivision (b) by failing to obtain and maintain a current valid city, county, or city and county business license issued by the local government jurisdiction where the person's primary place of business is located, in accordance with subdivision (b), is guilty of a misdemeanor.

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

SEC. 6. 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 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. Moreover, 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.

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## CHAPTER 707

An act to amend Sections 21083.9 and 21092.4 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 21083.9 of the Public Resources Code is amended to read:

21083.9. (a) Notwithstanding Section 21080.4, 21104, or 21153, a lead agency shall call at least one scoping meeting for either of the following:

(1) A proposed project that may affect highways or other facilities under the jurisdiction of the Department of Transportation if the meeting is requested by the department. The lead agency shall call the scoping meeting as soon as possible, but not later than 30 days after receiving the request from the Department of Transportation.

(2) A project of statewide, regional, or areawide significance.

(b) The lead agency shall provide notice of at least one scoping meeting held pursuant to paragraph (2) of subdivision (a) to all of the following:

(1) A county or city that borders on a county or city within which the project is located, unless otherwise designated annually by agreement between the lead agency and the county or city.

(2) A responsible agency.

(3) A public agency that has jurisdiction by law with respect to the project.

(4) A transportation planning agency or public agency required to be consulted pursuant to Section 21092.4.

(5) An organization or individual who has filed a written request for the notice.

(c) For an entity, organization, or individual that is required to be provided notice of a lead agency public meeting, the requirement for notice of a scoping meeting pursuant to subdivision (b) may be met by including the notice of a scoping meeting in the public meeting notice.

(d) A scoping meeting that is held in the city or county within which the project is located pursuant to the National Environmental Policy Act (42 U.S.C. Sec. 4321 et seq.) and the regulations adopted pursuant to that act shall be deemed to satisfy the requirement that a scoping meeting be held for a project subject to paragraph (2) of subdivision (a) if the lead agency meets the notice requirements of subdivision (b) or subdivision (c).

SEC. 2. Section 21092.4 of the Public Resources Code is amended to read:

21092.4. (a) For a project of statewide, regional, or areawide significance, the lead agency shall consult with transportation planning agencies and public agencies that have transportation facilities within their jurisdictions that could be affected by the project. Consultation

shall be conducted in the same manner as for responsible agencies pursuant to this division, and shall be for the purpose of the lead agency obtaining information concerning the project's effect on major local arterials, public transit, freeways, highways, overpasses, on-ramps, off-ramps, and rail transit service within the jurisdiction of a transportation planning agency or a public agency that is consulted by the lead agency. A transportation planning agency or public agency that provides information to the lead agency shall be notified of, and provided with copies of, environmental documents pertaining to the project.

(b) As used in this section, "transportation facilities" includes major local arterials and public transit within five miles of the project site and freeways, highways, overpasses, on-ramps, off-ramps, and rail transit service within 10 miles of the project site.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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## CHAPTER 708

An act to add and repeal Division 20.5 (commencing with Section 51000) of the Financial Code, relating to exchange facilitators.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature finds and declares that there are no statutory requirements for persons that facilitate like-kind exchanges pursuant to Section 1031 of the Internal Revenue Code and associated regulations of the United States Department of the Treasury. The purpose of this act is to create a statutory framework that provides consumer protections to those who entrust money or property to persons acting as exchange facilitators and to ensure that persons acting as exchange facilitators adhere to specified rules when they act in that capacity with respect to like-kind exchanges.

SEC. 2. Division 20.5 (commencing with Section 51000) is added to the Financial Code, to read:

## DIVISION 20.5. EXCHANGE FACILITATORS

51000. As used in this division, the following terms shall have the following meanings:

(a) "Client" means the taxpayer with whom the exchange facilitator enters into an agreement described in subparagraph (A) of paragraph (1) of subdivision (b).

(b) (1) "Exchange facilitator" means a person that does any of the following:

(A) Facilitates, for a fee, as defined in subdivision (c), an exchange of like-kind property by entering into an agreement with a taxpayer by which the exchange facilitator acquires from the taxpayer the contractual rights to sell the taxpayer's relinquished property located in this state and transfers a replacement property to the taxpayer as a qualified intermediary as that term is defined under Treasury Regulation Section 1.1031(k)-1(g)(4), or enters into an agreement with the taxpayer to take title to a property in this state as an exchange accommodation titleholder (EAT) as that term is defined in Internal Revenue Service Revenue Procedure 2000–37, or enters into an agreement with a taxpayer to act as a qualified trustee or qualified escrow holder as those terms are defined under Treasury Regulation Section 1.1031(k)-1(g)(3), except as provided in paragraph (2).

(B) Maintains an office in this state for the purpose of soliciting business as an exchange facilitator.

(C) Holds himself, herself, or itself out as an exchange facilitator by advertising any of the services listed in paragraph (A) or soliciting clients in printed publications, direct mail, television or radio advertisements, telephone calls, facsimile transmissions, or other electronic communications directed to the general public in this state for purposes of providing any of those services.

(2) "Exchange facilitator" does not include any of the following:

(A) A taxpayer or a disqualified person, as that term is defined under Treasury Regulation Section 1.1031(k)-1(k), seeking to qualify for the nonrecognition provisions of Section 1031 of the Internal Revenue Code of 1986, as amended.

(B) A financial institution that is acting as a depository for exchange funds or that is acting solely as a qualified escrow holder or qualified trustee, as those terms are defined under Treasury Regulation Section 1.1031(k)-1(g)(3), and that is not facilitating exchanges.

(C) A title insurance company, underwritten title company, or escrow company that is acting solely as a qualified escrow holder or qualified trustee, as those terms are defined under Treasury Regulation Section 1.1031(k)-1(g)(3), and that is not facilitating exchanges.

(D) A person that advertises for and teaches seminars or classes, or otherwise makes a presentation, to attorneys, accountants, real estate professionals, tax professionals, or other professionals, when the primary purpose is to teach the professionals about tax-deferred exchanges or to train them to act as exchange facilitators.

(E) A qualified intermediary, as that term is defined under Treasury Regulation 1.1031(k)-1(g)(4), who holds exchange funds from the disposition of relinquished property located outside this state.

(F) An entity in which an exchange accommodation titleholder (EAT) has a 100 percent interest and which is used by the EAT to take title to property in this state.

(c) "Fee" means compensation of any nature, direct or indirect, monetary or in-kind, that is received by a person or related person as defined in Section 267(b) or 707(b) of the Internal Revenue Code for any services relating to or incidental to the exchange of like-kind property.

(d) "Financial institution" means a bank, credit union, savings and loan association, savings bank, or trust company chartered under the laws of this state or the United States whose accounts are insured by the full faith and credit of the United States, the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or other similar or successor programs.

(e) A person is "affiliated" with another specified person if the person directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with the other specified person.

(f) "Person" means an individual, a corporation, a partnership, a limited liability company, a joint venture, an association, a joint stock company, a trust, or any other form of a legal entity, and includes the agents and employees of that person.

(g) "Prudent investor standard" means the prudent investor rule described in Article 2.5 (commencing with Section 16045) of Chapter 1 of Part 4 of Division 9 of the Probate Code.

51001. (a) A person who engages in business as an exchange facilitator shall notify all existing exchange clients whose relinquished property is located in this state, or whose replacement property held under a qualified exchange accommodation agreement is located in this state, of any change in control of the exchange facilitator. That notification shall be provided within 10 business days of the effective date of the change in control by hand delivery, facsimile, electronic mail, overnight mail, or first-class mail, and shall be posted on the exchange facilitator's Internet Web site for at least 90 days following the change

in control. The notification shall set forth the name, address, and other contact information of the transferees.

(b) For purposes of this section, "change in control" means any transfer of more than 50 percent of the assets or ownership interests, directly or indirectly, of the exchange facilitator.

51003. (a) A person who engages in business as an exchange facilitator shall at all times comply with one or more of the following:

(1) Maintain a fidelity bond or bonds in an amount not less than one million dollars ($1,000,000), executed by an insurer authorized to do business in this state.

(2) Deposit an amount of cash or securities or irrevocable letters of credit in an amount not less than one million dollars ($1,000,000) in an interest-bearing deposit account or a money market account with the financial institution of the person's choice. Interest on that amount shall accrue to the exchange facilitator.

(3) Deposit all exchange funds in a qualified escrow account or qualified trust, as those terms are defined under Treasury Regulation 1.1031(k)-1(g)(3), with a financial institution and provide that any withdrawals from that escrow account or trust require that person's and the client's written authorization.

(b) A person who engages in business as an exchange facilitator may maintain a bond or bonds or deposit an amount of cash or securities or irrevocable letters of credit in excess of the minimum required amounts.

(c) If the person engaging in business as an exchange facilitator is listed as a named insured on one or more fidelity bonds that total at least one million dollars ($1,000,000), the requirements of this section shall be deemed satisfied.

51005. Any person claiming to have sustained damage by reason of the failure of a person engaging in business as an exchange facilitator to comply with this division may file a claim on the bonds, deposits, or letters of credit described in Section 51003 to recover the damages.

51007. (a) A person who engages in business as an exchange facilitator shall at all times comply with either of the following:

(1) Maintain a policy of errors and omissions insurance in an amount not less than two hundred fifty thousand dollars ($250,000), executed by an insurer authorized to do business in this state.

(2) Deposit an amount of cash or securities or irrevocable letters of credit in an amount not less than two hundred fifty thousand dollars ($250,000) in an interest-bearing deposit account or a money market account with the financial institution of the person's choice. Interest on that amount shall accrue to the exchange facilitator.

(b) A person who engages in business as an exchange facilitator may maintain insurance or deposit an amount of cash or securities or irrevocable letters of credit in excess of the minimum required amounts.

(c) If the person engaging in business as an exchange facilitator is listed as a named insured on an errors and omissions policy of at least two hundred fifty thousand dollars ($250,000), the requirements of this section shall be deemed satisfied.

51009. (a) A person who engages in business as an exchange facilitator shall have the responsibility to act as a custodian for all exchange funds, including, but not limited to, money, property, other consideration, or instruments received by the person from, or on behalf of, a client, except funds received as the person's compensation. A person who engages in business as an exchange facilitator shall invest those exchange funds in investments that meet a prudent investor standard and that satisfy the investment goals of liquidity and preservation of principal. For purposes of this section, a prudent investor standard is violated if any of the following occurs:

(1) Exchange funds are knowingly commingled by the exchange facilitator with the operating accounts of the exchange facilitator.

(2) Exchange funds are loaned or otherwise transferred to any person or entity, other than a financial institution, that is affiliated with or related to the exchange facilitator. This paragraph does not apply to the transfer of funds from an exchange facilitator to an exchange accommodation titleholder in accordance with an exchange contract.

(3) Exchange funds are invested in a manner that does not provide sufficient liquidity to meet the exchange facilitator's contractual obligations to its clients and does not preserve the principal of the exchange funds.

(b) Exchange funds shall not be subject to execution or attachment on any claim against the exchange facilitator. An exchange facilitator shall not knowingly keep, or cause to be kept, any money in any bank, credit union, or other financial institution under a name designating the money as belonging to the client of any exchange facilitator, unless that money belongs to that client and was actually entrusted to the exchange facilitator by that client.

51011. A person engaged in business as an exchange facilitator shall not do any of the following:

(a) Make any material misrepresentations concerning any like-kind exchange transaction that are intended to mislead.

(b) Pursue a continued or flagrant course of misrepresentation, or make false statements through advertising or otherwise.

(c) Fail, within a reasonable time, to account for any moneys or property belonging to others that may be in the possession of, or under control of, the person.

(d) Engage in any conduct constituting fraudulent or dishonest dealings.

(e) Commit any crime involving fraud, misrepresentation, deceit, embezzlement, misappropriation of funds, robbery, or theft.

(f) Materially fail to fulfill its contractual duties to a client to deliver property or funds to the client, unless that failure is due to circumstances beyond the control of the person engaging in business as an exchange facilitator.

51013. A person who violates this division is subject to civil suit in a court of competent jurisdiction.

51015. This division 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 that date, deletes or extends that date.

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## CHAPTER 709

An act to repeal Article 8 (commencing with Section 17375) of Chapter 3 of Part 10.5 of the Education Code, and to amend Sections 6509.7, 8855, 15975, 25558, 25904, 26020, 26100, 26101, 26802.5, 37617, 50022.6, 53601, 53635, 53635.8, 53646, 53839, 56425.5, 65863 and 66412 of the Government Code, to amend Sections 4730.11, 5474, 33492.42, and 116183 of the Health and Safety Code, and to amend Section 36623 of the Streets and Highways Code, relating to local government.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. (a) This act shall be known and may be cited as the Local Government Omnibus Act of 2008.

(b) The Legislature finds and declares that Californians want their governments to be run efficiently and economically and that public officials should avoid waste and duplication whenever possible. The Legislature further finds and declares that it desires to control its own costs by reducing the number of separate bills. Therefore, it is the intent of the Legislature in enacting this act to combine several minor,

noncontroversial statutory changes relating to local government into a single measure.

SEC. 1.5. Article 8 (commencing with Section 17375) of Chapter 3 of Part 10.5 of the Education Code is repealed.

SEC. 1.7. Section 6509.7 of the Government Code is amended to read:

6509.7. (a) Notwithstanding any other provision of law, two or more public agencies that have the authority to invest funds in their treasuries may, by agreement, jointly exercise that common power. Funds invested pursuant to an agreement entered into under this section may be invested as authorized by subdivision (p) of Section 53601. A joint powers authority formed pursuant to this section may issue shares of beneficial interest to participating public agencies. Each share shall represent an equal proportionate interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares of beneficial interest shall have retained an investment adviser that meets all of the following criteria:

(1) The adviser is registered or exempt from registration with the Securities and Exchange Commission.

(2) The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (o), inclusive, of Section 53601.

(3) The adviser has assets under management in excess of five hundred million dollars ($500,000,000).

(b) As used in this section, "public agency" includes a nonprofit corporation whose membership is confined to public agencies or public officials, in addition to those agencies listed in Section 6500.

SEC. 2. Section 8855 of the Government Code is amended to read:

8855. (a) There is created the California Debt and Investment Advisory Commission, consisting of nine members, selected as follows:

(1) The Treasurer, or his or her designee.

(2) The Governor or the Director of Finance.

(3) The Controller, or his or her designee.

(4) Two local government finance officers appointed by the Treasurer, one each from among persons employed by a county and by a city or a city and county of this state, experienced in the issuance and sale of municipal bonds and nominated by associations affiliated with these agencies.

(5) Two Members of the Assembly appointed by the Speaker of the Assembly.

(6) Two Members of the Senate appointed by the Senate Committee on Rules.

(b) (1) The term of office of an appointed member is four years, but appointed members serve at the pleasure of the appointing power. In case of a vacancy for any cause, the appointing power shall make an appointment to become effective immediately for the unexpired term.

(2) Any legislators appointed to the commission shall meet with and participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For purposes of this chapter, the Members of the Legislature shall constitute a joint interim legislative committee on the subject of this chapter.

(c) The Treasurer shall serve as chairperson of the commission and shall preside at meetings of the commission.

(d) Appointed members of the commission shall not receive a salary, but shall be entitled to a per diem allowance of fifty dollars ($50) for each day's attendance at a meeting of the commission not to exceed three hundred dollars ($300) in any month, and reimbursement for expenses incurred in the performance of their duties under this chapter, including travel and other necessary expenses.

(e) The commission may adopt bylaws for the regulation of its affairs and the conduct of its business.

(f) The commission shall meet on the call of the chairperson, at the request of a majority of the members, or at the request of the Governor. A majority of all nonlegislative members of the commission constitutes a quorum for the transaction of business.

(g) The office of the Treasurer shall furnish all administrative assistance required by the commission.

(h) The commission shall do all of the following:

(1) Assist all state financing authorities and commissions in carrying out their responsibilities as prescribed by law, including assistance with respect to federal legislation pending in Congress.

(2) Upon request of any state or local government units, to assist them in the planning, preparation, marketing, and sale of new debt issues to reduce cost and to assist in protecting the issuer's credit.

(3) Collect, maintain, and provide comprehensive information on all state and all local debt authorization and issuance, and serve as a statistical clearinghouse for all state and local debt issues. This information shall be readily available upon request by any public official or any member of the public.

(4) Maintain contact with state and municipal bond issuers, underwriters, credit rating agencies, investors, and others to improve the market for state and local government debt issues.

(5) Undertake or commission studies on methods to reduce the costs and improve credit ratings of state and local issues.

(6) Recommend changes in state laws and local practices to improve the sale and servicing of state and local debts.

(7) Establish a continuing education program for local officials having direct or supervisory responsibility over municipal investments and debt issuance. The commission shall undertake these and any other activities necessary to disclose investment and debt issuance practices and strategies that may be conducive for oversight purposes.

(8) Collect, maintain, and provide information on local agency investments of public funds for local agency investment.

(9) Publish a monthly newsletter describing and evaluating the operations of the commission during the preceding month.

(i) The issuer of any proposed new debt issue of state or local government shall, no later than 30 days prior to the sale of any debt issue at public or private sale, give written notice of the proposed sale to the commission, by mail, postage prepaid, or by any other method approved by the commission. This subdivision shall also apply to any nonprofit public benefit corporation incorporated for the purpose of acquiring student loans. The notice shall include the proposed sale date, the name of the issuer, the type of debt issue, and the estimated principal amount of the debt. Failure to give this notice shall not affect the validity of the sale.

(j) The issuer of any new debt issue of state or local government, not later than 45 days after the signing of the bond purchase contract in a negotiated or private financing, or after the acceptance of a bid in a competitive offering, shall submit a report of final sale to the commission by mail, postage prepaid, or by any other method approved by the commission. A copy of the final official statement for the issue shall accompany the report of final sale. If there is no official statement, the issuer shall provide each of the following documents, if they exist, along with the report of final sale:

(1) Other disclosure document.

(2) Indenture.

(3) Installment sales agreement.

(4) Loan agreement or promissory note.

(5) Bond purchase contract.

(6) Resolution authorizing the issue.

(7) Bond specimen.

The commission may require information to be submitted in the report of final sale that it considers appropriate. The issuer may redact confidential information contained in the documents if the redacted information is not information that is otherwise required to be reported to the commission.

SEC. 3. Section 15975 of the Government Code is amended to read:

15975. The transportation planning agencies and the county transportation commissions shall prepare and adopt an action plan that describes in detail the steps required to accomplish the consolidation of social service transportation services. Funding for the action plan shall be provided from local transportation funds made available under Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code. The action plan shall substantiate that one or more of the benefits indicated in Sections 15951 and 15952 are feasible for the services in a given geographic area. The action plan shall include, but not be limited to, the following:

(a) The designation of consolidated transportation service agencies within the geographic area of jurisdiction of the transportation planning agency or county transportation commission. The action plan may designate more than a single agency or multiple agencies as consolidated transportation service agencies, if improved coordination of all services is demonstrated within the geographic area. In Ventura County, the county transportation commission is the consolidated transportation service agency.

The action plan may also specify that the consolidation of some services and the coordination of other services is the most feasible approach, at the time the action plan is submitted, which will provide improved efficiency and effectiveness of those services.

(b) The identification of the social service recipients to be served, of funds available for use by the consolidated or coordinated services, and of an orderly strategy and schedule detailing the steps required to develop the financial program and management structure necessary to implement consolidated or coordinated services.

(c) Measures to coordinate the services provided under subdivision (a) with existing fixed route service provided by public and private transportation providers.

(d) Measures for the effective coordination of specialized transportation service from one provider service area to another.

(e) Measures to ensure that the objectives of the action plan are consistent with the legislative intent declared in Section 15951.

(f) An entity formed by the regional transportation planning authority as a nonprofit public benefit corporation, designated as a consolidated transportation services agency under this section and charged with administering a countywide coordinated paratransit plan adopted pursuant to Section 37.141 of Chapter 49 of the Code of Federal Regulations shall, for the purposes of paragraph (2) of subdivision (e) of Section 14055 and Part 1 (commencing with Section 810) and Part 2 (commencing with Section 814) of Division 3.6 be deemed a “public

agency" within the meaning of "public entity," as defined in Section 811.2.

SEC. 4. Section 25558 of the Government Code is amended to read:

25558. To the end that its citizens may enjoy greater cultural, educational, and recreational advantages, any county may provide music free to the public in connection with the maintenance of county-owned parks and playgrounds or upon any appropriate public or patriotic occasion, and for these purposes the board of supervisors may:

(a) Designate, from time to time, a group of professional musicians as the official county orchestra or band, or both, and compensate them for their professional services.

(b) Provide necessary equipment, including music and uniforms, for the official county orchestra or band, or both, and provide a suitable place with necessary custodians or attendants for keeping the equipment.

(c) Provide a suitable place or places for the rehearsal of or concerts by the official county orchestra or band.

(d) Enter into contracts with any professional musician or organization sponsoring a professional orchestra or band to furnish music.

(e) Combine with any city within the boundaries of the county, in the accomplishment of the purposes of this section and expend money in conjunction with any city in accomplishing the objectives.

(f) Establish a county orchestra or band fund and transfer from the general fund to such fund, from time to time, such money as it deems necessary.

(g) Levy a special tax, pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5, and spend the proceeds for the purposes of this section.

(h) Create a county band and orchestra commission to carry out, on behalf of the board, any of the purposes and objects of this section and from time to time determine the members, powers, and duties of the commission.

SEC. 5. Section 25904 of the Government Code is amended to read:

25904. (a) The board of supervisors may levy a special tax, pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5, and spend the proceeds to encourage immigration, increase trade in the products of the state and of the county, and promote the industrial, livestock, agricultural, horticultural, viticultural, and pastoral pursuits of the county.

(b) The proceeds may be used for the purposes of:

(1) Collecting, preparing, and maintaining an exhibition of the products and industries of the county at any domestic or foreign exposition.

(2) Making contribution to the support of any local fair or exhibition of industrial, agricultural, horticultural, viticultural, or pastoral products maintained by any public agency, county agricultural association, county fair association, or chamber of commerce in the county. If there is no such fair or exhibition in the county, the contribution may be made to the support of a fair or exhibition maintained by a group of counties of which the contributing county is one.

(3) The contribution may be used by the agency for the general conduct of the fair or exhibition, including the giving of premiums, in the name of the county, for competitive excellence in industrial, agricultural, livestock, horticultural, viticultural, and pastoral products at the fair or exhibition.

SEC. 6. Section 26020 of the Government Code is amended to read:

26020. As a necessary adjunct to aerial transportation and the use of aerial highways, the board of supervisors may provide and maintain public airports and landing places for aerial traffic for the use of the public. For those purposes the board of supervisors may:

(a) Acquire by purchase, condemnation, donation, lease, or otherwise real or personal property, either within or without the incorporated territory of municipalities, necessary for those purposes, and improve, construct, reconstruct, lease, furnish, refurnish, use, repair, maintain, and control the property, including buildings, structures, and lighting and other equipment and facilities necessary for that use.

(b) Provide all necessary custodians, employees, attendants, and supplies for the proper maintenance of the property for the purposes specified in this section.

(c) In addition to all other taxes, levy a special tax, pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5, and spend the proceeds for the purposes specified in this section. The proceeds of the special tax may be accumulated for not to exceed five years for use in carrying out the purposes of this section. A board of supervisors shall not levy an airport tax as provided for by this section on any airport district formed pursuant to the California Airport District Act (Part 2 (commencing with Section 22001) of Division 9 of the Public Utilities Code).

(d) Establish a fund or funds for the purposes specified in this section and appropriate and transfer from the general fund to such fund or funds from time to time any money as it deems necessary.

(e) In the manner provided by law, incur a bonded indebtedness on behalf of the county.

SEC. 7. Section 26100 of the Government Code is amended to read:

26100. (a) The board of supervisors may levy a special tax pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1

of Division 1 of Title 5, and spend the proceeds for the purpose of inducing immigration to, and increasing the trade and commerce of, the county. The proceeds of the special tax may be expended for any or all of the following uses:

(1) Advertising, exploiting, and making known the resources of the county.

(2) Exhibiting or advertising the agricultural, horticultural, viticultural, mineral, industrial, commercial, climatic, educational, recreational, artistic, musical, cultural, and other resources or advantages of the county.

(3) Making plans and arrangements for a world's fair, trade fair, or other fair or exposition at which such resources may be exhibited.

(4) Doing any of such work in cooperation with or jointly by contract with other agencies, associations, or corporations.

(b) The board may also appropriate for the purposes of this chapter any moneys accruing to the general fund derived pursuant to Section 7280 of the Revenue and Taxation Code.

SEC. 8. Section 26101 of the Government Code is amended to read:

26101. If the proceeds from the special tax levied pursuant to Section 26100 will not raise fifty thousand dollars ($50,000) in any one year, the board may appropriate from the general fund of the county an amount sufficient to make up the deficiency existing between the amount raised as the result of the special tax and fifty thousand dollars ($50,000).

SEC. 9. Section 26802.5 of the Government Code is amended to read:

26802.5. In the Counties of El Dorado, Kings, Lake, Marin, Merced, Monterey, Napa, Riverside, San Joaquin, Solano, and Tulare, a registrar of voters may be appointed by the board of supervisors in the same manner as other county officers are appointed. In those counties, the county clerk is not ex officio registrar of voters, and the registrar of voters shall discharge all duties vested by law in the county elections official that relate to and are a part of the election procedure.

SEC. 10. Section 37617 of the Government Code is amended to read:

37617. If other provision has not been made for maintenance of the hospital, the legislative body may levy a special tax, pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5, and spend the proceeds to maintain the hospital and purchase necessary property for the hospital. The special tax is in addition to other taxes permitted in the city.

SEC. 10.1. Section 50022.6 of the Government Code is amended to read:

50022.6. At least one copy of each primary code adopted by reference, and of each secondary code pertaining thereto, all certified to be true copies by the clerk of the legislative body, shall be filed in the

office of the clerk of the legislative body at least 15 days preceding the hearing, and shall be kept there for public inspection while the ordinance is in force. However, after the adoption of the code by reference, one copy of the primary code and of each secondary code may be kept in the office of the chief enforcement officer instead of in the office of the clerk of the legislative body.

SEC. 10.5. Section 53601 of the Government Code is amended to read:

53601. This section shall apply to a local agency that is a city, a district, or other local agency that does not pool money in deposits or investments with other local agencies, other than local agencies that have the same governing body. However, Section 53635 shall apply to all local agencies that pool money in deposits or investments with other local agencies that have separate governing bodies. The legislative body of a local agency having money in a sinking fund or money in its treasury not required for the immediate needs of the local agency may invest any portion of the money that it deems wise or expedient in those investments set forth below. A local agency purchasing or obtaining any securities prescribed in this section, in a negotiable, bearer, registered, or nonregistered format, shall require delivery of the securities to the local agency, including those purchased for the agency by financial advisers, consultants, or managers using the agency's funds, by book entry, physical delivery, or by third-party custodial agreement. The transfer of securities to the counterparty bank's customer book entry account may be used for book entry delivery.

For purposes of this section, "counterparty" means the other party to the transaction. A counterparty bank's trust department or separate safekeeping department may be used for the physical delivery of the security if the security is held in the name of the local agency. Where this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase. Where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase or reverse repurchase agreement or securities lending agreement authorized by this section, that at the time of the investment has a term remaining to maturity in excess of five years, unless the legislative body has granted express authority to make that investment either specifically or as a part of an investment program approved by the legislative body no less than three months prior to the investment:

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled,

or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Registered treasury notes or bonds of any of the other 49 United States in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 United States, in addition to California.

(e) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(f) Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.

(g) Bankers' acceptances otherwise known as bills of exchange or time drafts that are drawn on and accepted by a commercial bank. Purchases of bankers' acceptances may not exceed 180 days' maturity or 40 percent of the agency's money that may be invested pursuant to this section. However, no more than 30 percent of the agency's money may be invested in the bankers' acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing any money in its treasury in any manner authorized by the Municipal Utility District Act (Division 6 (commencing with Section 11501) of the Public Utilities Code).

(h) Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical-rating organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or (2):

(1) The entity meets the following criteria:

(A) Is organized and operating in the United States as a general corporation.

(B) Has total assets in excess of five hundred million dollars ($500,000,000).

(C) Has debt other than commercial paper, if any, that is rated "A" or higher by a nationally recognized statistical-rating organization (NRSRO).

(2) The entity meets the following criteria:

(A) Is organized within the United States as a special purpose corporation, trust, or limited liability company.

(B) Has programwide credit enhancements including, but not limited to, overcollateralization, letters of credit, or surety bond.

(C) Has commercial paper that is rated "A-1" or higher, or the equivalent, by a nationally recognized statistical-rating organization (NRSRO).

Eligible commercial paper shall have a maximum maturity of 270 days or less. Local agencies, other than counties or a city and county, may invest no more than 25 percent of their money in eligible commercial paper. Local agencies, other than counties or a city and county, may purchase no more than 10 percent of the outstanding commercial paper of any single issuer. Counties or a city and county may invest in commercial paper pursuant to the concentration limits in subdivision (a) of Section 53635.

(i) Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings association or a federal association (as defined by Section 5102 of the Financial Code), a state or federal credit union, or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or any person with investment decisionmaking authority in the administrative office manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or the supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

(j) (1) Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of any securities authorized

by this section, as long as the agreements are subject to this subdivision, including the delivery requirements specified in this section.

(2) Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:

(A) The security to be sold on reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.

(B) The total of all reverse repurchase agreements and securities lending agreements on investments owned by the local agency does not exceed 20 percent of the base value of the portfolio.

(C) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(D) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(4) (A) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security may only be made upon prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.

(B) For purposes of this chapter, "significant banking relationship" means any of the following activities of a bank:

(i) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.

(ii) Financing of a local agency's activities.

(iii) Acceptance of a local agency's securities or funds as deposits.

(5) (A) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.

(B) "Securities," for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date and includes other comparable agreements.

(D) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(E) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.

(F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

(k) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated "A" or better by a nationally recognized rating service. Purchases of medium-term notes shall not include other instruments authorized by this section and may

not exceed 30 percent of the agency's money that may be invested pursuant to this section.

(*l*) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (o), inclusive, and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (k), inclusive, and subdivisions (m) to (o), inclusive, and with assets under management in excess of five hundred million dollars ($500,000,000).

(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars ($500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's money that may be invested pursuant to this section. However, no more

than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(m) Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

(n) Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank that is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(o) Any mortgage passthrough security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable passthrough certificate, or consumer receivable-backed bond of a maximum of five years' maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.

(p) Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subdivisions (a) to (o), inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:

(1) The adviser is registered or exempt from registration with the Securities and Exchange Commission.

(2) The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (o), inclusive.

(3) The adviser has assets under management in excess of five hundred million dollars ($500,000,000).

SEC. 10.7. Section 53635 of the Government Code is amended to read:

53635. (a) This section shall apply to a local agency that is a county, a city and county, or other local agency that pools money in deposits or investments with other local agencies, including local agencies that have the same governing body. However, Section 53601 shall apply to all local agencies that pool money in deposits or investments exclusively with local agencies that have the same governing body.

This section shall be interpreted in a manner that recognizes the distinct characteristics of investment pools and the distinct administrative burdens on managing and investing funds on a pooled basis pursuant to Article 6 (commencing with Section 27130) of Chapter 5 of Division 2 of Title 3.

A local agency that is a county, a city and county, or other local agency that pools money in deposits or investments with other agencies may invest in commercial paper pursuant to subdivision (h) of Section 53601, except that the local agency shall be subject to the following concentration limits:

(1) No more than 40 percent of the local agency's money may be invested in eligible commercial paper.

(2) No more than 10 percent of the total assets of the investments held by a local agency may be invested in any one issuer's commercial paper.

(b) Notwithstanding Section 53601, the City of Los Angeles shall be subject to the concentration limits of this section for counties and for cities and counties with regard to the investment of money in eligible commercial paper.

SEC. 10.9. 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 (i) 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. 11. Section 53646 of the Government Code is amended to read:

53646. (a) (1) In the case of county government, the treasurer may annually render to the board of supervisors and any oversight committee a statement of investment policy, which the board shall review and approve at a public meeting. Any change in the policy shall also be reviewed and approved by the board at a public meeting.

(2) In the case of any other local agency, the treasurer or chief fiscal officer of the local agency may annually render to the legislative body of that local agency and any oversight committee of that local agency a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting. Any change in the policy shall also be considered by the legislative body of the local agency at a public meeting.

(b) (1) The treasurer or chief fiscal officer may render a quarterly report to the chief executive officer, the internal auditor, and the legislative body of the local agency. The quarterly report shall be so submitted within 30 days following the end of the quarter covered by the report. Except as provided in subdivisions (e) and (f), this report shall include the type of investment, issuer, date of maturity, par and dollar amount invested on all securities, investments and moneys held by the local agency, and shall additionally include a description of any of the local agency's funds, investments, or programs, that are under the management of contracted parties, including lending programs. With respect to all securities held by the local agency, and under management of any outside party that is not also a local agency or the State of California Local Agency Investment Fund, the report shall also include a current market value as of the date of the report, and shall include the source of this same valuation.

(2) The quarterly report shall state compliance of the portfolio to the statement of investment policy, or manner in which the portfolio is not in compliance.

(3) The quarterly report shall include a statement denoting the ability of the local agency to meet its pool's expenditure requirements for the next six months, or provide an explanation as to why sufficient money shall, or may, not be available.

(4) In the quarterly report, a subsidiary ledger of investments may be used in accordance with accepted accounting practices.

(c) Pursuant to subdivision (b), the treasurer or chief fiscal officer shall report whatever additional information or data may be required by the legislative body of the local agency.

(d) The legislative body of a local agency may elect to require the report specified in subdivision (b) to be made on a monthly basis instead of quarterly.

(e) For local agency investments that have been placed in the Local Agency Investment Fund, created by Section 16429.1, in National Credit Union Share Insurance Fund-insured accounts in a credit union, in accounts insured or guaranteed pursuant to Section 14858 of the Financial Code, or in Federal Deposit Insurance Corporation-insured accounts in a bank or savings and loan association, in a county investment pool, or any combination of these, the treasurer or chief fiscal officer may supply to the governing body, chief executive officer, and the auditor of the local agency the most recent statement or statements received by the local agency from these institutions in lieu of the information required by paragraph (1) of subdivision (b) regarding investments in these institutions.

(f) The treasurer or chief fiscal officer shall not be required to render a quarterly report, as required by subdivision (b), to a legislative body or any oversight committee of a school district or county office of education for securities, investments, or moneys held by the school district or county office of education in individual accounts that are less than twenty-five thousand dollars ($25,000).

(g) The city, county, or city and county investor of any public funds, no later than 60 days after the close of the second quarter of each calendar year and 60 days after the subsequent amendments thereto, shall provide the statement of investment policy required pursuant to this section, to the California Debt and Investment Advisory Commission.

(h) In recognition of the state and local interests served by the actions made optional in subdivisions (a) and (b), the Legislature encourages the local agency officials to continue taking the actions formerly mandated by this section. However, nothing in this subdivision may be construed to impose any liability on a local agency that does not continue to take the formerly mandated action.

SEC. 12. Section 53839 of the Government Code is amended to read:

53839. A special district shall not issue any securitized limited obligation notes after December 31, 2014, unless a later enacted statute that is enacted before December 31, 2014, deletes or extends that date.

SEC. 12.3. Section 56425.5 of the Government Code is amended to read:

56425.5. (a) A determination of a city's sphere of influence, in any case where that sphere of influence includes any portion of the redevelopment project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code, shall not preclude any other local agency, as defined in Section 54951, including the redevelopment agency referenced in Section 33492.41 of the Health and Safety Code, in addition to that city, from providing facilities or services related to

development to or in that portion of the redevelopment project area that, as of January 1, 2000, meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) Facilities or services related to development may be provided by other local agencies to all or any portion of the area defined in paragraphs (1) to (4), inclusive, of subdivision (a). Subdivision (a) shall apply regardless of whether the determination of the sphere of influence is made before or after January 1, 2000.

SEC. 12.5. Section 65863 of the Government Code is amended to read:

65863. (a) Each city, county, or city and county shall ensure that its housing element inventory described in paragraph (3) of subdivision (a) of Section 65583 or its housing element program to make sites available pursuant to paragraph (1) of subdivision (c) of Section 65583 can accommodate its share of the regional housing need pursuant to Section 65584, throughout the planning period.

(b) No city, county, or city and county shall, by administrative, quasi-judicial, legislative, or other action, reduce, or require or permit the reduction of, the residential density for any parcel to, or allow development of any parcel at, a lower residential density, as defined in paragraphs (1) and (2) of subdivision (g), unless the city, county, or city and county makes written findings supported by substantial evidence of both of the following:

(1) The reduction is consistent with the adopted general plan, including the housing element.

(2) The remaining sites identified in the housing element are adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584.

(c) If a reduction in residential density for any parcel would result in the remaining sites in the housing element not being adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584, the jurisdiction may reduce the density on that parcel if it identifies sufficient additional, adequate, and available sites with an equal or greater residential density in the jurisdiction so that there is no net loss of residential unit capacity.

(d) The requirements of this section shall be in addition to any other law that may restrict or limit the reduction of residential density.

(e) This section requires that a city, county, or city and county be solely responsible for compliance with this section, unless a project applicant requests in his or her initial application, as submitted, a density that would result in the remaining sites in the housing element not being adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584. In that case, the city, county, or city and county may require the project applicant to comply with this section. The submission of an application for purposes of this subdivision does not depend on the application being deemed complete or being accepted by the city, county, or city and county.

(f) This section shall not be construed to apply to parcels that, prior to January 1, 2003, were either (1) subject to a development agreement, or (2) parcels for which an application for a subdivision map had been submitted.

(g) (1) If the local jurisdiction has adopted a housing element for the current planning period that is in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3, for purposes of this section, "lower residential density" means the following:

(A) For sites zoned for residential use and identified in the local jurisdiction's housing element inventory described in paragraph (3) of subdivision (a) of Section 65583, a density below the density used in the inventory to determine the total housing unit capacity.

(B) For sites that have been or will be rezoned pursuant to the local jurisdiction's housing element program described in paragraph (1) of subdivision (c) of Section 65583, a density below the density used to determine the housing unit capacity of the rezoned site.

(2) If the local jurisdiction has not adopted a housing element for the current planning period within 90 days of the deadline established by Section 65588 for purposes of this section, or the adopted housing element is not in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 within 180 days of the deadline established by Section 65588, "lower residential density" means a density that is lower than 80 percent of the maximum allowable residential density for that parcel. For the purposes of this paragraph, if the council of governments fails to complete a final housing need allocation pursuant to the deadlines established by Section 65584.05, the deadline for adoption of the housing element and determining substantial compliance shall be extended by a time period equal to the delay incurred by the council of governments in completing the final housing need allocation.

SEC. 12.7. Section 65863 of the Government Code is amended to read:

65863. (a) Each city, county, or city and county shall ensure that its housing element inventory described in paragraph (3) of subdivision (a)

of Section 65583 or its housing element program to make sites available pursuant to paragraph (1) of subdivision (c) of Section 65583 can accommodate its share of the regional housing need pursuant to Section 65584, throughout the planning period.

(b) No city, county, or city and county shall, by administrative, quasi-judicial, legislative, or other action, reduce, or require or permit the reduction of, the residential density for any parcel to, or allow development of any parcel at, a lower residential density, as defined in paragraphs (1) and (2) of subdivision (g), unless the city, county, or city and county makes written findings supported by substantial evidence of both of the following:

(1) The reduction is consistent with the adopted general plan, including the housing element.

(2) The remaining sites identified in the housing element are adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584.

(c) If a reduction in residential density for any parcel would result in the remaining sites in the housing element not being adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584, the jurisdiction may reduce the density on that parcel if it identifies sufficient additional, adequate, and available sites with an equal or greater residential density in the jurisdiction so that there is no net loss of residential unit capacity.

(d) The requirements of this section shall be in addition to any other law that may restrict or limit the reduction of residential density.

(e) This section requires that a city, county, or city and county be solely responsible for compliance with this section, unless a project applicant requests in his or her initial application, as submitted, a density that would result in the remaining sites in the housing element not being adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Section 65584. In that case, the city, county, or city and county may require the project applicant to comply with this section. The submission of an application for purposes of this subdivision does not depend on the application being deemed complete or being accepted by the city, county, or city and county.

(f) This section shall not be construed to apply to parcels that, prior to January 1, 2003, were either (1) subject to a development agreement, or (2) parcels for which an application for a subdivision map had been submitted.

(g) (1) If the local jurisdiction has adopted a housing element for the current planning period that is in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3, for purposes of this section, "lower residential density" means the following:

(A) For sites on which the zoning designation permits residential use and that are identified in the local jurisdiction's housing element inventory described in paragraph (3) of subdivision (a) of Section 65583, fewer units on the site than were projected by the jurisdiction to be accommodated on the site pursuant to subdivision (c) of Section 65583.2.

(B) For sites that have been or will be rezoned pursuant to the local jurisdiction's housing element program described in paragraph (1) of subdivision (c) of Section 65583, fewer units for the site than were projected to be developed on the site in the housing element program.

(2) (A) If the local jurisdiction has not adopted a housing element for the current planning period within 90 days of the deadline established by Section 65588 or the adopted housing element is not in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 within 180 days of the deadline established by Section 65588, "lower residential density" means any of the following:

(i) For residentially zoned sites, a density that is lower than 80 percent of the maximum allowable residential density for that parcel.

(ii) For sites on which residential and nonresidential uses are permitted, a use that would result in the development of fewer than 80 percent of the number of residential units that would be allowed under the maximum residential density for the site.

(B) If the council of governments fails to complete a final housing need allocation pursuant to the deadlines established by Section 65584.05, then for purposes of this paragraph, the deadline pursuant to Section 65588 shall be extended by a time period equal to the number of days of delay incurred by the council of governments in completing the final housing need allocation.

SEC. 13. Section 66412 of the Government Code is amended to read:

66412. This division shall be inapplicable to any of the following:

(a) The financing or leasing of apartments, offices, stores, or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks, or trailer parks.

(b) Mineral, oil, or gas leases.

(c) Land dedicated for cemetery purposes under the Health and Safety Code.

(d) A lot line adjustment between four or fewer existing adjoining parcels, where the land taken from one parcel is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created, if the lot line adjustment is approved by the local agency, or advisory agency. A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to the local general plan, any applicable specific plan, any applicable coastal plan,

and zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to the local general plan, any applicable specific plan, any applicable coastal plan, and zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed, which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code.

(e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.

(f) Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

(g) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a community apartment project, as defined in Section 1351 of the Civil Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 75 percent of the units in the project were occupied by record owners of the project on March 31, 1982.

(2) A final or parcel map of the project was properly recorded, if the property was subdivided, as defined in Section 66424, after January 1, 1964, with all of the conditions of that map remaining in effect after the conversion.

(3) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(4) Subject to compliance with subdivision (e) of Section 1351 of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the project as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances and other documents, a majority of owners in the project shall be required to execute the conveyances or other documents. Conveyances and other documents executed under the foregoing provisions shall be binding upon and affect the interests of all parties in the project.

(h) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a stock cooperative, as defined in Section 1351 of the Civil Code, to a condominium, as defined in Section

783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 51 percent of the units in the cooperative were occupied by stockholders of the cooperative on January 1, 1981, or individually owned by stockholders of the cooperative on January 1, 1981. As used in this paragraph, a cooperative unit is "individually owned" if and only if the stockholder of that unit owns or partially owns an interest in no more than one unit in the cooperative.

(2) No more than 25 percent of the shares of the cooperative were owned by any one person, as defined in Section 17, including an incorporator or director of the cooperative, on January 1, 1981.

(3) A person renting a unit in a cooperative shall be entitled at the time of conversion to all tenant rights in state or local law, including, but not limited to, rights respecting first refusal, notice, and displacement and relocation benefits.

(4) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(5) Subject to compliance with subdivision (e) of Section 1351 of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the cooperative as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances and other documents, a majority of owners in the cooperative shall be required to execute the conveyances or other documents. Conveyances and other documents executed under the foregoing provisions shall be binding upon and affect the interests of all parties in the cooperative.

(i) The leasing of, or the granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a windpowered electrical generation device on the land, if the project is subject to discretionary action by the advisory agency or legislative body.

(j) The leasing or licensing of a portion of a parcel, or the granting of an easement, use permit, or similar right on a portion of a parcel, to a telephone corporation as defined in Section 234 of the Public Utilities Code, exclusively for the placement and operation of cellular radio transmission facilities, including, but not limited to, antennae support structures, microwave dishes, structures to house cellular communications transmission equipment, power sources, and other equipment incidental to the transmission of cellular communications, if the project is subject to discretionary action by the advisory agency or legislative body.

(k) Leases of agricultural land for agricultural purposes. As used in this subdivision, "agricultural purposes" means the cultivation of food or fiber, or the grazing or pasturing of livestock.

(*l*) The leasing of, or the granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a solar electrical generation device on the land, if the project is subject to review under other local agency ordinances regulating design and improvement or, if the project is subject to other discretionary action by the advisory agency or legislative body.

SEC. 14. Section 4730.11 of the Health and Safety Code is amended to read:

4730.11. (a) Notwithstanding any other provision of this article, the governing body of the Sacramento Area Sewer District, formerly known as the Sacramento County Sanitation District No. 1, shall be a board of directors composed of not less than five members.

(b) If the district includes no territory that is within a city, the Sacramento County Board of Supervisors shall be the board of directors of the district. If the district includes territory that is within a city, the board of directors shall be composed of the Sacramento County Board of Supervisors and a member of the governing body of each included city, appointed by that city's governing body.

(c) The governing body of each city located within the district may appoint one of its members to serve as an alternate to act in the absence, inability, or refusal to act, of its appointed member.

(d) (1) Each member or alternate member of the board of directors shall have one vote.

(2) Notwithstanding paragraph (1), if the members of the board of directors constitute an even number and if the vote is tied, the chairperson of the board of directors shall have an additional vote.

SEC. 15. Section 5474 of the Health and Safety Code is amended to read:

5474. An entity shall have the power by ordinance approved by two-thirds vote of the members of the legislative body thereof to fix fees or charges for the privilege of connecting to its sanitation or sewerage facilities and improvements constructed by the entity pursuant to Sections 5463 and 5464, to fix the time or times at which the fees or charges shall become due, to provide for the payment of the fees or charges prior to connection or in installments over a period of not to exceed 30 years, to provide the rate of interest, not to exceed 12 percent per annum, to be charged on the unpaid balance of the fees or charges, and to provide that the amount of the fees or charges and the interest thereon shall constitute a lien against the respective lots or parcels of land to which the facilities are connected at the time and in the manner specified in Sections 5473.5

and 5473.8. Prior to making the fees or charges a lien against the land, the legislative body shall give notice to the owners of the lots or parcels of land affected, and the notice shall set forth all of the following:

(a) The schedule of fees or charges to be imposed by the entity.

(b) A description of the property subject to the fees or charges, which description may be by reference to a plat or diagram on file in the office of the clerk of the legislative body, or to maps prepared in accordance with Section 327 of the Revenue and Taxation Code, and on file in the office of the county assessor.

(c) The time or times at which the fees or charges shall become due.

(d) The number of installments in which the fees or charges shall be payable.

(e) The rate of interest, not to exceed 12 percent per annum, to be charged on the unpaid balance of the fees or charges.

(f) That it is proposed that the fees or charges and interest thereon shall constitute a lien against the lots or parcels of land to which the facilities are furnished.

(g) The time and place at which the legislative body will hold a hearing at which persons may appear and present any and all objections they may have to the imposition of the fees or charges as a lien against the land.

SEC. 16. Section 33492.42 of the Health and Safety Code is amended to read:

33492.42. (a) The redevelopment agency referenced in Section 33492.41 may locate, construct, and maintain facilities and infrastructure for sewer and water pipelines or other facilities for sewer transmission and water supply or distribution systems along and across any street or public highway and on any lands that are now or hereafter owned by the state, for the purpose of providing facilities or services related to development to, or in that portion of, the redevelopment project area referenced in subdivision (e) of Section 33492.41 that, as of January 1, 2000, meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) Facilities or services related to development may be provided by the redevelopment agency referenced in Section 33492.41 to all or any portion of the area defined in paragraphs (1) to (4), inclusive, of subdivision (a). Notwithstanding any other provision of the Government Code, building ordinances, zoning ordinances, and any other local

ordinances, rules, and regulations of a city or other political subdivision of the state shall not apply to the location, construction, or maintenance of facilities or services related to development pursuant to this section.

SEC. 16.5. Section 116183 of the Health and Safety Code is amended to read:

116183. (a) The Legislature finds and declares that cooperative agreements between the State Department of Public Health and local vector control districts help to ensure that all state and federal requirements regarding the use of pesticides are met and provide participating agencies with the flexibility to perform their legally mandated role to control mosquito and other public health vectors.

(b) To ensure public health and safety, any state or local agency responding to an outbreak of West Nile virus or other mosquito-borne disease with an abatement and surveillance program shall, and any federal agency so responding is encouraged to, contract with a local mosquito and vector control agency that is party to a cooperative agreement with the State Department of Public Health or shall consult directly with the State Department of Public Health to ensure that outbreak response is supervised appropriately and conducted by licensed personnel using sound integrated mosquito management techniques.

(c) For the purposes of this section, "outbreak" means the occurrence of cases of a disease or illness above the expected or baseline level, usually over a given period of time, in a geographic area or facility, or in a specific population group. The number of cases indicating the presence of an outbreak will vary according to the disease agent, size and type of population exposed, previous exposure to the agent, and the time and place of exposure.

(d) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 17. Section 36623 of the Streets and Highways Code is amended to read:

36623. (a) 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.

(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. A protest may be made orally or in writing by any interested person. Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest. A written protest may be

withdrawn in writing at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business. A written protest which does not comply with this section shall not be counted in determining a majority protest. If written protests are received from the owners of businesses in the proposed district which will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to levy the proposed assessment against such businesses, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

SEC. 18. In enacting this act to repeal subdivision (e) of Section 65863 of the Government Code, the Legislature finds and declares that it is aware that a successful party may request a court to award attorney's fees pursuant to Section 1021.5 of the Code of Civil Procedure.

SEC. 19. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 20. Section 12.7 of this bill incorporates amendments to Section 65863 of the Government Code proposed by both this bill and AB 2069. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 65863 of the Government Code, and (3) this bill is enacted after AB 2069, in which case Section 12.5 of this bill shall not become operative.

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## CHAPTER 710

An act to amend Section 52052 of the Education Code, relating to school accountability.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. 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 four-, five-, and six-year graduation rates for pupils in secondary schools.

(A) Graduation rates for pupils in secondary schools shall be calculated for the API as follows:

(i) Four-year graduation rates shall be calculated by taking 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 grade 9 for the first time, and dividing that number by the total calculated in clause (ii).

(ii) The number of pupils entering grade 9 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.

(iii) Five-year graduation rates shall be calculated by taking the number of pupils who graduated on time for the current school year, which is considered to be four school years after the pupils entered grade 9 for the first time, and dividing that number by the total calculated in clause (iv).

(iv) The number of pupils entering grade 9 for the first time in the school year four 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 four 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 four 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.

(v) Six-year graduation rates shall be calculated by taking the number of pupils who graduated on time for the current school year, which is considered to be five school years after the pupils entered grade 9 for the first time, and dividing that number by the total calculated in clause (vi).

(vi) The number of pupils entering grade 9 for the first time in the school year five 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 five 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 five 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 inclusion of five- and six-year graduation rates for pupils in secondary schools shall meet the following requirements:

(i) Schools shall be granted one-half the credit in their API scores for graduating pupils in five years that they are granted for graduating pupils in four years.

(ii) Schools shall be granted one-quarter the credit in their API scores for graduating pupils in six years that they are granted for graduating pupils in four years.

(iii) Notwithstanding clauses (i) and (ii), schools shall be granted full credit in their API scores for graduating in five or six years a pupil with disabilities who graduates in accordance with his or her individualized education program (IEP).

(C) 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 continuously were 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.

(D) 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.

(E) 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, at a minimum, shall 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 annually shall 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.

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## CHAPTER 711

An act to amend Section 5096.501 of, and to add Sections 5096.517 and 5096.518 to, the Public Resources Code, relating to state lands.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 5096.501 of the Public Resources Code is amended to read:

5096.501. For purposes of this chapter, the following terms have the following meanings:

(a) "Acquisition agency" means the Wildlife Conservation Board, the Department of Parks and Recreation, or a state conservancy.

(b) "Conservation lands" means any land or interest therein to be acquired by an acquisition agency, or that is owned by the state.

(c) "Major acquisition" means an acquisition where an agency proposes to spend more than twenty-five million dollars ($25,000,000) of state funds.

SEC. 2. Section 5096.517 is added to the Public Resources Code, to read:

5096.517. (a) The Department of General Services shall convene a workgroup to develop and adopt standards, subject to the approval of the Resources Agency, with respect to the acquisition of conservation lands. The workgroup shall not exceed six members and shall include, but not be limited to, representatives from all of the following:

(1) The Department of Parks and Recreation.

(2) The Wildlife Conservation Board.

(3) The State Coastal Conservancy and one or more other state conservancies with land acquisition responsibilities.

(b) The workgroup shall hold a public hearing to solicit public comments prior to the adoption of standards pursuant to subdivision (a).

(c) In developing standards for the appraisal of resource conservation acquisitions, including both direct and state-funded grant acquisitions, the Department of General Services and the workgroup shall consider, by January 1, 2010, all of the following:

(1) Qualifications of the appraiser, including, but not limited to, all of the following:

(A) The appraiser shall not engage in any appraisal activity in connection with the purchase, sale, transfer, financing, or development of real property if his or her compensation is dependent on or affected by the value determined by the appraisal.

(B) The appraiser shall be appropriately licensed by the Office of Real Estate Appraisers pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code.

(C) The appraisal shall be performed pursuant to the Uniform Standards of Professional Appraisal Practice.

(D) Any additional qualifications regarding education, certification, and years of experience deemed to be necessary by the Department of General Services and the workgroup.

(E) This paragraph does not limit the ability of a public agency to award a contract based on appraiser qualifications, including designations, experience, and other factors deemed necessary to perform an appraisal on a specific assignment, that exceed the qualifications of this paragraph.

(2) Appraisal methodology to be used.

(3) Scope of the analysis and level of information provided in the appraisal report, including, but not limited to, both of the following:

(A) Verifiable data on the development potential of the land, such as what would be required for a development project to proceed.

(B) Reports documenting suspected environmental contamination.

(4) Reference to comparable government and conservation transactions when available.

(5) Age of the appraisal or appraisal update to be reviewed by the department to keep an appraisal from being over one and one-half years old.

(6) Appraisal of conservation easements, using the information from the "Valuation of Conservation Easements Certificate Program" created by members of the Appraisal Foundation and the Land Trust Alliance as guidelines.

(7) Standards for the release of the appraisal review, including, but not limited to, both of the following:

(A) Guidelines to state resource agencies for public disclosure requirements.

(B) Improvement of the legislative notification process for better oversight, including, when requested by the Legislature, provision of a copy of the appraisal review for a major acquisition before the close of escrow.

SEC. 3. Section 5096.518 is added to the Public Resources Code, to read:

5096.518. For a charitable contribution claimed by a seller that is over five thousand dollars ($5,000) on conservation lands acquired using state funds, in order to substantiate the amount of the charitable contribution deduction claimed by the seller pursuant to Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, both of the following requirements shall apply:

(a) The seller shall attach to his or her California personal income tax return a copy of an appraisal of the charitable contribution, in accordance with subdivision (b).

(b) The appraisal attached to the return shall be prepared by an appraiser licensed by the Office of Real Estate Appraisers pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code and shall comply with the applicable requirements of the Revenue and Taxation Code and the Internal Revenue Code for purposes of substantiating the amount of the contribution for California income and franchise tax purposes and federal income tax purposes.

# CHAPTER 712

An act to amend Section 3509 of the Government Code, relating to the Public Employment Relations Board.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) In 2001, the Public Employment Relations Board (PERB) assumed jurisdiction over the resolution of unfair labor practice charges and representation disputes under the Meyers-Milias-Brown Act (MMBA) that may be filed by public employers or employees, excluding law enforcement officers and the City and County of Los Angeles.

(b) When transferring jurisdiction, the Legislature expressly recognized that such a transfer was not to supersede existing local ordinances or rules that provide for other methods of administering employer-employee relations.

(c) In recent years, the dispute resolution process under PERB has been used as a tool by some employers to impede or eliminate altogether the otherwise appropriate review of issues in an alternative forum adopted by voters.

(d) The valuable administrative remedies afforded by PERB are meant to amplify and not abrogate a party's right to settle bargaining or representation disputes. The MMBA itself is intended to strengthen the administration of employer-employee relations.

(e) While the Legislature provided for a remedy under PERB, the courts retain the role in determining the limits of PERB's jurisdiction.

(f) Although existing law permits PERB to rule on unfair labor practices, nowhere does existing law suggest that those rulings are to supersede voter-approved or other statutory remedies and, where PERB's jurisdiction over unfair labor practice charges may overlap with the statutory authority granted to other entities, the overlap should not remove the jurisdiction of other forums.

(g) In contrast to firefighter organizations, law enforcement organizations have been exempted from PERB's jurisdiction. Unlike law enforcement organizations, firefighter organizations have recently been prevented from employing other voter-adopted dispute resolution processes, which in effect changes the clear statutory language detailing PERB's jurisdiction. This disparity has resulted in the preservation of

procedural rights for law enforcement officers and the derailment of and eventual elimination of procedural rights for firefighters.

(h) The Legislature never intended, by exempting law enforcement organizations from the provisions of Senate Bill 739, enacted as Chapter 901 of the Statutes of 2000, to, by implication, eliminate for firefighters the locally enacted procedural protections enjoyed by both law enforcement and firefighters under those provisions.

SEC. 2. Section 3509 of the Government Code is amended to read:

3509. (a) The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter and shall include the authority as set forth in subdivisions (b) and (c). Included among the appropriate powers of the board are the power to order elections, to conduct any election the board orders, and to adopt rules to apply in areas where a public agency has no rule.

(b) A complaint alleging any violation of this chapter or of any rules and regulations adopted by a public agency pursuant to Section 3507 or 3507.5 shall be processed as an unfair practice charge by the board. The initial determination as to whether the charge of unfair practice is justified and, if so, the appropriate remedy necessary to effectuate the purposes of this chapter, shall be a matter within the exclusive jurisdiction of the board. The board shall apply and interpret unfair labor practices consistent with existing judicial interpretations of this chapter.

(c) The board shall enforce and apply rules adopted by a public agency concerning unit determinations, representation, recognition, and elections.

(d) Notwithstanding subdivisions (a) to (c), inclusive, the employee relations commissions established by, and in effect for, the County of Los Angeles and the City of Los Angeles pursuant to Section 3507 shall have the power and responsibility to take actions on recognition, unit determinations, elections, and all unfair practices, and to issue determinations and orders as the employee relations commissions deem necessary, consistent with and pursuant to the policies of this chapter.

(e) Notwithstanding subdivisions (a) to (c), inclusive, consistent with, and pursuant to, the provisions of Sections 3500 and 3505.4, superior courts shall have exclusive jurisdiction over actions involving interest arbitration, as governed by Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure, when the action involves an employee organization that represents firefighters, as defined in Section 3251.

(f) This section shall not apply to employees designated as management employees under Section 3507.5.

(g) The board shall not find it an unfair practice for an employee organization to violate a rule or regulation adopted by a public agency if that rule or regulation is itself in violation of this chapter. This

subdivision shall not be construed to restrict or expand the board's jurisdiction or authority as set forth in subdivisions (a) to (c), inclusive.

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## CHAPTER 713

An act to amend Sections 4033, 4034, 4162, 4162.5, and 4163 of, to add Sections 4034.1, 4044, 4045, 4163.1, 4163.2, 4163.3, and 4163.4 to, and to repeal and add Section 4163.5 of, the Business and Professions Code, relating to pharmacy.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 4033 of the Business and Professions Code is amended to read:

4033. (a) (1) "Manufacturer" means and includes every person who prepares, derives, produces, compounds, or repackages any drug or device except a pharmacy that manufactures on the immediate premises where the drug or device is sold to the ultimate consumer.

(2) Notwithstanding paragraph (1), "manufacturer" shall not mean a pharmacy compounding a drug for parenteral therapy, pursuant to a prescription, for delivery to another pharmacy for the purpose of delivering or administering the drug to the patient or patients named in the prescription, provided that neither the components for the drug nor the drug are compounded, fabricated, packaged, or otherwise prepared prior to receipt of the prescription.

(3) Notwithstanding paragraph (1), "manufacturer" shall not mean a pharmacy that, at a patient's request, repackages a drug previously dispensed to the patient, or to the patient's agent, pursuant to a prescription.

(b) Notwithstanding subdivision (a), as used in Sections 4034, 4163, 4163.1, 4163.2, 4163.3, 4163.4, and 4163.5, "manufacturer" means a person who prepares, derives, manufactures, produces, or repackages a dangerous drug, as defined in Section 4022, device, or cosmetic. Manufacturer also means the holder or holders of a New Drug Application (NDA), an Abbreviated New Drug Application (ANDA), or a Biologics License Application (BLA), provided that such application has been approved; a manufacturer's third party logistics provider; a private label distributor (including colicensed partners) for whom the private label distributor's prescription drugs are originally manufactured

and labeled for the distributor and have not been repackaged; or the distributor agent for the manufacturer, contract manufacturer, or private label distributor, whether the establishment is a member of the manufacturer's affiliated group (regardless of whether the member takes title to the drug) or is a contract distributor site.

SEC. 2. Section 4034 of the Business and Professions Code is amended to read:

4034. (a) "Pedigree" means a record, in electronic form, containing information regarding each transaction resulting in a change of ownership of a given dangerous drug, from sale by a manufacturer, through acquisition and sale by one or more wholesalers, manufacturers, repackagers, or pharmacies, until final sale to a pharmacy or other person furnishing, administering, or dispensing the dangerous drug. The pedigree shall be created and maintained in an interoperable electronic system, ensuring compatibility throughout all stages of distribution.

(b) A pedigree shall include all of the following information:

(1) The source of the dangerous drug, including the name, the federal manufacturer's registration number or a state license number as determined by the board, and principal address of the source.

(2) The trade or generic name of the dangerous drug, the quantity of the dangerous drug, its dosage form and strength, the date of the transaction, the sales invoice number or, if not immediately available, a customer-specific shipping reference number linked to the sales invoice number, the container size, the number of containers, the expiration dates, and the lot numbers.

(3) The business name, address, and the federal manufacturer's registration number or a state license number as determined by the board, of each owner of the dangerous drug, and the dangerous drug shipping information, including the name and address of each person certifying delivery or receipt of the dangerous drug.

(4) A certification under penalty of perjury from a responsible party of the source of the dangerous drug that the information contained in the pedigree is true and accurate.

(5) The unique identification number described in subdivision (i).

(c) A single pedigree shall include every change of ownership of a given dangerous drug from its initial manufacture through to its final transaction to a pharmacy or other person for furnishing, administering, or dispensing the drug, regardless of repackaging or assignment of another National Drug Code (NDC) Directory number. Dangerous drugs that are repackaged shall be serialized by the repackager and a pedigree shall be provided that references the pedigree of the original package or packages provided by the manufacturer.

(d) A pedigree shall track each dangerous drug at the smallest package or immediate container distributed by the manufacturer, received and distributed by the wholesaler or repackager, and received by the pharmacy or another person furnishing, administering, or dispensing the dangerous drug. For purposes of this section, the "smallest package or immediate container" of a dangerous drug shall include any dangerous drug package or container made available to a repackager, wholesaler, pharmacy, or other entity for repackaging or redistribution, as well as the smallest unit made by the manufacturer for sale to the pharmacy or other person furnishing, administering, or dispensing the drug.

(e) Any return of a dangerous drug to a wholesaler or manufacturer shall be documented on the same pedigree as the transaction that resulted in the receipt of the drug by the party returning it.

(f) If a licensed health care service plan, hospital organization, and one or more physician organizations have exclusive contractual relationships to provide health care services, drugs distributed between these persons shall be deemed not to have changed ownership.

(g) The following transactions are exempt from the pedigree requirement created by this section:

(1) An intracompany sale or transfer of a dangerous drug. For purposes of this section, "intracompany sale or transfer" means any transaction for any valid business purpose between a division, subsidiary, parent, or affiliated or related company under the common ownership and control of the same corporate or legal entity.

(2) Dangerous drugs received by the state or a local government entity from a department or agency of the federal government or an agent of the federal government specifically authorized to deliver dangerous drugs to the state or local government entity.

(3) The provision of samples of dangerous drugs by a manufacturer's employee to an authorized prescriber, provided the samples are dispensed to a patient of the prescriber without charge.

(4) (A) A sale, trade, or transfer of a radioactive drug, as defined in Section 1708.3 of Title 16 of the California Code of Regulations, between any two entities licensed by the Radiologic Health Branch of the State Department of Public Health, the federal Nuclear Regulatory Commission, or an Agreement state.

(B) The exemption in this paragraph shall remain in effect unless the board, no earlier than the date that is two years after the compliance date for manufacturers set forth in subdivision (k) of Section 4034 or Section 4163.5, determines after consultation with the Radiologic Health Branch of the State Department of Public Health that the risk of counterfeiting or diversion of a radioactive drug is sufficient to require a pedigree. Two

years following the date of any such determination, this paragraph shall become inoperative.

(5) The sale, trade, or transfer of a dangerous drug that is labeled by the manufacturer as "for veterinary use only."

(6) The sale, trade, or transfer of compressed medical gas. For purposes of this section, "compressed medical gas" means any substance in its gaseous or cryogenic liquid form that meets medical purity standards and has application in a medical or homecare environment, including, but not limited to, oxygen and nitrous oxide.

(7) The sale, trade, or transfer of solutions. For purposes of this section, "solutions" means any of the following:

(A) Those intravenous products that, by their formulation, are intended for the replenishment of fluids and electrolytes, such as sodium, chloride, and potassium, calories, such as dextrose and amino acids, or both.

(B) Those intravenous products used to maintain the equilibrium of water and minerals in the body, such as dialysis solutions.

(C) Products that are intended for irrigation or reconstitution, as well as sterile water, whether intended for those purposes or for injection.

(8) Dangerous drugs that are placed in a sealed package with a medical device or medical supplies at the point of first shipment into commerce by the manufacturer and the package remains sealed until the drug and device are used, provided that the package is only used for surgical purposes.

(9) A product that meets either of the following criteria:

(A) A product comprised of two or more regulated components, such as a drug/device, biologic/device, or drug/device/biologic, that are physically, chemically, or otherwise combined or mixed and produced as a single entity.

(B) Two or more separate products packaged together in a single package or as a unit and comprised of drug and device products or device and biological products.

(h) If a manufacturer, wholesaler, or pharmacy has reasonable cause to believe that a dangerous drug in, or having been in, its possession is counterfeit or the subject of a fraudulent transaction, the manufacturer, wholesaler, or pharmacy shall notify the board within 72 hours of obtaining that knowledge. This subdivision shall apply to any dangerous drug that has been sold or distributed in or through this state.

(i) "Interoperable electronic system" as used in this chapter means an electronic track and trace system for dangerous drugs that uses a unique identification number, established at the point of manufacture and supplemented by a linked unique identification number in the event that drug is repackaged, contained within a standardized nonproprietary data format and architecture, that is uniformly used by manufacturers,

wholesalers, repackagers, and pharmacies for the pedigree of a dangerous drug. No particular data carrier or other technology is mandated to accomplish the attachment of the unique identification number described in this subdivision.

(j) The application of the pedigree requirement shall be subject to review during the board's evaluation pursuant to Section 473.4.

(k) This section shall become operative on January 1, 2015.

SEC. 3. Section 4034.1 is added to the Business and Professions Code, to read:

4034.1. (a) (1) Upon the effective date of federal legislation or adoption of a federal regulation addressing pedigree or serialization measures for dangerous drugs, Sections 4034, 4163, 4163.1, 4163.2, 4163.4, and 4163.5 shall become inoperative.

(2) Within 90 days of the enactment of federal legislation or adoption of a regulation addressing pedigree or serialization measures for dangerous drugs, the board shall publish a notice that Sections 4034, 4163, 4163.1, 4163.2, 4163.4, and 4163.5 are inoperative.

(3) Within 90 days of the enactment of federal legislation or adoption of a regulation that is inconsistent with any provision of California law governing the application of any pedigree or serialization requirement or standard, the board shall adopt emergency regulations necessary to reflect the inoperation of state law.

(b) (1) If the Food and Drug Administration (FDA) enacts any rule, standard, or takes any other action that is inconsistent with any provision of California law governing application of a pedigree to a dangerous drug, that provision of California law shall be inoperative.

(2) Within 90 days of the FDA enacting any rule, standard, or taking any other action that is inconsistent with any provision of California law governing application of a pedigree to a dangerous drug, the board shall publish a notice that the provision is inoperative.

(3) Within 90 days of the FDA enacting any rule, standard, or taking any other action that is inconsistent with any provision of California law governing application of a pedigree to a dangerous drug, the board shall adopt emergency regulations necessary to reflect the inoperation of state law.

(c) If the board fails to recognize the inoperation within 90 days pursuant to this section, nothing in this section shall preclude a party from filing an action in state or federal court for declaratory or injunctive relief as an alternative to filing a petition with the board.

SEC. 4. Section 4044 is added to the Business and Professions Code, to read:

4044. "Repackager" means a person or entity that is registered with the federal Food and Drug Administration as a repackager and operates

an establishment that packages finished drugs from bulk or that repackages dangerous drugs into different containers, excluding shipping containers.

SEC. 5. Section 4045 is added to the Business and Professions Code, to read:

4045. "Third-party logistics provider" or "reverse third-party logistic provider" means an entity licensed as a wholesaler that contracts with a dangerous drug manufacturer to provide or coordinate warehousing, distribution, or other similar services on behalf of a manufacturer, but for which there is no change of ownership in the dangerous drugs. For purposes of Sections 4034, 4163, 4163.1, 4163.2, 4163.3, 4163.4, and 4163.5, a third-party logistics provider shall not be responsible for generating or updating pedigree documentation, but shall maintain copies of the pedigree. To be exempt from documentation for pedigrees, a reverse third-party logistic provider may only accept decommissioned drugs from pharmacies or wholesalers.

SEC. 6. Section 4162 of the Business and Professions Code is amended to read:

4162. (a) (1) An applicant, that is not a government owned and operated wholesaler, for the issuance or renewal of a wholesaler license shall submit a surety bond of one hundred thousand dollars ($100,000) or other equivalent means of security acceptable to the board 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 purposes 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 wholesaler is ten million dollars ($10,000,000) or less, in which case the surety bond shall be twenty-five thousand dollars ($25,000).

(3) A person to whom an approved new drug 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, and is licensed or applies for licensure as a wholesaler, shall not be required to post a surety bond as provided in paragraph (1).

(4) For licensees subject to paragraph (2) or (3), the board may require a bond up to one hundred thousand dollars ($100,000) for any licensee who has been disciplined by any state or federal agency or has been issued an administrative fine pursuant to this chapter.

(b) The board may make a claim against the bond if the licensee fails to pay a fine within 30 days after the order imposing the fine, or 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.

SEC. 7. 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 purposes 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.

SEC. 8. Section 4163 of the Business and Professions Code is amended to read:

4163. (a) A manufacturer, wholesaler, repackager, or pharmacy may not furnish a dangerous drug or dangerous device to an unauthorized person.

(b) Dangerous drugs or dangerous devices shall be acquired from a person authorized by law to possess or furnish dangerous drugs or dangerous devices. When the person acquiring the dangerous drugs or

dangerous devices is a wholesaler, the obligation of the wholesaler shall be limited to obtaining confirmation of licensure of those sources from whom it has not previously acquired dangerous drugs or dangerous devices.

(c) Except as otherwise provided in Section 4163.5, commencing on July 1, 2016, a wholesaler or repackager may not sell, trade, or transfer a dangerous drug at wholesale without providing a pedigree.

(d) Except as otherwise provided in Section 4163.5, commencing on July 1, 2016, a wholesaler or repackager may not acquire a dangerous drug without receiving a pedigree.

(e) Except as otherwise provided in Section 4163.5, commencing on July 1, 2017, a pharmacy may not sell, trade, or transfer a dangerous drug at wholesale without providing a pedigree.

(f) Except as otherwise provided in Section 4163.5, commencing on July 1, 2017, a pharmacy may not acquire a dangerous drug without receiving a pedigree.

(g) Except as otherwise provided in Section 4163.5, commencing on July 1, 2017, a pharmacy warehouse may not acquire a dangerous drug without receiving a pedigree. For purposes of this section and Section 4034, a "pharmacy warehouse" means a physical location licensed as a wholesaler for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of those drugs to a group of pharmacies under common ownership and control.

SEC. 9. Section 4163.1 is added to the Business and Professions Code, to read:

4163.1. (a) For purposes of Sections 4034 and 4163, "drop shipment" means a sale of a dangerous drug by the manufacturer of the dangerous drug whereby all of the following occur:

(1) The pharmacy, or other person authorized by law to dispense or administer the drug, receives delivery of the dangerous drug directly from the manufacturer.

(2) The wholesale distributor takes ownership of, but not physical possession of, the dangerous drug.

(3) The wholesale distributor invoices the pharmacy or other person authorized by law to dispense or administer the drug in place of the manufacturer.

(b) The board may develop regulations to establish an alternative process to convey the pedigree information required in Section 4034 for dangerous drugs that are sold by drop shipment.

SEC. 10. Section 4163.2 is added to the Business and Professions Code, to read:

4163.2. (a) (1) A manufacturer, wholesaler, or pharmacy lawfully possessing or owning dangerous drugs manufactured or distributed prior

to the operative date of the pedigree requirements, specified in Sections 4034 and 4163, may designate these dangerous drugs as not subject to the pedigree requirements by preparing a written declaration made under penalty of perjury that lists those dangerous drugs.

(2) The written declaration shall include the National Drug Code Directory lot number for each dangerous drug designated. The written declaration shall be submitted to and received by the board no later than 30 days after the operative date of the pedigree requirements. The entity or person submitting the written declaration shall also retain for a period of three years and make available for inspection by the board a copy of each written declaration submitted.

(3) The board may, by regulation, further specify the requirements and procedures for the creation and submission of these written declarations. Information contained in these declarations shall be considered trade secrets and kept confidential by the board.

(b) Any dangerous drugs designated on a written declaration timely created and submitted to the board may be purchased, sold, acquired, returned, or otherwise transferred without meeting the pedigree requirements, if the transfer complies with the other requirements of this chapter.

SEC. 11. Section 4163.3 is added to the Business and Professions Code, to read:

4163.3. (a) It is the intent of the Legislature that participants in the distribution chain for dangerous drugs, including manufacturers, wholesalers, or pharmacies furnishing, administering, or dispensing dangerous drugs, distribute and receive electronic pedigrees, and verify and validate the delivery and receipt of dangerous drugs against those pedigrees at the unit level, in a manner that maintains the integrity of the pedigree system without an unacceptable increase in the risk of diversion or counterfeiting.

(b) To meet this goal, and to facilitate efficiency and safety in the distribution chain, the board shall, by regulation, define the circumstances under which participants in the distribution chain may infer the contents of a case, pallet, or other aggregate of individual units, packages, or containers of dangerous drugs, from a unique identifier associated with the case, pallet, or other aggregate, without opening each case, pallet, or other aggregate or otherwise individually validating each unit.

(c) Manufacturers, wholesalers, and pharmacies opting to employ the use of inference as authorized by the board to comply with the pedigree requirements shall document their processes and procedures in their standard operating procedures (SOPs) and shall make those SOPs available for board review.

(d) SOPs regarding inference shall include a process for statistically sampling the accuracy of information sent with inbound product.

(e) Liability associated with accuracy of product information and pedigree using inference shall be specified in the board's regulations.

SEC. 12. Section 4163.4 is added to the Business and Professions Code, to read:

4163.4. (a) All units of dangerous drug in the possession of a wholesaler or pharmacy, for which the manufacturer does not hold legal title on the effective date of the pedigree requirement set forth in Section 4163.5, shall not be subject to the pedigree requirements set forth in Sections 4034 and 4163. However, if any units of those drugs are subsequently returned to the manufacturer, they shall be subject to the pedigree requirements if the manufacturer distributes those units in California.

(b) All units of dangerous drug manufactured in California but distributed outside the state for dispensing outside the state shall not be subject to the pedigree requirements set forth in Sections 4034 and 4163 at either the time of initial distribution or in the event that any of those units are subsequently returned to the manufacturer.

SEC. 13. Section 4163.5 of the Business and Professions Code is repealed.

SEC. 14. Section 4163.5 is added to the Business and Professions Code, to read:

4163.5. (a) The Legislature hereby finds and declares that:

(1) The electronic pedigree system required by Sections 4034 and 4163 will provide tremendous benefits to the public and to all participants in the distribution chain. Those benefits should be made available as quickly as possible through the full cooperation of prescription drug supply chain participants. To this end, all drug manufacturers and repackagers are strongly encouraged to serialize drug products and initiate electronic pedigrees as soon as possible, and all participants in the supply chain are encouraged to immediately ready themselves to receive and pass electronic pedigrees.

(2) At the same time, it is recognized that the process of implementing serialized electronic pedigree for all prescription drugs in the entire chain of distribution is a complicated technological and logistical undertaking for manufacturers, wholesalers, repackagers, pharmacies, and other supply chain participants. The Legislature seeks to ensure continued availability of prescription drugs in California while participants implement these requirements.

(b) Before January 1, 2015, each manufacturer of a dangerous drug distributed in California shall designate those dangerous drugs representing a minimum of 50 percent of its drugs, generic or single

source, distributed in California, for which it is listed as the manufacturer by the federal Food and Drug Administration, which shall be the subject of its initial phase of compliance with the January 1, 2015, deadline of the state's serialized electronic pedigree requirements set forth in Sections 4034 and 4163. Each manufacturer shall notify the Board of Pharmacy of the drugs so designated and the measure or measures used in designating its drugs to be serialized, and shall include in the notification the technology to be used to meet the serialized electronic pedigree requirements. The notification process for these specific actions may be specified by the board.

(c) Before January 1, 2016, each manufacturer of a dangerous drug distributed in California shall designate the final 50 percent of its drugs, generic or single source, distributed in California for which it is listed as the manufacturer by the federal Food and Drug Administration that are subject to the state's serialized electronic pedigree requirements set forth in Sections 4034 and 4163, which shall comply with the state's serialized electronic pedigree requirement by January 1, 2016. Each manufacturer shall notify the Board of Pharmacy of the drugs so designated and the measure or measures used in designating its drugs to be serialized, and shall include in the notification the technology to be used to meet the serialized electronic pedigree requirements. The notification process for these specific actions may be specified by the board.

(d) For purposes of designating drugs to be serialized as required by subdivisions (b) and (c), manufacturers shall select from any of the following measures:

(1) Unit volume.

(2) Product package (SKU) type.

(3) Drug product family.

(e) Drugs not subject to compliance with the pedigree requirements set forth in Sections 4034 and 4163 under this section shall not be subject to the provisions of subdivisions (c), (d), (e), and (f) of Section 4163.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

# CHAPTER 714

An act to amend Section 130240 of, and to add Sections 130244 and 130245 to, the Public Utilities Code, relating to transportation.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 130240 of the Public Utilities Code is amended to read:

130240. (a) "Transit" means as defined in Section 40005.

(b) (1) The Orange County Transportation Authority may acquire, construct, develop, lease, jointly develop, own, operate, maintain, control, use, jointly use, or dispose of rights-of-way, rail lines, monorails, guideways, buslines, stations, platforms, switches, yards, terminals, parking lots, air rights, land rights, development rights, entrances and exits, and any and all other facilities for, incidental to, necessary for, or convenient for transit service, including, but not limited to, facilities and structures physically or functionally related to transit service, within or partly without the county, underground, upon, or above the ground and under, upon or over public streets, highways, bridges, or other public ways or waterways, together with all physical structures necessary for, incidental to, or convenient for the access of persons and vehicles thereto, and may acquire, lease, sell, or otherwise contract with respect to any interest in or rights to the use or joint use of any or all of the foregoing. However, installations on state freeways are subject to the approval of the Department of Transportation and installations in other state highways are subject to Article 2 (commencing with Section 670) of Chapter 3 of Division 1 of the Streets and Highways Code.

(2) With respect to the segment of State Highway Route 91 between State Highway Route 15 and State Highway Route 55 only, the Orange County Transportation Authority may exercise all of the powers contained in paragraph (1) that apply to streets, highways, bridges, and connector roads.

(3) The exercise of the powers provided to the Orange County Transportation Authority in paragraph (2) is subject to approval by the Board of Supervisors of Riverside County and the Riverside County Transportation Commission and in consultation with the advisory committee described in Section 130245 as it relates to the use of those powers in Riverside County under the terms of the franchise agreement described in subdivision (c).

(c) If the Orange County Transportation Authority requests, the department shall approve the assignment to the Orange County Transportation Authority of the Amended and Restated Development Franchise Agreement, as amended, between the department and the California Private Transportation Company, L.P. (CPTC) for the State Highway Route 91 median improvements as authorized by Section 143 of the Streets and Highways Code, subject to the requirement that subdivisions (a) to (f), inclusive, of Section 2 of Article 3 of the restated franchise agreement be deleted in their entirety in the event that CPTC and the authority agree to the assignment of all of CPTC's interests in the franchise agreement to the authority.

(d) The Orange County Transportation Authority shall have the authority to impose tolls for use of the State Highway Route 91 facilities as authorized by the franchise agreement.

(e) (1) Toll revenues from the use of State Highway Route 91 facilities between State Highway Route 55 and the Orange and Riverside County line shall only be used by the Orange County Transportation Authority for the following expenditures relative to the State Highway Route 91 express lanes and for the purposes of paragraph (2):

(A) Capital, operations, and maintenance, including, but not limited to, toll collection and enforcement.

(B) Repair and rehabilitation.

(C) Payment of purchase costs, debt service, and satisfaction of other covenants and obligations related to indebtedness.

(D) Reserves.

(E) Administration, which shall not exceed 3 percent of toll revenues and associated facility revenues.

(2) Excess toll revenues beyond the expenditure needs of paragraph (1) may be expended for the following purposes:

(A) To enhance transit service designed to reduce traffic congestion on State Highway Route 91 or to expand travel options along the State Highway Route 91 corridor. Revenues expended under this subparagraph may be used to maintain the enhanced transit service. Eligible expenditures include, but are not limited to, transit operating assistance, the acquisition of transit vehicles, improvements to commuter rail traveling between Riverside and Orange Counties, and those transit capital improvements otherwise eligible to be funded under the State Transportation Improvement Program pursuant to Section 164 of the Streets and Highways Code.

(B) To make operational or capacity improvements designed to reduce congestion or improve the flow of traffic on State Highway Route 91. Eligible expenditures may include any phase of project delivery to make capital improvements to onramps, connector roads, roadways, bridges,

or other structures that are related to the tolled and nontolled facilities on State Highway Route 91 between State Highway Route 57 to the west and the Orange and Riverside county line to the east.

(3) The Orange County Transportation Authority, in consultation with the department and the Riverside County Transportation Commission, shall issue a plan and a proposed completion schedule for transportation improvements in the State Highway Route 91 corridor. The Orange County Transportation Authority shall update the plan on an annual basis.

(f) The Orange County Transportation Authority may incur indebtedness and obligations, and may issue bonds, refund bonds, and assume existing bonds for purposes authorized by this section. Indebtedness and bonds issued under this section do not constitute a debt or liability of the state or any other public agency, other than the authority, or a pledge of the faith and credit of the state or any other public agency, other than the authority. Bonds issued under this section shall not be deemed to constitute a debt or liability of the state or any political subdivision thereof, other than the bank and the authority, or a pledge of the faith and credit of the state or of any political subdivision, but shall be payable solely from the revenues and assets pledged to the repayment of the bonds. All bonds issued under this section shall contain on the face of the bond a statement to the same effect.

(g) Notwithstanding Section 143 of the Streets and Highways Code, the State Highway Route 91 facility constructed and operated under the authority of a franchise agreement approved pursuant to that section shall revert to the state at the expiration of the lease or termination of the franchise agreement at no cost to the state. Upon reversion, the facility shall be delivered to the department in a condition that meets the performance and maintenance standards established by the department.

(h) The Orange County Transportation Authority shall not impose tolls for the use of nor construct and operate State Highway Route 91 facilities in the County of Riverside without prior approval by the Board of Supervisors of the County of Riverside, the Riverside County Transportation Commission, and the advisory committee.

(i) The Orange County Transportation Authority shall not sell or assign its interest in the franchise agreement without approval by the Legislature by enactment of a statute provided that approval shall not be required in connection with granting rights and remedies to lenders under Article 16 of the restated franchise agreement.

(j) If the Orange County Transportation Authority decides to sell or assign its interest in the franchise agreement, the Orange County Transportation Authority shall provide written notice at least 90 days in advance of the date they submit their request for approval by the

department pursuant to this subdivision. The written notice shall be provided to the advisory committee created pursuant to Section 130245 and to the Riverside County Transportation Commission.

(k) The Orange County Transportation Authority shall be authorized to eliminate its rights, interests, and obligations relative to State Highway Route 91 in Riverside County, either by partial assignment to the Riverside County Transportation Commission, or by amendment to the restated franchise agreement, as amended. In the event of a partial assignment or amendment, the department shall consent and the term of the restated franchise agreement, as amended by the partial assignment or amendment, shall be extended to a date determined by the authority, which date shall be no later than December 31, 2065.

(*l*) If the Riverside County Transportation Commission constructs and operates toll facilities on State Highway Route 91 between the Orange County border and State Highway Route 15, then it is the intent of the Legislature that the Riverside County Transportation Commission and the Orange County Transportation Authority enter into an agreement providing for the coordination of the respective toll facilities operated by each entity on State Highway Route 91.

SEC. 2. Section 130244 is added to the Public Utilities Code, to read:

130244. (a) For the purposes of this section, the following terms shall have the following meanings:

(1) "Authority" means the Orange County Transportation Authority.

(2) "Bonds" means bonds, notes, or other evidences of indebtedness authorized to be issued pursuant to paragraph (4) of subdivision (c).

(3) "Commission" means the Riverside County Transportation Commission.

(4) "Department" means the Department of Transportation.

(5) "Franchise agreement" means the franchise agreement assigned to the authority pursuant to subdivision (c) of Section 130240.

(6) "Transportation facilities" means one or more of the following on State Highway Route 91 between the Orange and Riverside County line to the west and State Highway Route 15 to the east: (A) general purpose toll lanes; (B) lanes or facilities where the tolls may be levied and may vary according to levels of congestion anticipated or experienced or according to the occupancy of the vehicle; and (C) facilities or lanes utilizing combinations of or variations on (A) or (B), or other strategies the commission may determine appropriate on a facility-by-facility basis.

(7) "Transportation project" means the planning, design, development, financing, construction, reconstruction, rehabilitation, improvement, acquisition, lease, operation, or maintenance, or any combination of these, with respect to tolled and nontolled facilities, structures, onramps, connector roads, bridges, and roadways that are on, necessary for, or

related to the construction or operation of State Highway Route 91 between the Orange and Riverside County line to the west and State Highway Route 15 to the east.

(b) Pursuant to subdivision (*l*) of Section 130240, the authority may amend, assign, or terminate the Riverside County portion of the franchise agreement in the interest of advancing the transportation project described in paragraph (7) of subdivision (a). The department, upon request of the authority, shall approve an amendment to the franchise agreement to eliminate any portion of State Highway Route 91 within Riverside County from the franchise agreement.

(c) (1) The commission shall have the authority to set, levy, and collect tolls, user fees, or other similar charges payable for use of the transportation facilities, and any other incidental or related fees or charges, in amounts as required for the following expenditures relative to the transportation facilities as defined in paragraph (6) of subdivision (a) and for purposes of paragraph (2):

(A) Capital outlay, including the costs of design, construction, right-of-way acquisition, and utility adjustment.

(B) Operations and maintenance, including, but not limited to, toll collection and enforcement.

(C) Repair and rehabilitation.

(D) Indebtedness incurred, including related financing costs.

(E) Reserves.

(F) Administration, which shall not exceed 3 percent of toll revenues and associated facility revenues.

(2) Excess toll revenues beyond the expenditure needs of paragraph (1) may be expended for the following purposes:

(A) To enhance transit service designed to reduce traffic congestion on State Highway Route 91 or to expand travel options along the State Highway Route 91 corridor. Revenues expended under this subparagraph may be used to maintain the enhanced transit service. Eligible expenditures include, but are not limited to, transit operating assistance, the acquisition of transit vehicles, improvements to commuter rail traveling between Riverside and Orange Counties, and those transit capital improvements otherwise eligible to be funded under the State Transportation Improvement Program pursuant to Section 164 of the Streets and Highways Code.

(B) To make operational or capacity improvements designed to reduce congestion or improve the flow of traffic on State Highway Route 91. Eligible expenditures may include any phase of project delivery to make capital improvements to onramps, connector roads, roadways, bridges, or other structures that are related to the tolled and nontolled facilities

on State Highway Route 91 between the Orange and Riverside county line to the west and State Highway Route 15 to the east.

(3) The commission, in consultation with the authority and the department, shall issue a plan of transportation improvements for the State Highway Route 91 corridor, which shall include projected costs, the use of toll revenues, and a proposed completion schedule. This plan shall be updated annually. The plan and each annual update shall be made available for public review and comment no less than 30 days prior to adoption by the commission.

(4) The commission is authorized to issue bonds to finance the costs of the transportation project, including the costs of issuing the bonds and paying credit enhancement and other fees related to the bonds, which bonds are payable from the tolls authorized pursuant to paragraph (1), sales tax revenues, development impact fees, federal grant funds, or any other source of revenues available to the commission that may be used for these purposes. The bonds may be sold pursuant to the terms and conditions set forth in a resolution adopted by the governing board of the commission. Bonds shall be issued pursuant to a resolution adopted by a two-thirds vote of the commission. Any bond issued pursuant to this paragraph shall contain on its face a statement to the following effect:

> "Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of principal or interest of this bond."

(5) The department is authorized to enter into any lease, easement, permit, or other agreement with the commission necessary to accomplish the purposes of this section.

(6) The commission shall have the authority to impose tolls for use of the transportation facilities for 50 years following the opening of the transportation facilities for public use, after which time the commission shall have no further authority to impose or to collect a toll for use of transportation facilities on State Highway Route 91, unless reauthorized by the Legislature. The transportation facilities shall revert to the department after the bonds issued pursuant to this section are paid off in their entirety, unless tolls have been reauthorized by the Legislature. Upon reversion, the facilities shall be delivered to the department in a condition that meets the performance and maintenance standards established by the department.

(7) The commission shall make available for public review and comment the toll schedule and any subsequent proposed changes to the schedule no less than 30 days prior to the adoption by the commission of a toll schedule.

(d) This section shall be supplemental and in addition to any other authority of the commission to undertake the transportation project.

(e) This section shall not prevent the department or any local agency from constructing facilities within the State Highway Route 91 corridor that compete with the transportation project, and in no event shall the commission be entitled to compensation for the adverse effects on toll revenues due to those facilities.

(f) If any provision of this section or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this extent the provisions of this section are severable.

(g) This section shall not apply to State Highway Route 91 between the Orange and Riverside County line and State Highway Route 15 unless the authority amends or partially assigns the restated franchise agreement, as amended, between the department and the authority to exclude that portion of State Highway Route 91 from the restated franchise agreement, as amended.

SEC. 3. Section 130245 is added to the Public Utilities Code, to read:

130245. (a) An advisory committee shall be created to review issues and make recommendations to the Orange County Transportation Authority and the Riverside County Transportation Commission regarding the facilities authorized pursuant to Sections 130240 and 130244, including tolls imposed, operations, maintenance, interoperability, and use of toll revenues, and improvements in the State Highway Route 91 corridor, including the identification and siting of alternative highways. The committee shall consist of 10 voting members and three nonvoting members, as follows:

(1) Five members of the Board of Directors of the Orange County Transportation Authority appointed by that board.

(2) Five members of the Riverside County Transportation Commission appointed by that commission.

(3) One member of the San Bernardino Associated Governments appointed by that body, and the district directors of Districts 8 and 12 of the Department of Transportation, all of whom shall be nonvoting members.

(b) The advisory committee shall establish rules for the conduct of committee meetings, which rules shall be approved by both the Orange County Transportation Authority and the Riverside County Transportation Commission. The authority and the commission may appoint alternates to the committee.

(c) When reviewing the initial toll structure proposed by the Orange County Transportation Authority and the Riverside County Transportation Commission or any changes to the toll structure, the

advisory committee shall place an information item on a regularly scheduled agenda for public comment and consideration of the advisory committee.

(d) The Orange County Transportation Authority shall conduct an audit on an annual basis of the toll revenues collected and expenditures made during its operation of the facilities authorized in Section 130240. The audit shall review revenues and expenditures related to those facilities for consistency with that section and shall be provided to the advisory committee.

(e) The Riverside County Transportation Commission shall conduct an audit on an annual basis of the toll revenues collected and expenditures made during its operation of the facilities authorized in Section 130244. The audit shall review revenues and expenditures related to those facilities for consistency with that section and shall be provided to the advisory committee.

(f) The Orange County Transportation Authority and the Riverside County Transportation Commission shall equally share all costs associated with this section. None of these costs shall be paid from state funds.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 715

An act to amend Sections 5240 and 6518 of the Corporations Code, and to add Part 7 (commencing with Section 18501) to Division 9 of, and to repeal Part 7 (commencing with Section 18500) of Division 9 of, the Probate Code, relating to charitable institutions.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 5240 of the Corporations Code is amended to read:

5240. (a) This section applies to all assets held by the corporation for investment. Assets which are directly related to the corporation's public or charitable programs are not subject to this section.

(b) Except as provided in subdivision (c), in investing, reinvesting, purchasing, acquiring, exchanging, selling and managing the corporation's investments, the board shall do the following:

(1) Avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income, as well as the probable safety of the corporation's capital.

(2) Comply with additional standards, if any, imposed by the articles, bylaws or express terms of an instrument or agreement pursuant to which the assets were contributed to the corporation.

(c) No investment violates this section where it conforms to provisions authorizing the investment contained in an instrument or agreement pursuant to which the assets were contributed to the corporation. No investment violates this section or Section 5231 where it conforms to provisions requiring the investment contained in an instrument or agreement pursuant to which the assets were contributed to the corporation.

(d) In carrying out duties under this section, each director shall act as required by subdivision (a) of Section 5231, may rely upon others as permitted by subdivision (b) of Section 5231, and shall have the benefit of subdivision (c) of Section 5231, and the board may delegate its investment powers as permitted by Section 5210.

(e) Nothing in this section shall be construed to preclude the application of the Uniform Prudent Management of Institutional Funds Act (Part 7 (commencing with Section 18501) of Division 9 of the Probate Code) if that act would otherwise be applicable, but nothing in the Uniform Prudent Management of Institutional Funds Act alters the status of governing boards, or the duties and liabilities of directors, under this part.

SEC. 2. Section 6518 of the Corporations Code is amended to read:

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

(1) That the corporation has been duly wound up, that a final franchise tax return, as described by Section 23332 of the Revenue and Taxation Code, has been filed with the Franchise Tax Board, as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code and that its known debts and liabilities have been paid or adequately provided for, or that those debts and liabilities have

been paid as far as its assets permitted, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the order shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

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

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

(4) That the corporation is dissolved.

(b) In an action brought by, and at the request of, the Attorney General, the court may make an order declaring that a corporation is wound up and dissolved without meeting the requirements in subdivision (a), upon a finding by the court that it is impossible or impracticable to meet some or all of those requirements.

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

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

SEC. 3. Part 7 (commencing with Section 18500) of Division 9 of the Probate Code is repealed.

SEC. 4. Part 7 (commencing with Section 18501) is added to Division 9 of the Probate Code, to read:

## PART 7. UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT

18501. This part may be cited as the Uniform Prudent Management of Institutional Funds Act.

18502. As used in this part, the following terms shall have the following meanings:

(a) "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose the achievement of which is beneficial to the community.

(b) "Endowment fund" means an institutional fund or part thereof that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis. The term does not include assets that an institution designates as an endowment fund for its own use.

(c) "Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution as an institutional fund.

(d) "Institution" means any of the following:

(1) A person, other than an individual, organized and operated exclusively for charitable purposes.

(2) A government or governmental subdivision, agency, or instrumentality, to the extent that it holds funds exclusively for a charitable purpose.

(3) A trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

(e) "Institutional fund" means a fund held by an institution exclusively for charitable purposes. The term does not include any of the following:

(1) Program-related assets.

(2) A fund held for an institution by a trustee that is not an institution.

(3) A fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund.

(f) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(g) "Program-related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

(h) "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.

18503. (a) Subject to the intent of a donor expressed in a gift instrument, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.

(b) In addition to complying with the duty of loyalty imposed by law other than this part, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(c) In managing and investing an institutional fund, an institution is subject to both of the following:

(1) It may incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the institution, and the skills available to the institution.

(2) It shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

(d) An institution may pool two or more institutional funds for purposes of management and investment.

(e) Except as otherwise provided by a gift instrument, the following rules apply:

(1) In managing and investing an institutional fund, all of the following factors, if relevant, must be considered:

(A) General economic conditions.

(B) The possible effect of inflation or deflation.

(C) The expected tax consequences, if any, of investment decisions or strategies.

(D) The role that each investment or course of action plays within the overall investment portfolio of the fund.

(E) The expected total return from income and the appreciation of investments.

(F) Other resources of the institution.

(G) The needs of the institution and the fund to make distributions and to preserve capital.

(H) An asset's special relationship or special value, if any, to the charitable purposes of the institution.

(2) Management and investment decisions about an individual asset must be made not in isolation but rather in the context of the institutional fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution.

(3) Except as otherwise provided by law other than this part, an institution may invest in any kind of property or type of investment consistent with this section.

(4) An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that, because of special circumstances, the purposes of the fund are better served without diversification.

(5) Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio, in order to bring the institutional fund into compliance with the purposes, terms, and distribution requirements of the institution as necessary to meet other circumstances of the institution and the requirements of this part.

(6) A person that has special skills or expertise, or is selected in reliance upon the person's representation that the person has special skills or expertise, has a duty to use those skills or that expertise in managing and investing institutional funds.

(f) Nothing in this section alters the duties and liabilities of a director of a nonprofit public benefit corporation under Section 5240 of the Corporations Code.

18504. (a) Subject to the intent of a donor expressed in the gift instrument, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, all of the following factors:

(1) The duration and preservation of the endowment fund.

(2) The purposes of the institution and the endowment fund.

(3) General economic conditions.

(4) The possible effect of inflation or deflation.

(5) The expected total return from income and the appreciation of investments.

(6) Other resources of the institution.

(7) The investment policy of the institution.

(b) To limit the authority to appropriate for expenditure or accumulate under subdivision (a), a gift instrument must specifically state the limitation.

(c) Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income," "interest," "dividends," or "rents, issues, or profits," or "to preserve the principal intact," or words of similar import have both of the following effects:

(1) To create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund.

(2) To not otherwise limit the authority to appropriate for expenditure or accumulate under subdivision (a).

(d) The appropriation for expenditure in any year of an amount greater than 7 percent of the fair market value of an endowment fund, calculated on the basis of market values determined at least quarterly and averaged over a period of not less than three years immediately preceding the year in which the appropriation for expenditure is made, creates a rebuttable

presumption of imprudence. For an endowment fund in existence for fewer than three years, the fair market value of the endowment fund shall be calculated for the period the endowment fund has been in existence. This subdivision does not do any of the following:

(1) Apply to an appropriation for expenditure permitted under law other than this part or by the gift instrument.

(2) Apply to a private or public postsecondary educational institution, or to a campus foundation established by and operated under the auspices of such an educational institution.

(3) Create a presumption of prudence for an appropriation for expenditure of an amount less than or equal to 7 percent of the fair market value of the endowment fund.

18505. (a) Subject to any specific limitation set forth in a gift instrument or in law other than this part, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances. An institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, in all of the following:

(1) Selecting an agent.

(2) Establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund.

(3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

(b) In performing a delegated function, an agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.

(c) An institution that complies with subdivision (a) is not liable for the decisions or actions of an agent to which the function was delegated except to the extent a trustee would be liable for those actions or decisions under Sections 16052 and 16401.

(d) By accepting delegation of a management or investment function from an institution that is subject to the laws of this state, an agent submits to the jurisdiction of the courts of this state in all proceedings arising from or related to the delegation or the performance of the delegated function.

(e) An institution may delegate management and investment functions to its committees, officers, or employees as authorized by law of this state other than this part.

18506. (a) If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, or purpose of an institutional

fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

(b) The court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund, or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. The institution shall notify the Attorney General of the application, and the Attorney General must be given an opportunity to be heard. To the extent practicable, any modification must be made in accordance with the donor's probable intention.

(c) If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve, or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument. The institution shall notify the Attorney General of the application, and the Attorney General must be given an opportunity to be heard.

(d) If an institution determines that a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, impossible to achieve, or wasteful, the institution, 60 days after notification to the Attorney General and to the donor at the donor's last known address in the records of the institution, may release or modify the restriction, in whole or part, if all of the following apply:

(1) The institutional fund subject to the restriction has a total value of less than one hundred thousand dollars ($100,000).

(2) More than 20 years have elapsed since the fund was established.

(3) The institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument. An institution that releases or modifies a restriction under this subdivision may, if appropriate circumstances arise thereafter, use the property in accordance with the restriction notwithstanding its release or modification, and that use is deemed to satisfy the consistency requirement of this paragraph.

18507. Compliance with this part is determined in light of the facts and circumstances existing at the time a decision is made or action is taken, and not by hindsight.

18508. This part applies to institutional funds existing on or established after January 1, 2009. As applied to institutional funds existing on January 1, 2009, this part governs only decisions made or actions taken on or after that date.

18509. This part modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec. 7001 et seq.), but does not modify, limit, or supersede Section 101 of that act (15 U.S.C. Sec. 7001(a)), or authorize electronic delivery of any of the notices described in Section 103 of that act (15 U.S.C. Sec. 7003(b)).

18510. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

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## CHAPTER 716

An act to amend Section 7137 of the Business and Professions Code, and to amend Section 3099.2 of the Labor Code, relating to employment, and making an appropriation therefor.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 7137 of the Business and Professions Code is amended to read:

7137. The board shall set fees by regulation. These fees shall not exceed the following schedule:

(a) The application fee for an original license in a single classification shall not be more than three hundred dollars ($300).

The application fee for each additional classification applied for in connection with an original license shall not be more than seventy-five dollars ($75).

The application fee for each additional classification pursuant to Section 7059 shall not be more than seventy-five dollars ($75).

The application fee to replace a responsible managing officer or employee pursuant to Section 7068.2 shall not be more than seventy-five dollars ($75).

(b) The fee for rescheduling an examination for an applicant who has applied for an original license, additional classification, a change of responsible managing officer or responsible managing employee, or for an asbestos certification or hazardous substance removal certification, shall not be more than sixty dollars ($60).

(c) The fee for scheduling or rescheduling an examination for a licensee who is required to take the examination as a condition of probation shall not be more than sixty dollars ($60).

(d) The initial license fee for an active or inactive license shall not be more than one hundred eighty dollars ($180).

(e) The renewal fee for an active license shall not be more than three hundred sixty dollars ($360).

The renewal fee for an inactive license shall not be more than one hundred eighty dollars ($180).

(f) The delinquency fee is an amount equal to 50 percent of the renewal fee, if the license is renewed after its expiration.

(g) The registration fee for a home improvement salesperson shall not be more than seventy-five dollars ($75).

(h) The renewal fee for a home improvement salesperson registration shall not be more than seventy-five dollars ($75).

(i) The application fee for an asbestos certification examination shall not be more than seventy-five dollars ($75).

(j) The application fee for a hazardous substance removal or remedial action certification examination shall not be more than seventy-five dollars ($75).

(k) In addition to any other fees charged to C-10 and C-7 contractors, the board may charge a fee not to exceed twenty dollars ($20), which shall be used by the board to enforce provisions of the Labor Code related to electrician certification.

SEC. 2. Section 3099.2 of the Labor Code is amended to read:

3099.2. (a) (1) Persons who perform work as electricians shall become certified pursuant to Section 3099 by the deadline specified in this subdivision. After the applicable deadline, uncertified persons may not perform electrical work for which certification is required.

(2) The deadline for certification as a general electrician or fire/life safety technician is January 1, 2006, except that persons who applied for certification prior to January 1, 2006, have until January 1, 2007, to pass the certification examination. The deadline for certification as a residential electrician is January 1, 2007, and the deadline for certification as a voice data video technician or a nonresidential lighting technician is January 1, 2008. The California Apprenticeship Council may extend the certification date for any of these three categories of electricians up to January 1, 2009, if the council concludes that the existing deadline will not provide persons sufficient time to obtain certification, enroll in an apprenticeship or training program, or register pursuant to Section 3099.4.

(3) For purposes of any continuing education or recertification requirement, individuals who become certified prior to the deadline for certification shall be treated as having become certified on the first anniversary of their certification date that falls after the certification deadline.

(b) Certification is required only for those persons who perform work as electricians for contractors licensed as class C-10 electrical contractors under the Contractors' State License Board Rules and Regulations. Certification is not required for persons performing work for contractors licensed as class C-7 low voltage systems or class C-45 electric sign contractors as long as the work performed is within the scope of the class C-7 or class C-45 license, including incidental and supplemental work as defined in Section 7059 of the Business and Professions Code, and regardless of whether the same contractor is also licensed as a class C-10 contractor.

(c) The division shall establish separate certifications for general electrician, fire/life safety technician, residential electrician, voice data video technician, and nonresidential lighting technician.

(d) Notwithstanding subdivision (a), certification is not required for registered apprentices performing electrical work as part of an apprenticeship program approved under this chapter, a federal Office of Apprenticeship program, or a state apprenticeship program authorized by the federal Office of Apprenticeship. An apprentice who is within one year of completion of his or her term of apprenticeship shall be permitted to take the certification examination and, upon passing the examination, shall be certified immediately upon completion of the term of apprenticeship.

(e) Notwithstanding subdivision (a), certification is not required for any person employed pursuant to Section 3099.4.

(f) Notwithstanding subdivision (a), certification is not required for a nonresidential lighting trainee (1) who is enrolled in an on-the-job instructional training program approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3090, and (2) who is under the onsite supervision of a nonresidential lighting technician certified pursuant to Section 3099.

(g) Notwithstanding subdivision (a), the qualifying person for a class C-10 electrical contractor license issued by the Contractors' State License Board need not also be certified pursuant to Section 3099 to perform electrical work for that licensed contractor or to supervise an uncertified person employed by that licensed contractor pursuant to Section 3099.4.

(h) Commencing July 1, 2009, the following shall constitute additional grounds for disciplinary proceedings, including suspension or revocation of the license of a class C-10 electrical contractor pursuant to Article 7 (commencing with Section 7090) of Chapter 9 of Division 3 of the Business and Professions Code:

(1) The contractor willfully employs one or more uncertified persons to perform work as electricians in violation of this section.

(2) The contractor willfully fails to provide the adequate supervision of uncertified workers required by paragraph (3) of subdivision (a) of Section 3099.4.

(3) The contractor willfully fails to provide adequate supervision of apprentices performing work pursuant to subdivision (d).

(i) The Chief of the Division of Apprenticeship Standards shall develop a process for referring cases to the Contractors' State License Board when it has been determined that a violation of this section has likely occurred. On or before July 1, 2009, the chief shall prepare and execute a memorandum of understanding with the Registrar of Contractors in furtherance of this section.

(j) Upon receipt of a referral by the Chief of the Division of Apprenticeship Standards alleging a violation under this section, the Registrar of Contractors shall open an investigation. Any disciplinary action against the licensee shall be initiated within 60 days of the receipt of the referral. The Registrar of Contractors may initiate disciplinary action against any licensee upon his or her own investigation, the filing of any complaint, or any finding that results from a referral from the Chief of the Division of Apprenticeship Standards alleging a violation under this section. Failure of the employer or employee to provide evidence of certification or trainee status shall create a rebuttable presumption of violation of this provision.

(k) For the purposes of this section, "electricians" has the same meaning as the definition set forth in Section 3099.

SEC. 2.5. Section 3099.2 of the Labor Code is amended to read:

3099.2. (a) (1) Persons who perform work as electricians shall become certified pursuant to Section 3099 by the deadline specified in this subdivision. After the applicable deadline, uncertified persons shall not perform electrical work for which certification is required.

(2) The deadline for certification as a general electrician or fire/life safety technician is January 1, 2006, except that persons who applied for certification prior to January 1, 2006, have until January 1, 2007, to pass the certification examination. The deadline for certification as a residential electrician is January 1, 2007, and the deadline for certification as a voice data video technician or a nonresidential lighting technician is January 1, 2008. The California Apprenticeship Council may extend the certification date for any of these three categories of electricians up to January 1, 2009, if the council concludes that the existing deadline will not provide persons sufficient time to obtain certification, enroll in an apprenticeship or training program, or register pursuant to Section 3099.4.

(3) For purposes of any continuing education or recertification requirement, individuals who become certified prior to the deadline for

certification shall be treated as having become certified on the first anniversary of their certification date that falls after the certification deadline.

(b) (1) Certification is required only for those persons who perform work as electricians for contractors licensed as class C-10 electrical contractors under the Contractors' State License Board Rules and Regulations.

(2) Certification is not required for persons performing work for contractors licensed as class C-7 low voltage systems or class C-45 electric sign contractors as long as the work performed is within the scope of the class C-7 or class C-45 license, including incidental and supplemental work as defined in Section 7059 of the Business and Professions Code, and regardless of whether the same contractor is also licensed as a class C-10 contractor.

(3) Certification is not required for work performed by a worker on a high-voltage electrical transmission or distribution system owned by a local publicly owned electric utility, as defined in Section 224.3 of the Public Utilities Code; an electrical corporation, as defined in Section 218 of the Public Utilities Code; a person, as defined in Section 205 of the Public Utilities Code; or a corporation, as defined in Section 204 of the Public Utilities Code; when the worker is employed by the utility or a licensed contractor principally engaged in installing or maintaining transmission or distribution systems.

(c) The division shall establish separate certifications for general electrician, fire/life safety technician, residential electrician, voice data video technician, and nonresidential lighting technician.

(d) Notwithstanding subdivision (a), certification is not required for registered apprentices performing electrical work as part of an apprenticeship program approved under this chapter, a federal Office of Apprenticeship program, or a state apprenticeship program authorized by the federal Office of Apprenticeship. An apprentice who is within one year of completion of his or her term of apprenticeship shall be permitted to take the certification examination and, upon passing the examination, shall be certified immediately upon completion of the term of apprenticeship.

(e) Notwithstanding subdivision (a), certification is not required for any person employed pursuant to Section 3099.4.

(f) Notwithstanding subdivision (a), certification is not required for a nonresidential lighting trainee (1) who is enrolled in an on-the-job instructional training program approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3090, and (2) who is under the onsite supervision of a nonresidential lighting technician certified pursuant to Section 3099.

(g) Notwithstanding subdivision (a), the qualifying person for a class C-10 electrical contractor license issued by the Contractors' State License Board need not also be certified pursuant to Section 3099 to perform electrical work for that licensed contractor or to supervise an uncertified person employed by that licensed contractor pursuant to Section 3099.4.

(h) Commencing July 1, 2009, the following shall constitute additional grounds for disciplinary proceedings, including suspension or revocation of the license of a class C-10 electrical contractor pursuant to Article 7 (commencing with Section 7090) of Chapter 9 of Division 3 of the Business and Professions Code:

(1) The contractor willfully employs one or more uncertified persons to perform work as electricians in violation of this section.

(2) The contractor willfully fails to provide the adequate supervision of uncertified workers required by paragraph (3) of subdivision (a) of Section 3099.4.

(3) The contractor willfully fails to provide adequate supervision of apprentices performing work pursuant to subdivision (d).

(i) The Chief of the Division of Apprenticeship Standards shall develop a process for referring cases to the Contractors' State License Board when it has been determined that a violation of this section has likely occurred. On or before July 1, 2009, the chief shall prepare and execute a memorandum of understanding with the Registrar of Contractors in furtherance of this section.

(j) Upon receipt of a referral by the Chief of the Division of Apprenticeship Standards alleging a violation under this section, the Registrar of Contractors shall open an investigation. Any disciplinary action against the licensee shall be initiated within 60 days of the receipt of the referral. The Registrar of Contractors may initiate disciplinary action against any licensee upon his or her own investigation, the filing of any complaint, or any finding that results from a referral from the Chief of the Division of Apprenticeship Standards alleging a violation under this section. Failure of the employer or employee to provide evidence of certification or trainee status shall create a rebuttable presumption of violation of this provision.

(k) For the purposes of this section, "electricians" has the same meaning as the definition set forth in Section 3099.

SEC. 3. Section 2.5 of this bill incorporates amendments to Section 3099.2 of the Labor Code proposed by both this bill and AB 3048. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section

3099.2 of the Labor Code, and (3) this bill is enacted after AB 3048, in which case Section 2 of this bill shall not become operative.

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## CHAPTER 717

An act to amend Sections 301, 334, 366, and 532 of the Streets and Highways Code, relating to state highways.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 301 of the Streets and Highways Code is amended to read:

301. Route 1 is from:

(a) Route 5 south of San Juan Capistrano to Route 101 near El Rio.

(b) Route 101 at Emma Wood State Beach, 1.3 miles north of Route 33, to Route 101, 2.8 miles south of the Ventura-Santa Barbara county line at Mobil Pier Undercrossing.

(c) Route 101 near Las Cruces to Route 101 in Pismo Beach via the vicinity of Lompoc, Vandenberg Air Force Base, and Guadalupe.

(d) Route 101 in San Luis Obispo to Route 280 south of San Francisco along the coast via Cambria, San Simeon, and Santa Cruz.

(e) Route 280 near the south boundary of the City and County of San Francisco to Route 101 near the approach to the Golden Gate Bridge in San Francisco.

(f) Route 101 near the southerly end of Marin Peninsula to Route 101 near Leggett via the coast route through Jenner and Westport.

(g) (1) The commission may relinquish to the City of Dana Point, the portion of Route 1 that is located within the city limits of that city and is between the western edge of the San Juan Creek channel overcrossing and the city limits of the City of Laguna Beach, upon terms and conditions the commission finds to be in the best interests of the state, if the commission and the city enter into an agreement providing for that relinquishment.

(2) A relinquishment under this subdivision shall become effective immediately following the county recorder's recordation of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, that portion of Route 1 so relinquished shall cease to be a state highway.

(4) For portions of Route 1 that are relinquished under this subdivision, the City of Dana Point shall maintain within its jurisdiction signs directing motorists to the continuation of Route 1.

(h) The commission may relinquish to the City of Oxnard the portion of Route 1 that is located within the city limits of that city and is between Pleasant Valley Road and Route 101, upon terms and conditions the commission finds to be in the best interests of the state, if the commission and the city enter into an agreement providing for that relinquishment.

(1) A relinquishment under this subdivision shall become effective immediately after the county recorder records the relinquishment resolution that contains the commission's approval of the terms and conditions of the relinquishment.

(2) On and after the effective date of the relinquishment, that portion of Route 1 relinquished shall cease to be a state highway and may not be considered for future adoption under Section 81.

(3) For portions of Route 1 relinquished under this subdivision, the City of Oxnard shall maintain within its jurisdiction signs directing motorists to the continuation of Route 1.

SEC. 1.5. Section 301 of the Streets and Highways Code is amended to read:

301. Route 1 is from:

(a) Route 5 south of San Juan Capistrano to Route 101 near El Rio, except for the portion of Route 1 relinquished:

(1) Within the city limits of the City of Dana Point between the western edge of the San Juan Creek Bridge and Eastline Road at the limits of the City of Laguna Beach.

(2) Within the city limits of the City of Newport Beach between Jamboree Road and Newport Coast Drive.

(b) Route 101 at Emma Wood State Beach, 1.3 miles north of Route 33, to Route 101, 2.8 miles south of the Ventura-Santa Barbara county line at Mobil Pier Undercrossing.

(c) Route 101 near Las Cruces to Route 101 in Pismo Beach via the vicinity of Lompoc, Vandenberg Air Force Base, and Guadalupe.

(d) Route 101 in San Luis Obispo to Route 280 south of San Francisco along the coast via Cambria, San Simeon, and Santa Cruz.

(e) Route 280 near the south boundary of the City and County of San Francisco to Route 101 near the approach to the Golden Gate Bridge in San Francisco.

(f) Route 101 near the southerly end of Marin Peninsula to Route 101 near Leggett via the coast route through Jenner and Westport.

(g) The relinquished former portions of Route 1 within the City of Dana Point and the City of Newport Beach are not state highways and are not eligible for adoption under Section 81. For those relinquished

former portions of Route 1, the City of Dana Point and the City of Newport Beach shall maintain within their respective jurisdictions signs directing motorists to the continuation of Route 1. The City of Newport Beach shall ensure the continuity of traffic flow on the relinquished portions of Route 1 within its jurisdiction, including, but not limited to, any traffic signal progression.

(h) The commission may relinquish to the City of Oxnard the portion of Route 1 that is located within the city limits of that city and is between Pleasant Valley Road and Route 101, upon terms and conditions the commission finds to be in the best interests of the state, if the commission and the city enter into an agreement providing for that relinquishment.

(1) A relinquishment under this subdivision shall become effective immediately after the county recorder records the relinquishment resolution that contains the commission's approval of the terms and conditions of the relinquishment.

(2) On and after the effective date of the relinquishment, that portion of Route 1 relinquished shall cease to be a state highway and may not be considered for future adoption under Section 81.

(3) For portions of Route 1 relinquished under this subdivision, the City of Oxnard shall maintain within its jurisdiction signs directing motorists to the continuation of Route 1.

SEC. 2. Section 334 of the Streets and Highways Code is amended to read:

334. (a) Route 34 is from Route 1 between Point Mugu and the City of Oxnard to Route 118 near Somis.

(b) The commission may relinquish to the City of Oxnard the portion of Route 34 that is located within the city limits of that city and is between Oxnard Boulevard and Rice Avenue, upon terms and conditions the commission finds to be in the best interests of the state, if the commission and the city enter into an agreement providing for that relinquishment.

(1) A relinquishment under this subdivision shall become effective immediately after the county recorder records the relinquishment resolution that contains the commission's approval of the terms and conditions of the relinquishment.

(2) On and after the effective date of the relinquishment, that portion of Route 34 relinquished shall cease to be a state highway and may not be considered for future adoption under Section 81.

(3) For portions of Route 34 relinquished under this subdivision, the City of Oxnard shall maintain within its jurisdiction signs directing motorists to the continuation of Route 34.

SEC. 3. Section 366 of the Streets and Highways Code is amended to read:

366. (a) Route 66 is from Route 210 near San Dimas to Route 215 in San Bernardino.

(b) (1) Notwithstanding subdivision (a), the commission may relinquish to the City of Fontana, the City of Rancho Cucamonga, the City of Rialto, and the City of Upland the respective portion of Route 66 that is located within the city limits or the sphere of influence of each city, upon terms and conditions the commission finds to be in the best interests of the state.

(2) A relinquishment under this subdivision shall become effective immediately following the recordation by the county recorder of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, both of the following shall occur:

(A) The portion of Route 66 relinquished under this subdivision shall cease to be a state highway.

(B) The portion of Route 66 relinquished under this subdivision may not be considered for future adoption under Section 81.

(c) The city shall ensure the continuity of traffic flow on the relinquished portion of Route 66, including any traffic signal progression.

(d) For relinquished portions of Route 66, the city shall maintain signs directing motorists to the continuation of Route 66.

SEC. 3.5. Section 366 of the Streets and Highways Code is amended to read:

366. (a) Route 66 is from:

(1) Route 210 near San Dimas to the Los Angeles-San Bernardino County line at the western city limits of the City of Upland.

(2) The eastern city limits of the City of Fontana near Maple Avenue to Route 215 in San Bernardino.

(b) The relinquished former portions of Route 66 within the city limits of Fontana, Rancho Cucamonga, and Upland are not state highways and are not eligible for adoption under Section 81. For the portions of Route 66 relinquished under this section, the Cities of Fontana, Rancho Cucamonga, and Upland shall maintain within their respective jurisdictions signs directing motorists to the continuation of Route 66 and shall ensure the continuity of traffic flow on the relinquished portions of Route 66 within their respective jurisdictions, including any traffic signal progression.

(c) (1) Notwithstanding subdivision (a), the commission may relinquish to the City of Rialto the portion of Route 66 that is located within the city limits or the sphere of influence of that city, upon terms and conditions the commission finds to be in the best interests of the state.

(2) A relinquishment under this subdivision shall become effective immediately following the recordation by the county recorder of the relinquishment resolution containing the commission's approval of the terms and conditions of the relinquishment.

(3) On and after the effective date of the relinquishment, both of the following shall occur:

(A) The portion of Route 66 relinquished under this subdivision shall cease to be a state highway.

(B) The portion of Route 66 relinquished under this subdivision may not be considered for future adoption under Section 81.

(4) The city shall ensure the continuity of traffic flow on the relinquished portion of Route 66, including any traffic signal progression.

(5) For relinquished portions of Route 66, the city shall maintain signs directing motorists to the continuation of Route 66.

SEC. 4. Section 532 of the Streets and Highways Code is amended to read:

532. (a) Route 232 is from Route 1 near El Rio to Route 118 near Saticoy.

(b) The commission may relinquish to the City of Oxnard the portion of Route 232 that is located within the city limits of that city and is between Oxnard Boulevard and Route 101, upon terms and conditions the commission finds to be in the best interests of the state, if the commission and the city enter into an agreement providing for that relinquishment.

(1) A relinquishment under this subdivision shall become effective immediately after the county recorder records the relinquishment resolution that contains the commission's approval of the terms and conditions of the relinquishment.

(2) On and after the effective date of the relinquishment, that portion of Route 232 relinquished shall cease to be a state highway and may not be considered for future adoption under Section 81.

(3) For portions of Route 232 relinquished under this subdivision, the City of Oxnard shall maintain within its jurisdiction signs directing motorists to the continuation of Route 232.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 301 of the Streets and Highways Code proposed by both this bill and SB 432. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 301 of the Streets and Highways Code, and (3) this bill is enacted after SB 432, in which case Section 1 of this bill shall not become operative.

SEC. 6. Section 3.5 of this bill incorporates amendments to Section 366 of the Streets and Highways Code proposed by both this bill and

SB 432. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 366 of the Streets and Highways Code, and (3) this bill is enacted after SB 432, in which case Section 3 of this bill shall not become operative.

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## CHAPTER 718

An act to amend Section 48800 of, to add Section 71096 to, and to add and repeal Article 2 (commencing with Section 78910.10) of Chapter 7 of Part 48 of Division 7 of Title 3 of, the Education Code, and to amend Section 280 of the Public Utilities Code, relating to education.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 48800 of the Education Code is amended to read:

48800. (a) The governing board of a school district may determine which pupils would benefit from advanced scholastic or vocational work. The intent of this section is to provide educational enrichment opportunities for a limited number of eligible pupils, rather than to reduce current course requirements of elementary and secondary schools, and also to help ensure a smoother transition from high school to college for pupils by providing them with greater exposure to the collegiate atmosphere. The governing board may authorize those pupils, upon recommendation of the principal of the pupil's school of attendance, and with parental consent, to attend a community college during any session or term as special part-time or full-time students and to undertake one or more courses of instruction offered at the community college level.

(b) If the governing board denies a request for a special part-time or full-time enrollment at a community college for any session or term for a pupil who is identified as highly gifted, the governing board shall issue its written recommendation and the reasons for the denial within 60 days. The written recommendation and denial shall be issued at the next regularly scheduled board meeting that falls at least 30 days after the request has been submitted.

(c) A pupil shall receive credit for community college courses that he or she completes at the level determined appropriate by the governing boards of the school district and community college district.

(d) (1) The principal of a school may recommend a pupil for community college summer session only if that pupil meets all of the following criteria:

(A) Demonstrates adequate preparation in the discipline to be studied.

(B) Exhausts all opportunities to enroll in an equivalent course, if any, at his or her school of attendance.

(2) For any particular grade level, a principal shall not recommend for community college summer session attendance more than 5 percent of the total number of pupils who completed that grade immediately prior to the time of recommendation.

(3) A high school pupil recommended by his or her principal for enrollment in a course shall not be included in the 5 percent limitation of pupils allowed to be recommended pursuant to paragraph (2) if the course in which the pupil is enrolled meets one of the criterion listed in subparagraphs (A) to (C), inclusive, and the high school principal who recommends the pupil for enrollment provides the Chancellor of the California Community Colleges, upon the request of that office, with the data required for purposes of paragraph (4).

(A) The course is a lower division, college-level course for credit that is designated as part of the Intersegmental General Education Transfer Curriculum or applies toward the general education breadth requirements of the California State University.

(B) The course is a college-level, occupational course for credit assigned a priority code of "A," "B," or "C," pursuant to the Student Accountability Model, as defined by the Chancellor of the California Community Colleges and reported in the management information system, and the course is part of a sequence of vocational or career technical education courses leading to a degree or certificate in the subject area covered by the sequence.

(C) The course is necessary to assist a pupil who has not passed the California High School Exit Examination (CAHSEE), does not offer college credit in English language arts or mathematics, and the pupil meets both of the following requirements:

(i) The pupil is in his or her senior year of high school.

(ii) The pupil has completed all other graduation requirements prior to the end of his or her senior year, or will complete all remaining graduation requirements during a community college summer session, which he or she is recommended to enroll in, following his or her senior year of high school.

(4) On or before November 1, 2007, and on or before January 1 of each year thereafter, the Chancellor of the California Community Colleges shall report to the Department of Finance the number of pupils

recommended pursuant to paragraph (3) who enroll in community college summer session courses and who receive a passing grade.

(5) The Board of Governors of the California Community Colleges shall not include enrollment growth attributable to paragraph (3) as part of its annual budget request for the California Community Colleges.

(6) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20 of Division 2, compliance with this subdivision shall not be waived.

(e) Paragraphs (3), (4), and (5) of subdivision (d) shall become inoperative on January 1, 2014.

SEC. 1.5. Section 48800 of the Education Code is amended to read:

48800. (a) The governing board of a school district may determine which pupils would benefit from advanced scholastic or vocational work. The intent of this section is to provide educational enrichment opportunities for a limited number of eligible pupils, rather than to reduce current course requirements of elementary and secondary schools, and also to help ensure a smoother transition from high school to college for pupils by providing them with greater exposure to the collegiate atmosphere. The governing board may authorize those pupils, upon recommendation of the principal of the pupil's school of attendance, and with parental consent, to attend a community college during any session or term as special part-time or full-time students and to undertake one or more courses of instruction offered at the community college level.

(b) If the governing board denies a request for a special part-time or full-time enrollment at a community college for any session or term for a pupil who is identified as highly gifted, the board shall issue its written recommendation and the reasons for the denial within 60 days. The written recommendation and denial shall be issued at the next regularly scheduled board meeting that falls at least 30 days after the request has been submitted.

(c) A pupil shall receive credit for community college courses that he or she completes at the level determined appropriate by the governing boards of the school district and community college district.

(d) (1) The principal of a school may recommend a pupil for community college summer session only if that pupil meets all of the following criteria:

(A) Demonstrates adequate preparation in the discipline to be studied.

(B) Exhausts all opportunities to enroll in an equivalent course, if any, at his or her school of attendance.

(2) For any particular grade level, a principal shall not recommend for community college summer session attendance more than 5 percent of the total number of pupils who completed that grade immediately prior to the time of recommendation.

(3) A high school pupil recommended by his or her principal for enrollment in a course shall not be included in the 5 percent limitation of pupils allowed to be recommended pursuant to paragraph (2) if the course in which the pupil is enrolled meets one of the criterion listed in subparagraphs (A) to (C), inclusive, and the high school principal who recommends the pupil for enrollment provides the Chancellor of the California Community Colleges, upon the request of that office, with the data required for purposes of paragraph (4).

(A) The course is a lower division, college-level course for credit that is designated as part of the Intersegmental General Education Transfer Curriculum or applies toward the general education breadth requirements of the California State University.

(B) The course is a college-level, occupational course for credit assigned a priority code of "A," "B," or "C," pursuant to the Student Accountability Model, as defined by the Chancellor of the California Community Colleges and reported in the management information system, and the course is part of a sequence of vocational or career technical education courses leading to a degree or certificate in the subject area covered by the sequence.

(C) The course is necessary to assist a pupil who has not passed the California High School Exit Examination (CAHSEE), does not offer college credit in English language arts or mathematics, and the pupil meets both of the following requirements:

(i) The pupil is in his or her senior year of high school.

(ii) The pupil has completed all other graduation requirements prior to the end of his or her senior year, or will complete all remaining graduation requirements during a community college summer session, which he or she is recommended to enroll in, following his or her senior year of high school.

(4) On or before March 1 of each year, the Chancellor of the California Community Colleges shall report to the Department of Finance the number of pupils recommended pursuant to paragraph (3) who enroll in community college summer session courses and who receive a passing grade. The report shall be integrated with the report required in subdivision (c) of Section 76002. The combined report shall maintain the distinction between the two pupil populations referenced in this section and in Section 76002.

(5) The Board of Governors of the California Community Colleges shall not include enrollment growth attributable to paragraph (3) as part of its annual budget request for the California Community Colleges.

(6) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20 of Division 2, compliance with this subdivision may not be waived.

(e) Paragraphs (3) and (5) of subdivision (d) shall become inoperative on January 1, 2014.

SEC. 2. Section 71096 is added to the Education Code, to read:

71096. The office of the Chancellor of the California Community Colleges shall report to the Department of Finance no later than September 1 of each year for the preceding fiscal year both of the following:

(a) The amount of discounts authorized by Section 280 of the Public Utilities Code for community colleges that reduce community college district costs.

(b) The amount of discounts authorized by Section 280 of the Public Utilities Code that have the effect of reducing the cost of local assistance provided by the office of the chancellor as appropriated pursuant to Schedule (14) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2007 and any successive appropriations for the same purpose in subsequent fiscal years for maintaining connectivity for the community college districts.

SEC. 3. Article 2 (commencing with Section 78910.10) is added to Chapter 7 of Part 48 of Division 7 of Title 3 of the Education Code, to read:

## Article 2. California Virtual Campus

78910.10. (a) (1) The California Virtual Campus, pursuant to funding provided to the Board of Governors of the California Community Colleges for this purpose in the annual Budget Act, may pursue all of the following purposes, to the extent funding is available:

(A) To enrich formal and informal educational experiences and improve students' academic performance by supporting the development of highly engaging, research-based innovations in teaching and learning in K-12 public schools and the California Community Colleges, the California State University, and the University of California.

(B) To enhance the awareness of, and access to, highly engaging online courses of study, emphasizing courses of study that support a diverse and highly skilled science, technology, engineering, and mathematics workforce.

(C) To support education research, the implementation of research-based practices, and promote economic development through the use of next generation advanced network infrastructure, services, and network technologies that enable collaboration and resource sharing between formal and informal educators in K-12 public schools, the California Community Colleges, the California State University, the University of California, independent colleges and universities, public

libraries, and community-based organizations at locations across the state.

(D) To increase access to next generation Internet services, 21st century workforce development programs, and e-government services for students and staff served or employed by education entities and students served primarily online through partnerships with public libraries and community-based organizations.

(E) To enhance access to health care education and training programs to current or future health care workers.

(F) To manage digital assets and develop contracts for services necessary to provide the technical and management support needed to maximize the benefits of the high-speed, high-bandwidth network infrastructure available to public higher education entities in California.

(G) Through the aggregation of demand for network enabled technologies and related services from public education entities, and through partnerships with the private sector, to provide education entities with access to technical support and staff who can facilitate statewide efforts that support innovations in teaching and learning that are necessary to provide for a well-educated citizenry, and economic and 21st century workforce development.

(2) To accomplish the purposes of paragraph (1), the California Virtual Campus may partner with local educational agencies, the State Department of Education, the 11 regional California Technology Assistance Projects, the California Community Colleges, the California State University, the University of California, independent colleges and universities, public libraries, and community-based organizations to facilitate ongoing collaboration and joint efforts relating to the use of technology resources and high-speed Internet connectivity to support teaching, learning, workforce development, and research.

(3) Efforts conducted as a result of this chapter shall not prohibit or otherwise exclude the ability of existing or new educational technology programs from being developed, expanded, or enhanced.

(b) For purposes of this article, the following terms have the following meanings:

(1) "Online courses of study" means any of the following:

(A) Online teaching, learning, and research resources, including, but not necessarily limited to, books, course materials, video materials, interactive lessons, tests, or software, the copyrights of which have expired, or have been released with an intellectual property license that permits their free use or repurposing by others without the permission of the original authors or creators of the learning materials or resources.

(B) Professional development opportunities for formal and informal educators who desire to use the resources in subparagraph (A).

(C) Online instruction.

(2) "Online instruction" means technology enabled online real time (synchronous) interaction between the instructor and the student, near time (asynchronous) interaction between the instructor and the student, or any combination thereof.

(c) The California Virtual Campus grant recipient may accomplish all of the following:

(1) Convene at least four leadership stakeholder group meetings annually comprised of representatives from the State Department of Education, the California Technology Assistance Project, and other related programs administered through the department, local education agencies, including adult education, the California Community Colleges, the California State University, the University of California, independent colleges and universities, the California State Library, and representatives from community-based organizations to ensure the efforts affecting segments represented are appropriately meeting the needs of those segments. The leadership stakeholder group shall also coordinate and obtain assistance with the implementation of efforts delineated in this article, to identify and maintain an up-to-date list of the technology resources and tools that are necessary to support innovation in teaching and learning, and to identify opportunities for leveraging resources and expertise for meeting those needs in an efficient and cost-effective manner.

(2) Lead efforts to make online courses of study available across the state that include, but are not limited to, the following:

(A) Developing online courses of study that are pedagogically sound and fully accessible, in compliance with the federal Americans with Disabilities Act (Public Law 101-336), by students with varying learning styles and disabilities.

(i) The development of K-12 online courses pursuant to this subparagraph shall be achieved in partnership with local education agencies and the California Technology Assistance Project.

(ii) Online courses developed for grades K-12 pursuant to this subparagraph shall be aligned to the California academic content standards and guidelines for online courses.

(B) Overseeing the development of at least 12 model online courses of study that, collectively, would allow students to meet the requirements of the Intersegmental General Education Transfer Curriculum (IGETC) and at least two courses that support basic skills education courses in English, English as a second language, or mathematics.

(C) Encouraging the entities listed in paragraph (1) to do both of the following:

(i) Make accessible to each other their courses of study that are funded by the state.

(ii) Allow their courses of study to be accessible to the general public if they determine access would not inhibit their ability to provide appropriate protection of the state's intellectual property rights.

(3) Ensure that the learning objects created as part of the California Virtual Campus online courses of study with state General Fund revenues are linked to digital content libraries that include information about course content freely available to California educators and students.

(4) Develop formal partnership agreements between the entities listed in paragraph (1) and the California Virtual Campus, including course articulation agreements that allow qualified high school students to accelerate the completion of requirements for a high school diploma and a two-year or four-year degree and agreements that provide opportunities for part-time faculty teaching online to obtain full-time employment teaching online.

(5) Develop formal partnership agreements with the entities listed in paragraph (1) and others to enhance access to professional development courses that introduce faculty, teachers, staff, and college course developers to the conceptual development, creation, and production methodologies that underlie the development of online courses of study and support students' successful completion of those courses. The professional development opportunities may include, but not necessarily be limited to, all of the following:

(A) Addressing issues relating to copyright, permission for the use or reuse of material, use of resources in the public domain, and other intellectual property concepts.

(B) Accessibility for students with disabilities.

(C) Factors to ensure that content is culturally relevant to a diverse student body.

(D) Delivery options that incorporate multiple learning styles and strategies.

(6) Develop formal partnership agreements with entities, including, but not limited to, those listed in paragraph (1), to ensure access to online professional learning communities that incorporate the use of Internet-based collaboration tools and to support joint discussions between K-12 educators, higher education faculty and staff, and others to examine student performance data, student learning objectives, curriculum, and other issues that relate to students' academic success and preparation for the workforce.

(7) In partnership with entities, including those listed in paragraph (1), develop an e-portfolio system that allows participating students to demonstrate their attainment of academic learning objectives, skills and

knowledge that relate to their career interests, and completion of prerequisites for participation in courses or training programs. The e-portfolio system may do all of the following:

(A) Ensure that student privacy is protected in accordance with existing law.

(B) Comply with accessibility laws for students with disabilities.

(C) Be designed in a manner that supports the use of e-portfolio content in the accreditation requirements of schools, colleges, and universities.

(8) In partnership with entities, including those listed in paragraph (1), identify opportunities to enhance students' access to medical education and medical services through the use of high-speed Internet connections to the campuses, and opportunities for education programs and services to support the telemedicine efforts taking place within the state.

(d) The lead agency for the California Virtual Campus, in consultation with the leadership stakeholder group described in paragraph (1) of subdivision (c) if that group is convened by the California Virtual Campus grant recipient, shall contract with an independent third party with expertise in online teaching, learning, and the development of online courses of study, as approved by the board, to evaluate the California Virtual Campus. The evaluation shall include, but not be limited to, an assessment of the number of faculty, teachers, consortia, informal educators, and students that use the online courses of study, the quality of students' experiences, student grades earned, and the cost of the online course content, comparing the online course content with traditional textbooks. The board may require additional information that it determines to be necessary to evaluate the effectiveness and viability of the California Virtual Campus. This evaluation shall be submitted to the Legislature no later than three years of the enactment of this act.

78910.15. (a) By February 28, 2009, the board shall require the California Virtual Campus to establish memorandums of understanding with at least 10 community-based organizations specified in paragraph (2) of subdivision (c) of Section 280.5 of the Public Utilities Code, that provide residents in low-income neighborhoods with access to high-speed networking and computers. The memorandum of understanding shall document the California Virtual Campus' commitment to do all of the following:

(1) Provide high-speed network connectivity to the site.

(2) Provide access to online courses of study and tutoring services.

(3) Work with the community-based organization, and partner with local educational agencies, the California Technology Assistance Project, and other state-supported K-12 educational technology programs, as

appropriate, to plan and promote joint educational offerings that are delivered online and supported by the staff of a community-based organization that can facilitate student use of technology.

(b) The 10 community-based organizations shall be selected on a competitive basis by a six-member selection committee convened by the California Virtual Campus. Members of the selection committee shall include:

(1) Two representatives of community-based organizations appointed by the Chancellor of the California Community Colleges.

(2) One community college representative appointed by the Chancellor of the California Community Colleges.

(3) One representative from a K-12 school district appointed by the Superintendent of Public Instruction.

(4) One representative from the California State University appointed by the Chancellor of the California State University system.

(5) One representative appointed by the California Emerging Technologies Fund Committee.

(c) The selection committee convened pursuant to subdivision (b) shall ensure that no less than one community-based organization is selected from each of the nine economic regions identified by the California Economic Strategy Panel, and that all sites are willing and able to support academic offerings as outlined in the request for proposals.

(d) The California Virtual Campus shall ensure that pilot project participants have access to adequate technical and operational support from an individual or entity under contract with the California Virtual Campus with expertise in the operation and management of community-based organizations to enable the site to successfully meet obligations set forth in the memorandum of understanding.

(e) On or before July 1, 2013, the lead agency for the California Virtual Campus shall contract for an independent evaluation, as approved by the board, and shall submit a report to the Public Utilities Commission, or its designee, that documents the extent to which the California Virtual Campus' joint efforts with the 10 community-based organizations have achieved all of the following:

(1) Increased the range of offerings available at each site to address the digital divide in accordance with subdivision (e) of Section 280.5 of the Public Utilities Code.

(2) Provided for equity of access to high-speed communications networks, the Internet, and other services that provide social benefits in accordance with the legislative findings and declarations contained in Section 871.7 of the Public Utilities Code, including, but not necessarily limited to, all of the following:

(A) Improving the quality of life among the residents of California.

(B) Expanding access to public and private resources for education, training, and commerce.

(C) Increasing access to public resources enhancing public health and safety.

(D) Assisting in bridging the digital divide through expanded access to new technologies by low-income, disabled, or otherwise disadvantaged Californians.

(E) Shifting traffic patterns by enabling telecommuting, thereby helping to improve air quality in all areas of the state and mitigating the need for highway expansion.

(3) Supported participation in online offerings provided by the California Virtual Campus in accordance with Section 78910.10.

(f) In the event that the board determines that the joint efforts of the California Virtual Campus and the community-based organizations have been successful pursuant to subdivision (e), the board shall submit a plan to the Legislature and the Governor by January 1, 2015, which contains recommendations for expanding the number of sites partnering with the California Virtual Campus, conditions for expansion, and recommendations for ways of addressing any potential funding requirements.

(g) Community college local assistance expenditures to extend high-speed network connectivity to community-based organizations that partner with community colleges for instructional delivery pursuant to this section shall not exceed one hundred thousand dollars ($100,000).

78910.20. (a) The California Virtual Campus may form a business advisory group to assist with the development of a plan which outlines methods for the California Virtual Campus and the entities listed in paragraph (1) of subdivision (c) of Section 78910.10 to work together to strengthen the preparation of a diverse and highly skilled science, technology, engineering, and mathematics workforce, and to address workforce shortages. The plan shall identify existing resources and programs that will be more accessible due to the use of network enabled technologies, and methods that are effective due to the use of network enabled technologies.

(b) By March 1, 2009, the California Virtual Campus may submit the plan developed in accordance with subdivision (a) to the board, the Legislature, and the Governor.

78910.25. No provision of this article shall apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, make the provision applicable.

78910.30. This article shall remain in effect until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 4. Section 280 of the Public Utilities Code is amended to read:

280. (a) The commission shall develop, implement, and administer a program to advance universal service by providing discounted rates to qualifying schools maintaining kindergarten or any of grades 1 to 12, inclusive, community colleges, libraries, hospitals, health clinics, and community organizations, consistent with Chapter 278 of the Statutes of 1994.

(b) There is hereby created the California Teleconnect Fund Administrative Committee, which is an advisory board to advise the commission regarding the development, implementation, and administration of a program to advance universal service by providing discounted rates to qualifying schools maintaining kindergarten or any of grades 1 to 12, inclusive, community colleges, libraries, hospitals, health clinics, and community organizations, consistent with Chapter 278 of the Statutes of 1994, and to carry out the program pursuant to the commission's direction, control, and approval.

(c) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California Teleconnect Fund Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund.

(d) Moneys appropriated from the California Teleconnect Fund Administrative Committee Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the board and the commission associated with the administration and oversight of the program and the fund.

(e) Moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003 are subject to Section 16320 of the Government Code. If the commission determines a need for moneys in the California Teleconnect Fund Administrative Committee Fund, the commission shall notify the Director of Finance of the need, as specified in Section 16320 of the Government Code. The commission may not increase the rates authorized by the commission to fund the program specified in subdivision (b) while moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003 are outstanding unless both of the following conditions are satisfied:

(1) The Director of Finance, after making a determination pursuant to subdivision (b) of Section 16320 of the Government Code, does not order repayment of all or a portion of any loan from the California Teleconnect Fund Administrative Committee Fund within 30 days of notification by the commission of the need for the moneys.

(2) The commission notifies the Director of Finance and the Chairperson of the Joint Legislative Budget Committee in writing that it intends to increase the rates authorized by the commission to fund the program specified in subdivision (a). The notification required pursuant to this paragraph shall be made 30 days in advance of the intended rate increase.

(f) Subdivision (e) shall become inoperative upon full repayment or discharge of all moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 48800 of the Education Code proposed by both this bill and AB 1821. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 48800 of the Education Code, and (3) this bill is enacted after AB 1821, in which case Section 1 of this bill shall not become operative.

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## CHAPTER 719

An act to add Sections 18930.5, 18931.6, 18931.7, and 18938.3 to the Health and Safety Code, relating to building standards.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. (a) It is the intent of the Legislature that this act shall not affect the ability of a city, county, or city and county to adopt changes, modifications, amendments, additions, or deletions to the California Building Standards Code, including, but not limited to, green building standards.

(b) It is the intent of the Legislature that the Building Standards Commission and the Department of Housing and Community Development shall submit a joint expenditure plan for the use of funds allocated under this act.

(c) It is the intent of the Legislature that any educational programs funded under this act be coordinated to the maximum extent possible

with similar efforts so as to expand the reach and effectiveness of each program.

SEC. 2. Section 18930.5 is added to the Health and Safety Code, to read:

18930.5. If no state agency has the authority or expertise to propose green building standards applicable to a particular occupancy, the commission shall adopt, approve, codify, update, and publish green building standards for those occupancies.

SEC. 3. Section 18931.6 is added to the Health and Safety Code, to read:

18931.6. (a) Each city, county, or city and county shall collect a fee from any applicant for a building permit, assessed at the rate of four dollars ($4) per one hundred thousand dollars ($100,000) in valuation, as determined by the local building official, with appropriate fractions thereof, but not less than one dollar ($1).

(b) The city, county, or city and county may retain not more than 10 percent of the fees collected under this section for related administrative costs and for code enforcement education, including, but not limited to, certifications in the voluntary construction inspector certification program, and shall transmit the remainder to the commission for deposit in the Building Standards Administration Special Revolving Fund established under Section 19831.7.

(c) The commission may reduce the rate of the fee upon determining that a lesser amount is sufficient to maintain the programs established under this part.

SEC. 4. Section 18931.7 is added to the Health and Safety Code, to read:

18931.7. (a) All funds received by the commission under this part shall be deposited in the Building Standards Administration Special Revolving Fund, which is hereby established in the State Treasury.

(b) Moneys deposited in the fund shall be available, upon appropriation, to the commission the department, and the Office of the State Fire Marshal for expenditure in carrying out the provisions of this part, and the provisions of Part 1.5 (commencing with Section 17910) that relate to building standards, as defined in Section 18909, with emphasis placed on the development, adoption, publication, updating, and educational efforts associated with green building standards.

SEC. 5. Section 18938.3 is added to the Health and Safety Code, to read:

18938.3. With respect to the model codes that are designated in Sections 17922 and 18938 to serve as the basis for the California Building Standards Code but are no longer published, the building standards adopted and approved by the commission shall be those contained in the

most recent editions of the model codes adopted or approved by the commission to serve as the basis for the 2007 triennial edition of the California Building Standards Code. Those model codes designated in Sections 17922 and 18938 that continue to be published and updated shall continue to serve as the basis for the California Building Standards Code. With respect to Section 17922, other model codes may be considered for use, proposal, approval, or adoption, or any combination thereof, provided they do not duplicate building standards, as proposed by the Department of Housing and Community Development and adopted by the commission, the subject matter of the model codes which serve as the basis for the 2007 triennial edition of the California Building Standards Code.

SEC. 6. 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.

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## CHAPTER 720

An act to add Chapter 7 (commencing with Section 31460) to Division 17 of the Streets and Highways Code, relating to transportation.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Chapter 7 (commencing with Section 31460) is added to Division 17 of the Streets and Highways Code, to read:

### CHAPTER 7. OTAY MESA EAST TOLL FACILITY ACT

31460. The Legislature finds and declares all of the following:

(a) It is essential for the economic well-being of San Diego County and for the maintenance of a high quality of life that the people of the State of California receive the full benefits of international trade with Mexico.

(b) Trade is the fastest expanding component of the San Diego regional economy. Mexico is the United States' third largest trading

partner, after Canada and China, and California's number one export market.

(c) Trade passing through San Diego County's portion of the United States-Mexico border region benefits every state in the union and contributes heavily to the nation's trade with the countries of the Pacific Rim.

(d) Commercial traffic between the United States and Mexico using California's ports of entry is placing extreme demands on the state's border transportation assets which were not designed for these purposes.

(e) Congestion at the border causes increased wait times, which in turn increases commercial and noncommercial vehicle emissions.

(f) Inadequate infrastructure capacity at the existing border crossings between San Diego County and Baja California currently creates traffic congestion and delays for crossborder personal trips and freight movements that cost the United States and Mexican economies an estimated $7.2 billion in foregone gross output and more than 62,000 jobs in 2007.

(g) Public revenues to provide for an efficient border region transportation system have not kept pace with the growth of traffic and goods crossing the international border with Mexico.

(h) The state must seek all reasonable alternatives to address unmet border transportation needs and to improve existing transportation facilities.

(i) Public toll transportation facilities should be encouraged to supplement limited public resources and to support the development of new transportation system capacity.

31461. This chapter may be cited as the Otay Mesa East Toll Facility Act. All references to the "act" in this chapter shall mean the Otay Mesa East Toll Facility Act.

31462. For purposes of this chapter, the following definitions shall apply:

(a) "Board" means the board of directors of SANDAG.

(b) "Bonds" means any bonds, notes, variable rate and variable maturity securities, and any other evidence of indebtedness issued pursuant to this chapter.

(c) "Corridor" means State Route 11 in the County of San Diego, as defined in Section 311.

(d) "Costs" includes the cost of construction or acquisition; the cost of the acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by SANDAG for the construction; the cost of demolishing or removing any buildings or structures on land acquired, including the cost of acquiring any lands to which buildings or structures may be moved; the cost of all machinery and equipment, financing

charges, interest before and during construction and, if considered advisable by SANDAG, costs of accounting, consulting, printing, advertising and travel, cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, and other expenses necessary or incident to determining the feasibility or practicability of constructing, repairing, or improving a project; administrative expenses; and such other expenses as may be necessary or incident to the construction, repair, or improvement of a project, the financing of the project, the placing and maintaining of a project in operation, and any payments to an entity to cover all or a portion of the costs described in this chapter. Any money paid or advanced to SANDAG with its approval for traffic surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction, repair, or improvement of a project shall be regarded as a part of the cost of a project and may be reimbursed out of the proceeds of the revenue bonds issued for a project as authorized in this chapter. Cost includes the cost to operate, maintain, repair, or improve a project.

(e) "Department" means the Department of Transportation.

(f) "Design-build" means a procurement process in which both the design and construction of a project are procured in a single phase.

(g) "Design sequencing" means a procurement process that enables the sequencing of design activities to permit each construction phase to commence when design for that phase is complete, instead of requiring the design for the entire project to be completed before commencing construction.

(h) "Entity" means the United States or any agency or department of the United States, any State of California agency, department or political subdivision of the state, or any public or private corporation, company, partnership, joint venture, foundation, trust, estate, individual, or other legal business organization.

(i) "Federal agency" means any agency or department of the United States.

(j) "Project" or "projects" means any property and related facilities, whether or not now in existence, acquired to facilitate the movement of goods and people along the corridor or at the Otay Mesa East Port of Entry, including property suitable for any of the following purposes:

(1) International ports of entry.

(2) International border crossing facilities.

(3) Transportation facilities, including highway and roadway, public transit, and nonmotorized facilities, and other projects supporting any transportation facility designed, constructed, maintained, or operated with toll revenues.

(4) A bridge or tunnel, overpasses, underpasses, entrance plazas, toll houses, administration, storage and other buildings and facilities, and all equipment therefor, and may include terminal facilities, customs and immigration facilities, and such approaches and approach highways as may be determined by SANDAG to be necessary to facilitate the flow of traffic or to connect a project with the existing highway systems, together with all property, rights, easements, and interests acquired by SANDAG for the construction or operation of a project, including, but not limited to, energy and communication lines.

(k) "Property" means land, improvements to land, buildings, improvements to buildings, machinery and equipment of any kind, operating capital, and any other real or personal property necessary for a project.

(*l*) "SANDAG" means the San Diego Association of Governments, as referenced in the San Diego Regional Transportation Consolidation Act, Chapter 3 (commencing with Section 132350) of Division 12.7 of the Public Utilities Code.

(m) "Trustee" means any financial institution or trust company actually doing business in this state.

31463. This act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purposes.

31465. This chapter shall provide an additional and alternative method for doing the things authorized by this chapter and shall be regarded as supplemental and additional to any powers and rights conferred on SANDAG by other laws. When carrying out its responsibilities under this chapter, SANDAG shall comply with the requirements imposed by the San Diego Regional Transportation Consolidation Act (Chapter 3 (commencing with Section 132350) of Division 12.7 of the Public Utilities Code) not in conflict with this chapter, including, but not limited to, noticing, holding, and conducting its meetings in accordance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

31466. SANDAG shall have and may exercise all rights and powers, expressed or implied, that are necessary to carry out the purposes and intent of this chapter, including the power to do all of the following:

(a) Issue bonds payable from and secured by a pledge of SANDAG of all or any part of the revenues of SANDAG to finance the activities authorized by this act and for the purpose of financing the cost of acquiring or operating any project or to purchase, refund, or otherwise acquire, at or before maturity, any outstanding bonds meeting the requirements provided in this chapter, and to sell those bonds at public or private sale in the form and on the terms and conditions as SANDAG shall approve.

(b) Consult with counties, cities, towns, and other agencies and political subdivisions of this state and Mexico relating to plans and projects authorized by this chapter.

(c) Fix and revise from time to time and charge and collect tolls and other charges for the use of a project.

(d) Acquire by dedication, gift, purchase, or eminent domain, and hold and dispose of any interests in property whether real or personal in the exercise of its powers and the performance of its duties under this chapter.

(e) Establish and enforce policies, rules, and regulations for the administration, operation, and maintenance of facilities and services.

(f) Pledge all or any part of the revenues of projects to secure bonds and any repayment or reimbursement obligations of SANDAG to any provider of bond insurance or letter of credit or line of credit facility determined to be appropriate by SANDAG to provide for the payment of debt service on any bonds of SANDAG, and the state hereby pledges to, and agrees with, the holders of bonds that the state will not limit, alter, or restrict the rights hereby vested in SANDAG to fulfill each pledge of revenues and any other terms of any agreement made with or for the benefit of the holders of bonds or in any way impair the rights or remedies of the holders of the bonds or the providers of bond insurance or letter of credit or line of credit facilities.

(g) Do all acts necessary and convenient for the full exercise of the powers granted in this chapter.

31467. (a) Highway projects constructed pursuant to the act shall, at all times following construction, be owned by the department. International port of entry facilities constructed pursuant to the act shall, at all times following construction, be owned by a federal agency. All other property and facilities constructed pursuant to this chapter shall be owned by SANDAG, unless transferred to a state or federal agency upon agreement between SANDAG and the relevant agency.

(b) The plans and specifications for a transportation project developed, maintained, repaired, rehabilitated, reconstructed, or operated pursuant to the act shall comply with the relevant standards of the department for state transportation projects. Ports of entry projects shall meet the relevant federal agency's published design standards and legal requirements. SANDAG may approve the location, design, and the materials of construction for a project constructed pursuant to this chapter after consultation with the department or the relevant federal agency, as applicable.

(c) SANDAG shall carry out its highway projects in cooperation with the department and shall consult the department in the operation of a project and on matters related to highway design and construction.

(d) For the purpose of facilitating a project, the agreements between SANDAG and other entities 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 or operation of a project.

(e) Agreements between SANDAG, appropriate local, state, or federal agencies, or any other entity may be executed to identify the respective obligations and liabilities of one or more of those entities and assign them responsibilities relating to a project. The agreements entered into pursuant to this section shall be consistent with agreements between the department and the United States Department of Transportation relating to a project and may include procedures for enforcement by the Department of the California Highway Patrol.

(f) Any project utilizing the department's services shall be included in the department's capital outlay support program for workload purposes.

31468. (a) The Legislature has recognized the merits of alternative project delivery methods such as the design-build procurement process in the past by authorizing its use for projects undertaken by school districts, the University of California, specified local government projects, state office buildings, and public transit projects.

(b) It is the intent of the Legislature to provide optional, alternative procedures for bidding and building the international port of entry facility and ancillary border crossing projects pursuant to this act. SANDAG may utilize an alternative project delivery method authorized in this section on the international port of entry facility and ancillary border crossing projects, after evaluation of the traditional design, bid, and build process of construction and of the design-build process in a public meeting, the governing board makes written findings that use of an alternative project delivery method on the specific project under consideration will accomplish at least one of the following objectives: reduce comparable project costs, expedite a project's completion, or provide features not achievable through the traditional design-bid-build method.

(c) SANDAG may utilize the following alternative project delivery methods if the conditions in this section are met:

(1) Design-build.

(2) Design sequencing.

(d) If the conditions in this section for utilizing an alternative delivery method are not met, SANDAG shall use the design-bid-build delivery method for construction of a project.

(e) It is the intent of the Legislature that alternative project delivery methods as authorized in this section shall not be construed to extend,

limit, or change in any manner the legal responsibility of public agencies and contractors to comply with existing laws.

31472. This chapter does not authorize SANDAG or the department to do either of the following:

(a) Lease or otherwise convey a toll road to a private-sector entity.

(b) Convert any existing nontoll or non-user-fee highway lane into a tolled or user-fee highway lane.

31473. (a) The cities and county in the San Diego region are authorized and empowered to lease, lend, grant, or convey to SANDAG at its request upon such terms and conditions as the city or county considers reasonable and fair and without the necessity for any advertisement, order of court, or other action of formality, other than the regular and formal action of the governing body of the cities or county, any real property that may be necessary or convenient to the effectuation of the authorized purposes of SANDAG, including public highways and other real property already devoted to public use.

(b) If a reasonable price cannot be agreed upon, or if the owner is legally incapacitated, absent, unknown, or unable to convey valid title, SANDAG is hereby authorized and empowered to acquire by condemnation or by the exercise of the power of eminent domain any lands, property, rights, rights-of-way, easements, and other property, including highways or parkways, or parts thereof or rights therein, of any person, copartnership, association, railroad, public service, public utility or other corporation, municipality, or political subdivision considered necessary or convenient for the construction, repair, or improvement or the efficient operation of a project or necessary in restoration of public or private property damaged or destroyed, but not including any of the rights of any franchisee, lessee, or owner of airspace rights in the demonstration toll road project known as State Route 125 in the County of San Diego.

(c) Any proceedings pursuant to subdivision (b) shall be conducted in accordance with and subject to the relocation assistance guidelines in Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code. Title to any property acquired by SANDAG shall be taken in the name of SANDAG or the department.

(d) If the owner, lessee, or occupier of any property to be condemned refuses to remove his or her personal property from the property or give up possession of the property, SANDAG may proceed to obtain possession in any manner now or hereafter provided by law.

31474. (a) SANDAG may only impose tolls and user fees for the use of the corridor.

(b) Within two years following the opening of a tolled project by SANDAG and at least biennially thereafter, SANDAG shall review the

adequacy of the toll rates established to cover the costs of the project. The board shall make available any proposed revisions to toll rates to the public no less than 30 days prior to adoption by the board as described in subdivision (a) of Section 31476.

(c) SANDAG's toll structure may include discounts and premiums to encourage efficient use of tolled projects and reduction of congestion and emission of greenhouse gases, including, without limitation, discounts for high-occupancy vehicles, electronic toll collection, and off-peak travel, and premiums for on-peak travel.

(d) SANDAG's toll structure may include adjustments to toll rates to reflect economic factors, including, but not limited to, the Consumer Price Index or other cost indices.

31475. (a) Toll revenues from a project may be used to reimburse or finance the costs of state agencies and federal agencies incurred in connection with the implementation or operation of a project, including reimbursement of federal funds specifically allocated to SANDAG for a project by the federal government or other funds from funding sources that are not otherwise available to state agencies for transportation-related projects. SANDAG shall be reimbursed for administrative costs in an amount that shall not exceed 3 percent of project revenues.

(b) Toll revenues shall be used to pay for costs in the categories below in the following priority:

(1) Payments pursuant to bonds and resolutions, indentures, and other constituent instruments defining the rights of the holders of bonds and any repayment or reimbursement obligations of SANDAG to any providers of bond insurance or letters of credit or lines of credit related to bonds.

(2) SANDAG costs for operations, toll collection, and administration of the facility.

(3) Reimbursement to federal, state, and local agencies for costs incurred by those agencies for services provided to a project that are reimbursable pursuant to a written agreement between SANDAG and the respective agency.

(4) Costs for capital improvements to repair or rehabilitate a project, to expand project capacity, to improve project operations, or to increase public transit and nonmotorized options in the corridor.

(5) Excess revenues shall be used pursuant to the plan approved by the board pursuant to subdivision (b) of Section 31476 that specifies the expenditure of toll revenues for projects that increase transportation options in the corridor, including, but not limited to, public transit and nonmotorized transportation that would result in reduced vehicle miles traveled.

31476. (a) At least 30 days prior to setting the initial toll rates for a project, and thereafter when adjustments to the toll rates are proposed, the board shall provide a public comment period regarding the proposed rates. The board shall also take public testimony at one or more public meetings during this time period.

(b) The expenditure plan for toll revenues shall be updated and approved by the board on an annual basis beginning on July 1 following implementation of a toll. Approval of the initial and annual expenditure plan shall take place at a public meeting held by the board following a notice of at least 30 days to the public.

(c) Collection of tolls on a project financed with bond revenues shall cease following repayment of the bonds and other project costs in full unless an extension of the time for toll collection is approved by a two-thirds vote of the board at a public meeting following a notice of at least 30 days to the public.

(d) The board shall arrange for a postaudit of the revenues expended pursuant to this chapter to be made at least annually by a certified public accountant.

31477. (a) SANDAG may enter into one or more agreements with the County of San Diego or a city within the County of San Diego to accept fees imposed by that city or the county pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code) or the Mitigation Fee Act (Chapter 5 (commencing with Section 66000), Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020) of Division 1 of Title 7 of the Government Code), to reimburse SANDAG for costs it has or will incur to mitigate development that will have a negative impact on the movement of people or goods along the State Route 11 corridor or the Otay Mesa East Port of Entry.

(b) Fees paid to a city or the county and transferred to SANDAG pursuant to this section shall be expended by SANDAG solely for the construction or reimbursement for construction of the improvement serving the area to be benefited and from which the fees transferred from the city or county were collected.

(c) The agreement may provide for the acceptance of considerations in lieu of the payment of fees.

(d) If the provisions of this section, or provisions implementing this section contained in any ordinance adopted pursuant to this section, are held invalid, that invalidity shall not affect other provisions of this section or of the ordinance adopted pursuant thereto, which can be given effect without the invalid provision, and to this end the provisions of this section and of an ordinance adopted pursuant thereto are severable.

31481. (a) SANDAG may, from time to time, issue bonds in accordance with the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code) for any of the purposes authorized by this chapter. SANDAG shall constitute a "local agency" within the meaning of Section 54307 of the Government Code. The operation of SANDAG projects or any grouping or units thereof shall constitute an "enterprise" within the meaning of that section.

(b) Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 of the Government Code does not apply to the issuance and sale of bonds pursuant to this chapter and SANDAG shall authorize the issuance of such bonds by resolution of its board.

(c) Any bond issued pursuant to this section shall contain on its face a statement to the following effect: "Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of principal of, or the interest of this bond."

(d) SANDAG may bring an action to determine the validity of any of its bonds pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(e) Before issuing any new or increased toll revenue bonds, the board shall conduct at least one public meeting following at least 30 days' notice to the public at which public testimony shall be taken regarding the proposed bond issuance. Issuance of new or increased toll revenue bonds pursuant to this act shall require approval by at least two-thirds of the board's voting members.

31482. (a) SANDAG, its income and property, all bonds issued by it, and the interest on the bonds are exempt from all taxation by this state or any political subdivision of this state.

(b) Bonds issued by SANDAG are legal investments for all trust funds, the funds of all insurance companies, banks, trust companies, executors, administrators, trustees, and other fiduciaries. The bonds are securities that may legally be deposited with, and received by, any state or municipal officer or agency or political subdivision of the state for any purpose for which the deposit of bonds or obligation of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

(c) Nothing in this chapter is intended to infringe upon the rights of the state to make transportation improvements that may impact use of transportation facilities in the corridor.

SEC. 2. 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. 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.

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## CHAPTER 721

An act to add Sections 53075.7, 53075.8, and 53075.9 to the Government Code, relating to taxicabs.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 53075.7 is added to the Government Code, to read:

53075.7. (a) Upon receipt of a complaint containing sufficient information to warrant conducting an investigation, the local agency shall investigate any business that advertises or operates taxicab transportation service for hire. The local agency shall, by ordinance, resolution, or other appropriate procedure, adopt criteria that establishes the type of information, if contained in a complaint, that is sufficient to warrant an investigation. Pursuant to this investigation, the local agency shall do all of the following:

(1) Determine which businesses, if any, are required to have in effect a valid taxicab certificate, license, or permit as required by ordinance, but do not have that valid authority to operate.

(2) Inform any business not having valid authority to operate that it is in violation of law.

(3) Within 60 days of informing the business pursuant to paragraph (2), institute civil or criminal proceedings, or both, pursuant to the governing municipal code or other authority of jurisdiction.

(b) For purposes of this section:

(1) "Advertises" means any action described in subdivision (b) of Section 53075.9.

(2) "Local agency" means the local entity responsible for the regulation, including, but not limited to, the certification, licensing, or

permitting of, and enforcement of rules, regulations, or ordinances governing, taxicabs within the local jurisdiction.

SEC. 2. Section 53075.8 is added to the Government Code, to read:

53075.8. (a) The Legislature finds and declares that advertising and use of telephone service is essential for a taxicab transportation service to obtain business and conduct intrastate passenger transportation services. Unlawful advertisements by taxicabs operating without a valid taxicab certificate, license, or permit required by any ordinance has resulted in properly certificated, licensed, and permitted taxicab operators competing with these taxicabs operating without a proper taxicab certificate, license, or permit using unfair business practices. Taxicabs operating without a proper taxicab certificate, license, or permit have also exposed passengers to unscrupulous persons who portray themselves as lawful operators. Many of these taxicabs operating without a proper taxicab certificate, license, or permit have been found to have also been operating without insurance, or in an unsafe manner, thereby placing their passengers at risk.

(b) (1) The Legislature further finds and declares that the termination of telephone service utilized by taxicabs operating without proper authority is essential to ensure the public safety and welfare. Therefore, local agencies should take enforcement action, as specified in this section, to disconnect telephone service of unauthorized taxicab operators who unlawfully advertise passenger transportation services in yellow page directories and other publications. The enforcement actions provided for by this section are consistent with the decision of the California Supreme Court in Goldin v. Public Utilities Commission (1979) 23 Cal. 3d 638.

(2) For purposes of this section, a telephone corporation or telegraph corporation, or a corporation that holds a controlling interest in the telephone or telegraph corporation, or any business that is a subsidiary or affiliate of the telephone or telegraph corporation, that has the name and address of the subscriber to a telephone number being used by a unauthorized taxicab operator shall provide the local agency, or an authorized officer or employee of the local agency, upon demand, and the order of a magistrate, access to this information. A magistrate may only issue an order for the purposes of this subdivision, if the magistrate has made the findings required by paragraph (2) of subdivision (f).

(c) (1) In addition to any other remedies that may be available by law, if a local agency determines that a taxicab transportation service has operated within the local agency's jurisdiction in violation of the local agency's ordinance adopted under Section 53075.5, the local agency may notify the taxicab operator that the local agency intends to seek termination of the operator's telephone service. The notice shall be sent

by certified mail to the operator at the operator's last known mailing address. If the local agency is unable to determine the operator's mailing address, the local agency shall post the notice for at least 10 calendar days.

(2) The notice shall contain sufficient information to identify the taxicab transportation service, to inform the taxicab operator of the alleged violations of the local agency's ordinance, and the procedures for protesting the allegations contained in the notice.

(d) The taxicab operator, within 10 calendar days of the date of the notice, may contest the allegations contained in the notice by filing a written protest with the local agency. The local agency shall schedule a hearing on the protest within 21 calendar days of receiving the protest.

(e) The governing body of the local agency, or any person or persons as may be designated by the governing body, shall hear the protest. The local agency shall have both the burden of providing that the use made, or to be made, of the telephone service is to hold out to the public to perform, or to assist in performing, services as a taxicab transportation service, and that the telephone service is being, or is to be, used as an instrumentality, directly or indirectly, to violate, or assist in violating, the local agency's applicable ordinance. The taxicab operator, or his or her designated representative, shall be allowed to present evidence to answer or refute any allegations presented to the hearing body by the local agency. The hearing body may continue the hearing from time to time. Within 10 calendar days of the close of the hearing, the hearing body shall issue a written decision to uphold or reject, in whole or in part, the allegations contained in the notice. If the hearing body upholds the allegations in whole or in part, the written decision shall state either that the allegations are sufficient to justify seeking termination of the taxicab operator's telephone service, or that the allegations are not sufficient.

(f) (1) If the local agency does not receive a timely protest, or, after a protest hearing held pursuant to subdivision (d), the hearing body has determined that the allegations are sufficient to justify seeking termination of the telephone operator's telephone service, the local agency may seek termination of the taxicab operator's telephone service as provided in this section.

(2) A telephone or telegraph corporation shall refuse telephone service to a new subscriber and shall disconnect telephone service of an existing subscriber only after it is shown that other available enforcement remedies of the local agency have failed to terminate unlawful activities detrimental to the public welfare and safety, and upon receipt from any authorized officer or employee of the local agency of a writing, signed by a magistrate, as defined by Sections 807 and 808 of the Penal Code,

finding that probable cause exists to believe that the subscriber is advertising or holding out to the public to perform taxicab transportation services in violation of the local agency's applicable ordinance, or that the telephone service otherwise is being used or is to be used as an instrumentality, directly or indirectly, to violate or assist in violation of the laws requiring a taxicab operator to have valid operating authority. Included in the writing of the magistrate shall be a finding that there is probable cause to believe that the subject telephone facilities have been, or are to be, used in the commission or facilitation of holding out to the public to perform taxicab transportation services in violation of the local agency's applicable ordinance.

(g) The telephone or telegraph corporation, immediately upon refusal or disconnection of service in accordance with paragraph (2) of subdivision (f), shall notify the subscriber in writing that the refusal or disconnection of telephone service has been made pursuant to a request of a local agency and the writing of a magistrate, and shall include a copy of this section, a copy of the writing of the magistrate, and a statement that the customer of the subscriber may request information from the local agency concerning any provision of this section and the manner in which a complaint may be filed.

(h) The provisions of this section are an implied term of every contract for telephone service and a part of any application for telephone service. Applicants for, and subscribers and customers of, telephone service, have, as a matter of law, consented to the provisions of this section as a consideration for the furnishing of the telephone service.

(i) As used in this section, the terms "person," "customer," and "subscriber" include the subscriber to telephone service, any person using the telephone service of a subscriber, an applicant for telephone service, a corporation, a limited liability company, a partnership, an association, and includes their lessees and assigns.

(j) As used in this section, the following terms have the following meanings:

(1) "Authorized officer or employee of the local agency" includes any employee of the local agency designated by the local agency's governing body.

(2) "Local agency" has the same meaning as specified in subdivision (b) of Section 53075.7.

(3) "Telegraph corporation" has the same meaning as specified in Section 236 of the Public Utilities Code.

(4) "Telephone corporation" has the same meaning as specified in Section 234 of the Public Utilities Code.

SEC. 3. Section 53075.9 is added to the Government Code, to read:

53075.9. (a) Every taxicab transportation service shall include the number of its certificate, license, or permit in every written or oral advertisement of the services it offers.

(b) For purposes of this subdivision, "advertisement" includes, but is not limited to, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing the placement of any sign or marking on or in any building or structure, or in any media form, including newspaper, magazine, radiowave, satellite signal, or any electronic transmission, or in any directory soliciting taxicab transportation services subject to this chapter.

(c) Whenever the local agency, after a hearing, finds that any person or corporation is operating as a taxicab transportation service without a valid certificate, license, or permit or fails to include in any written or oral advertisement the number required by subdivision (a) of Section 50739, the local agency may impose a fine of not more than five thousand dollars ($5,000) for each violation. The local agency may assess the person or corporation an amount sufficient to cover the reasonable expense of investigation incurred by the local agency. The local agency may assess interest on any fine or assessment imposed, to commence on the day the payment of the fine or assessment becomes delinquent. All fines, assessments, and interest collected shall be deposited at least once each month in a fund established for the purpose of enforcing the provisions of this section.

(d) For purposes of this section, "local agency" has the same meaning as specified in subdivision (b) of Section 53075.7.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

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## CHAPTER 722

An act to amend Section 1368.015 of, and to add Section 1367.015 to, the Health and Safety Code, relating to health care service plans.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 1367.015 is added to the Health and Safety Code, to read:

1367.015. In addition to complying with subdivision (h) of Section 1367.01, in determining whether to approve, modify, or deny requests by providers prior to, retrospectively, or concurrent with the provision of health care services to enrollees, based in whole or in part on medical necessity, a health care service plan subject to Section 1367.01 shall not base decisions to deny requests by providers for authorization for mental health services or to deny claim reimbursement for mental health services on either of the following:

(a) Whether admission was voluntary or involuntary.

(b) The method of transportation to the health facility.

SEC. 2. Section 1368.015 of the Health and Safety Code is amended to read:

1368.015. (a) Effective July 1, 2003, every plan with a Web site shall provide an online form through its Web site that subscribers or enrollees can use to file with the plan a grievance, as described in Section 1368, online.

(b) The Web site shall have an easily accessible online grievance submission procedure that shall be accessible through a hyperlink on the Web site's home page or member services portal clearly identified as "GRIEVANCE FORM." All information submitted through this process shall be processed through a secure server.

(c) The online grievance submission process shall be approved by the Department of Managed Health Care and shall meet the following requirements:

(1) It shall utilize an online grievance form in HTML format that allows the user to enter required information directly into the form.

(2) It shall allow the subscriber or enrollee to preview the grievance that will be submitted, including the opportunity to edit the form prior to submittal.

(3) It shall include a current hyperlink to the California Department of Managed Health Care Web site, and shall include a statement in a legible font that is clearly distinguishable from other content on the page and is in a legible size and type, containing the following language:

"The California Department of Managed Health Care is responsible for regulating health care service plans. If you have a grievance against your health plan, you should first telephone your health plan at (insert health plan's telephone number) and use your health plan's grievance process before contacting the department. Utilizing this grievance procedure does not prohibit any potential legal rights or remedies that

may be available to you. If you need help with a grievance involving an emergency, a grievance that has not been satisfactorily resolved by your health plan, or a grievance that has remained unresolved for more than 30 days, you may call the department for assistance. You may also be eligible for an Independent Medical Review (IMR). If you are eligible for IMR, the IMR process will provide an impartial review of medical decisions made by a health plan related to the medical necessity of a proposed service or treatment, coverage decisions for treatments that are experimental or investigational in nature and payment disputes for emergency or urgent medical services. The department also has a toll-free telephone number (1-888-HMO-2219) and a TDD line (1-877-688-9891) for the hearing and speech impaired. The department's Internet Web site http://www.hmohelp.ca.gov has complaint forms, IMR application forms and instructions online."

The plan shall update the URL, hyperlink, and telephone numbers in this statement as necessary.

(d) A plan that utilizes a hardware system that does not have the minimum system requirements to support the software necessary to meet the requirements of this section is exempt from these requirements until January 1, 2006.

(e) For purposes of this section, the following terms shall have the following meanings:

(1) "Homepage" means the first page or welcome page of a Web site that serves as a starting point for navigation of the Web site.

(2) "HTML" means Hypertext Markup Language, the authoring language used to create documents on the World Wide Web, which defines the structure and layout of a Web document.

(3) "Hyperlink" means a special HTML code that allows text or graphics to serve as a link that, when clicked on, takes a user to another place in the same document, to another document, or to another Web site or Web page.

(4) "Member services portal" means the first page or welcome page of a Web site that can be reached directly by the Web site's homepage and that serves as a starting point for a navigation of member services available on the Web site.

(5) "Secure server" means an Internet connection to a Web site that encrypts and decrypts transmissions, protecting them against third-party tampering and allowing for the secure transfer of data.

(6) "URL" or "Uniform Resource Locator" means the address of a Web site or the location of a resource on the World Wide Web that allows a browser to locate and retrieve the Web site or the resource.

(7) "Web site" means a site or location on the World Wide Web.

(f) Every health care service plan, except a plan that primarily serves Medi-Cal or Healthy Families Program enrollees, shall maintain a Web site. For a health care service plan that provides coverage for professional mental health services, the Web site shall include, but not be limited to, providing information to subscribers, enrollees, and providers that will assist subscribers and enrollees in accessing mental health services.

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.

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## CHAPTER 723

An act to amend Section 17071.76 of the Education Code, relating to school construction.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 17071.76 of the Education Code is amended to read:

17071.76. (a) Whenever the existing school building capacity in any high school attendance area prevents another high school attendance area from receiving the maximum per-unhoused-pupil grant specified for the school district as a whole, the eligibility may be computed separately for each high school attendance area.

(b) For the purposes of eligibility, a school district may combine two or more adjacent high school attendance areas pursuant to the following conditions:

(1) The funding eligibility is for the construction of a high school, junior high school, or elementary school located or to be located in any of those high school attendance areas.

(2) The high school, junior high school, or elementary school to be constructed is to serve pupils residing in each of those high school attendance areas.

(3) The combined eligibility reflects the eligibility to which each of the high school attendance areas would otherwise be entitled, reflecting the proportion of projected pupil enrollment in the school to be constructed, as calculated under this chapter, from each of those attendance areas.

(c) The board may permit an elementary school district that is located within a high school district to utilize this section to determine eligibility for funding if all of the following conditions apply:

(1) The elementary school district average daily attendance is greater than 20,000 pupils.

(2) The elementary school district maintains at least 37 elementary schools, and the high school district maintains at least 12 high schools.

(3) The elementary school district has geographical boundaries encompassing more than 100 square miles.

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## CHAPTER 724

An act to amend Section 40512 of the Health and Safety Code, and to amend Section 9250.11 of the Vehicle Code, relating to air pollution.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 40512 of the Health and Safety Code is amended to read:

40512. (a) The south coast district board may impose a fee surcharge based on a formula associated with quantity of emissions and the effect of these emissions on ambient air quality within the south coast district to generate sufficient revenues to pay for any of its costs associated with the development and implementation of Section 40448.5.

(b) The total amount of funds collected from these surcharge fees shall not exceed five hundred thousand dollars ($500,000) in each of the first two fiscal years of the development or implementation of Section 40448.5. All surcharge fees received by the south coast district pursuant to this section shall be deposited in a clean fuels and transportation control measures account that shall be established and maintained by the south coast district.

(c) In subsequent fiscal years, the total amount of funds collected from these surcharge fees shall not exceed 25 percent of the amount of fees received the previous fiscal year from registered motor vehicle

owners pursuant to Section 9250.11 of the Vehicle Code. The surcharge fees received by the south coast district pursuant to this section shall be used to pay for the initial costs incurred by the Department of Motor Vehicles to implement the motor vehicle fee program established by Section 9250.11 of the Vehicle Code.

(d) All fees received by the south coast district pursuant to Section 9250.11 of the Vehicle Code shall be deposited in the clean fuels and transportation control measures account and shall be used solely for transportation and vehicular-related program activities within the program established by this section. Not more than 5 percent of the funds in the account shall be used for the south coast district's administrative costs.

SEC. 2. Section 9250.11 of the Vehicle Code is amended to read:

9250.11. (a) In addition to any other fees specified in this code and the Revenue and Taxation Code, a fee of one dollar ($1) may be imposed by the South Coast Air Quality Management District and shall be paid to the department, upon renewal of registration of any motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code and registered in the south coast district, except any vehicle that is expressly exempted under this code from the payment of registration fees.

(b) Prior to imposing fees pursuant to this section, the south coast district board shall approve the imposition of the fees through the adoption of a resolution by both a majority of the district board and a majority of the district board who are elected officials. After deducting all costs incurred pursuant to this section, the department shall distribute the additional fees collected pursuant to subdivision (a) to the south coast district, which shall use the fees to reduce air pollution from motor vehicles through implementation of Sections 40448.5 and 40448.5.1 of the Health and Safety Code.

(c) Any memorandum of understanding reached between the district and a county prior to the imposition of a one dollar ($1) fee by a county shall remain in effect and govern the allocation of the funds generated in that county by that fee.

(d) The South Coast Air Quality Management District shall adopt accounting procedures to ensure that revenues from motor vehicle registration fees are not commingled with other program revenues.

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## CHAPTER 725

An act relating to air pollution.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. (a) Increases in emissions of air pollutants at one stationary source located in the El Dorado County Air Quality Management District, to be determined by the El Dorado County Air Quality Management District pursuant to subdivision (d), may be offset by emission reductions credited to any stationary source located in the Sacramento Metropolitan Air Quality Management District, if both the stationary source in the El Dorado County Air Quality Management District and the stationary source or sources in the Sacramento Metropolitan Air Quality Management District are in the Sacramento metro federal nonattainment area.

(b) The requirements of Section 40709.6 of the Health and Safety Code, except subdivision (a) of that section, shall apply to any offsetting of emissions pursuant to this section.

(c) Before authorizing any offsetting of emissions pursuant to this section, the El Dorado County Air Quality Management District shall prepare and certify an environmental impact report pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, including an analysis of, and mitigation for, the environmental impacts.

(d) The El Dorado County Air Quality Management District shall select one and only one stationary source located in the district that shall be able to offset emissions pursuant to this section. That stationary source shall only be allowed to offset emissions pursuant to this section until January 1, 2010. However, any credits acquired pursuant to this section before that date may be applied to offset emissions from that stationary source in future years, at the discretion of the El Dorado County Air Quality Management District.

SEC. 2. Due to unique circumstances concerning the Sacramento metro federal nonatttainment area, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

# CHAPTER 726

An act to amend Sections 626, 626.2, 626.8, and 626.85 of the Penal Code, relating to entry onto school campuses.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 626 of the Penal Code is amended to read:

626. (a) As used in this chapter, the following definitions apply:

(1) "University" means the University of California, and includes any affiliated institution thereof and any campus or facility owned, operated, or controlled by the Regents of the University of California.

(2) "State university" means any California state university, and includes any campus or facility owned, operated, or controlled by the Trustees of the California State University.

(3) "Community college" means any public community college established pursuant to the Education Code.

(4) "School" means any public or private elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, or technical school or any public right-of-way situated immediately adjacent to school property or any other place if a teacher and one or more pupils are required to be at that place in connection with assigned school activities.

(5) "Chief administrative officer" means either of the following:

(A) The president of the university or a state university, the Chancellor of the California State University, or the officer designated by the Regents of the University of California or pursuant to authority granted by the Regents of the University of California to administer and be the officer in charge of a campus or other facility owned, operated, or controlled by the Regents of the University of California, or the superintendent of a community college district.

(B) For a school, the principal of the school, a person who possesses a standard supervision credential or a standard administrative credential and who is designated by the principal, or a person who carries out the same functions as a person who possesses a credential and who is designated by the principal.

(b) For the purpose of determining the penalty to be imposed pursuant to this chapter, the court may consider a written report from the Department of Justice containing information from its records showing

prior convictions; and that communication is prima facie evidence of the convictions, if the defendant admits them, regardless of whether or not the complaint commencing the proceedings has alleged prior convictions.

(c) As used in this code, the following definitions apply:

(1) "Pupil currently attending school" means a pupil enrolled in a public or private school who has been in attendance or has had an excused absence, for purposes of attendance accounting, for a majority of the days for which the pupil has been enrolled in that school during the school year.

(2) "Safe school zone" means an area that encompasses any of the following places during regular school hours or within 60 minutes before or after the schoolday or 60 minutes before or after a school-sponsored activity at the schoolsite:

(A) Within 100 feet of a bus stop, whether or not a public transit bus stop, that has been publicly designated by the school district as a schoolbus stop. This definition applies only if the school district has chosen to mark the bus stop as a schoolbus stop.

(B) Within 1,500 feet of a school, as designated by the school district.

SEC. 2. Section 626.2 of the Penal Code is amended to read:

626.2. Every student or employee who, after a hearing, has been suspended or dismissed from a community college, a state university, the university, or a public or private school for disrupting the orderly operation of the campus or facility of the institution, and as a condition of the suspension or dismissal has been denied access to the campus or facility, or both, of the institution for the period of the suspension or in the case of dismissal for a period not to exceed one year; who has been served by registered or certified mail, at the last address given by that person, with a written notice of the suspension or dismissal and condition; and who willfully and knowingly enters upon the campus or facility of the institution to which he or she has been denied access, without the express written permission of the chief administrative officer of the campus or facility, is guilty of a misdemeanor and shall be punished as follows:

(a) Upon a first conviction, by a fine of not exceeding five hundred dollars ($500), by imprisonment in the county jail for a period of not more than six months, or by both the fine and imprisonment.

(b) If the defendant has been previously convicted once of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both that imprisonment and a fine of not exceeding five hundred dollars ($500), and shall not be released on probation, parole, or any other basis until he or she has served not less than 10 days.

(c) If the defendant has been previously convicted two or more times of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 90 days or more than six months, or by both that imprisonment and a fine of not exceeding five hundred dollars ($500), and shall not be released on probation, parole, or any other basis until he or she has served not less than 90 days.

Knowledge shall be presumed if notice has been given as prescribed in this section. The presumption established by this section is a presumption affecting the burden of proof.

SEC. 3. Section 626.8 of the Penal Code is amended to read:

626.8. (a) Any person who comes into any school building or upon any school ground, or street, sidewalk, or public way adjacent thereto, without lawful business thereon, and whose presence or acts interfere with the peaceful conduct of the activities of the school or disrupt the school or its pupils or school activities, is guilty of a misdemeanor if he or she does any of the following:

(1) Remains there after being asked to leave by the chief administrative official of that school or his or her designated representative, or by a person employed as a member of a security or police department of a school district pursuant to Section 39670 of the Education Code, or a city police officer, or sheriff or deputy sheriff, or a Department of the California Highway Patrol peace officer.

(2) Reenters or comes upon that place within seven days of being asked to leave by a person specified in paragraph (1).

(3) Has otherwise established a continued pattern of unauthorized entry.

This section shall not be utilized to impinge upon the lawful exercise of constitutionally protected rights of freedom of speech or assembly.

(b) Punishment for violation of this section shall be as follows:

(1) Upon a first conviction by a fine of not exceeding five hundred dollars ($500), by imprisonment in the county jail for a period of not more than six months, or by both the fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both imprisonment and a fine of not exceeding five hundred dollars ($500), and shall not be released on probation, parole, or any other basis until he or she has served not less than 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 90 days or more than six months, or by both imprisonment and a fine of not

exceeding five hundred dollars ($500), and shall not be released on probation, parole, or any other basis until he or she has served not less than 90 days.

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

(1) "Lawful business" means a reason for being present upon school property which is not otherwise prohibited by statute, by ordinance, or by any regulation adopted pursuant to statute or ordinance.

(2) "Continued pattern of unauthorized entry" means that on at least two prior occasions in the same school year the defendant came into any school building or upon any school ground, or street, sidewalk, or public way adjacent thereto, without lawful business thereon, and his or her presence or acts interfered with the peaceful conduct of the activities of the school or disrupted the school or its pupils or school activities, and the defendant was asked to leave by a person specified in paragraph (1) of subdivision (a).

(3) "School" means any preschool or public or private school having any of grades kindergarten through 12, inclusive.

(d) When a person is directed to leave pursuant to paragraph (1) of subdivision (a), the person directing him or her to leave shall inform the person that if he or she reenters the place within seven days he or she will be guilty of a crime.

SEC. 4. Section 626.85 of the Penal Code is amended to read:

626.85. (a) Any specified drug offender who, at any time, comes into any school building or upon any school ground, or adjacent street, sidewalk, or public way, unless the person is a parent or guardian of a child attending that school and his or her presence is during any school activity, or is a student at the school and his or her presence is during any school activity, or has prior written permission for the entry from the chief administrative officer of that school, is guilty of a misdemeanor if he or she does any of the following:

(1) Remains there after being asked to leave by the chief administrative officer of that school or his or her designated representative, or by a person employed as a member of a security or police department of a school district pursuant to Section 39670 of the Education Code, or a city police officer, sheriff, or a Department of the California Highway Patrol peace officer.

(2) Reenters or comes upon that place within seven days of being asked to leave by a person specified in paragraph (1) of subdivision (a).

(3) Has otherwise established a continued pattern of unauthorized entry.

This section shall not be utilized to impinge upon the lawful exercise of constitutionally protected rights of freedom of speech or assembly,

or to prohibit any lawful act, including picketing, strikes, or collective bargaining.

(b) Punishment for violation of this section shall be as follows:

(1) Upon a first conviction, by a fine not exceeding one thousand dollars ($1,000), by imprisonment in the county jail for a period of not more than six months, or by both that fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both imprisonment and a fine not exceeding one thousand dollars ($1,000), and the defendant shall not be released on probation, parole, or any other basis until he or she has served not less than 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 90 days or more than six months, or by both imprisonment and a fine not exceeding one thousand dollars ($1,000), and the defendant shall not be released on probation, parole, or any other basis until he or she has served not less than 90 days.

(c) As used in this section:

(1) "Specified drug offender" means any person who, within the immediately preceding three years, has a felony or misdemeanor conviction of either:

(A) Unlawful sale, or possession for sale, of any controlled substance, as defined in Section 11007 of the Health and Safety Code.

(B) Unlawful use, possession, or being under the influence of any controlled substance, as defined in Section 11007 of the Health and Safety Code, where that conviction was based on conduct which occurred, wholly or partly, in any school building or upon any school ground, or adjacent street, sidewalk, or public way.

(2) "Continued pattern of unauthorized entry" means that on at least two prior occasions in the same calendar year the defendant came into any school building or upon any school ground, or adjacent street, sidewalk, or public way, and the defendant was asked to leave by a person specified in paragraph (1) of subdivision (a).

(3) "School" means any preschool or public or private school having any of grades kindergarten to 12, inclusive.

(4) "School activity" means and includes any school session, any extracurricular activity or event sponsored by or participated in by the school, and the 30-minute periods immediately preceding and following any session, activity, or event.

(d) When a person is directed to leave pursuant to paragraph (1) of subdivision (a), the person directing him or her to leave shall inform the

person that if he or she reenters the place he or she will be guilty of a crime.

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## CHAPTER 727

An act to add and repeal Section 8276.4 of the Fish and Game Code, relating to Dungeness crab.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 8276.4 is added to the Fish and Game Code, to read:

8276.4. (a) The Ocean Protection Council shall make a grant, upon appropriation of funding by the Legislature, for the development and administration of a Dungeness crab task force. The membership of the Dungeness crab task force shall be comprised of all of the following:

(1) Two members representing sport fishing interests.

(2) Two members representing crab processing interests.

(3) One member representing commercial passenger fishing vessel interests.

(4) Two ex officio members representing nongovernmental organization interests.

(5) One ex officio representative of Sea Grant.

(6) Two ex officio members representing the department.

(7) Seventeen members representing commercial fishery interests, elected by licensed persons possessing valid Dungeness crab permits in their respective ports and production levels, as follows:

(A) Four members from Crescent City.

(B) One member from Trinidad.

(C) Two members from Eureka.

(D) Two members from Fort Bragg.

(E) Two members from Bodega Bay.

(F) Two members from San Francisco.

(G) Two members from Half Moon Bay.

(H) One member from ports south of Half Moon Bay.

(I) One member who has a valid California nonresident crab permit.

(b) For ports with more than one representative, elected members and their alternates shall represent both the upper and lower, and in some cases middle, production levels. Production levels shall be based on the

average landing during the previous five years, of valid crab permitholders who landed a minimum of 25,000 pounds of crab during the same period.

(c) The Dungeness crab task force shall do all of the following:

(1) Under the guidance of a professional facilitator hired by the Ocean Protection Council for this purpose, review and evaluate Dungeness crab management measures with the objective of making recommendations to the Joint Committee on Fisheries and Aquaculture, the department, and the commission no later than January 15, 2010.

(2) Make recommendations, including, but not limited to, the need for a permanent Dungeness crab advisory committee, refining sport and commercial Dungeness crab management, establishing a Dungeness crab marketing commission, and the need for statutory changes to accomplish task force objectives.

(3) In considering Dungeness crab management options, prioritize the review of pot limit restriction options, harvest allocation, current and future sport and commercial fishery effort, season modifications, essential fishery information needs, and short- and long-term objectives for improved management.

(d) The task force may establish subcommittees of specific user groups from the task force membership to focus on issues specific to sport fishing, commercial harvest, or crab processing. The subcommittees shall report their recommendations, if any, to the task force.

(e) The Ocean Protection Council may include in a grant, funding to cover department staffing costs, as well as task force participant travel.

(f) A recommendation shall be forwarded to the Joint Committee on Fisheries and Aquaculture, the department, and the commission upon an affirmative vote of at least two-thirds of the task force members.

(g) The task force shall cease to exist on January 1, 2011.

(h) Eligibility to take crab in California waters and offshore for commercial purposes may be subject to restrictions, including, but not limited to, restrictions on the number of traps utilized by that person, if either of the following occurs:

(1) A person holds a Dungeness crab permit with landings of less than 5,000 pounds between November 15, 2003, and July 15, 2008, inclusive.

(2) A person has purchased a Dungeness crab permit on or after July 15, 2008, from a permitholder who landed less than 5,000 pounds between November 15, 2003, and July 15, 2008, inclusive.

(i) This section shall remain in effect only until January 1, 2011, and as of that date is repealed unless a later enacted statute, which is enacted

before January 1, 2011, deletes or extends that date, or it is rendered inoperative by commission regulations.

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## CHAPTER 728

An act to amend Sections 65080, 65400, 65583, 65584.01, 65584.02, 65584.04, 65587, and 65588 of, and to add Sections 14522.1, 14522.2, and 65080.01 to, the Government Code, and to amend Section 21061.3 of, to add Section 21159.28 to, and to add Chapter 4.2 (commencing with Section 21155) to Division 13 of, the Public Resources Code, relating to environmental quality.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The transportation sector contributes over 40 percent of the greenhouse gas emissions in the State of California; automobiles and light trucks alone contribute almost 30 percent. The transportation sector is the single largest contributor of greenhouse gases of any sector.

(b) In 2006, the Legislature passed and the Governor signed Assembly Bill 32 (Chapter 488 of the Statutes of 2006; hereafter AB 32), which requires the State of California to reduce its greenhouse gas emissions to 1990 levels no later than 2020. According to the State Air Resources Board, in 1990 greenhouse gas emissions from automobiles and light trucks were 108 million metric tons, but by 2004 these emissions had increased to 135 million metric tons.

(c) Greenhouse gas emissions from automobiles and light trucks can be substantially reduced by new vehicle technology and by the increased use of low carbon fuel. However, even taking these measures into account, it will be necessary to achieve significant additional greenhouse gas reductions from changed land use patterns and improved transportation. Without improved land use and transportation policy, California will not be able to achieve the goals of AB 32.

(d) In addition, automobiles and light trucks account for 50 percent of air pollution in California and 70 percent of its consumption of petroleum. Changes in land use and transportation policy, based upon established modeling methodology, will provide significant assistance to California's goals to implement the federal and state Clean Air Acts and to reduce its dependence on petroleum.

(e) Current federal law requires regional transportation planning agencies to include a land use allocation in the regional transportation plan. Some regions have engaged in a regional "blueprint" process to prepare the land use allocation. This process has been open and transparent. The Legislature intends, by this act, to build upon that successful process by requiring metropolitan planning organizations to develop and incorporate a sustainable communities strategy which will be the land use allocation in the regional transportation plan.

(f) The California Environmental Quality Act (CEQA) is California's premier environmental statute. New provisions of CEQA should be enacted so that the statute encourages developers to submit applications and local governments to make land use decisions that will help the state achieve its climate goals under AB 32, assist in the achievement of state and federal air quality standards, and increase petroleum conservation.

(g) Current planning models and analytical techniques used for making transportation infrastructure decisions and for air quality planning should be able to assess the effects of policy choices, such as residential development patterns, expanded transit service and accessibility, the walkability of communities, and the use of economic incentives and disincentives.

(h) The California Transportation Commission has developed guidelines for travel demand models used in the development of regional transportation plans. This act assures the commission's continued oversight of the guidelines, as the commission may update them as needed from time to time.

(i) California local governments need a sustainable source of funding to be able to accommodate patterns of growth consistent with the state's climate, air quality, and energy conservation goals.

SEC. 2. Section 14522.1 is added to the Government Code, to read:

14522.1. (a) (1) The commission, in consultation with the department and the State Air Resources Board, shall maintain guidelines for travel demand models used in the development of regional transportation plans by federally designated metropolitan planning organizations.

(2) Any revision of the guidelines shall include the formation of an advisory committee that shall include representatives of the metropolitan planning organizations, the department, organizations knowledgeable in the creation and use of travel demand models, local governments, and organizations concerned with the impacts of transportation investments on communities and the environment. Before amending the guidelines, the commission shall hold two workshops on the guidelines, one in northern California and one in southern California. The workshops shall be incorporated into regular commission meetings.

(b) The guidelines shall, at a minimum and to the extent practicable, taking into account such factors as the size and available resources of the metropolitan planning organization, account for all of the following:

(1) The relationship between land use density and household vehicle ownership and vehicle miles traveled in a way that is consistent with statistical research.

(2) The impact of enhanced transit service levels on household vehicle ownership and vehicle miles traveled.

(3) Changes in travel and land development likely to result from highway or passenger rail expansion.

(4) Mode splitting that allocates trips between automobile, transit, carpool, and bicycle and pedestrian trips. If a travel demand model is unable to forecast bicycle and pedestrian trips, another means may be used to estimate those trips.

(5) Speed and frequency, days, and hours of operation of transit service.

SEC. 3. Section 14522.2 is added to the Government Code, to read:

14522.2. (a) A metropolitan planning organization shall disseminate the methodology, results, and key assumptions of whichever travel demand models it uses in a way that would be useable and understandable to the public.

(b) Transportation planning agencies other than those identified in paragraph (1) of subdivision (a) of Section 14522.1, cities, and counties are encouraged, but not required, to utilize travel demand models that are consistent with the guidelines in the development of their regional transportation plans.

SEC. 4. Section 65080 of the Government Code is amended to read:

65080. (a) Each transportation planning agency designated under Section 29532 or 29532.1 shall prepare and adopt a regional transportation plan directed at achieving a coordinated and balanced regional transportation system, including, but not limited to, mass transportation, highway, railroad, maritime, bicycle, pedestrian, goods movement, and aviation facilities and services. The plan shall be action-oriented and pragmatic, considering both the short-term and long-term future, and shall present clear, concise policy guidance to local and state officials. The regional transportation plan shall consider factors specified in Section 134 of Title 23 of the United States Code. Each transportation planning agency shall consider and incorporate, as appropriate, the transportation plans of cities, counties, districts, private organizations, and state and federal agencies.

(b) The regional transportation plan shall be an internally consistent document and shall include all of the following:

(1) A policy element that describes the transportation issues in the region, identifies and quantifies regional needs, and describes the desired short-range and long-range transportation goals, and pragmatic objective and policy statements. The objective and policy statements shall be consistent with the funding estimates of the financial element. The policy element of transportation planning agencies with populations that exceed 200,000 persons may quantify a set of indicators including, but not limited to, all of the following:

(A) Measures of mobility and traffic congestion, including, but not limited to, daily vehicle hours of delay per capita and vehicle miles traveled per capita.

(B) Measures of road and bridge maintenance and rehabilitation needs, including, but not limited to, roadway pavement and bridge conditions.

(C) Measures of means of travel, including, but not limited to, percentage share of all trips (work and nonwork) made by all of the following:

(i) Single occupant vehicle.

(ii) Multiple occupant vehicle or carpool.

(iii) Public transit including commuter rail and intercity rail.

(iv) Walking.

(v) Bicycling.

(D) Measures of safety and security, including, but not limited to, total injuries and fatalities assigned to each of the modes set forth in subparagraph (C).

(E) Measures of equity and accessibility, including, but not limited to, percentage of the population served by frequent and reliable public transit, with a breakdown by income bracket, and percentage of all jobs accessible by frequent and reliable public transit service, with a breakdown by income bracket.

(F) The requirements of this section may be met utilizing existing sources of information. No additional traffic counts, household surveys, or other sources of data shall be required.

(2) A sustainable communities strategy prepared by each metropolitan planning organization as follows:

(A) No later than September 30, 2010, the State Air Resources Board shall provide each affected region with greenhouse gas emission reduction targets for the automobile and light truck sector for 2020 and 2035, respectively.

(i) No later than January 31, 2009, the state board shall appoint a Regional Targets Advisory Committee to recommend factors to be considered and methodologies to be used for setting greenhouse gas emission reduction targets for the affected regions. The committee shall be composed of representatives of the metropolitan planning

organizations, affected air districts, the League of California Cities, the California State Association of Counties, local transportation agencies, and members of the public, including homebuilders, environmental organizations, planning organizations, environmental justice organizations, affordable housing organizations, and others. The advisory committee shall transmit a report with its recommendations to the state board no later than September 30, 2009. In recommending factors to be considered and methodologies to be used, the advisory committee may consider any relevant issues, including, but not limited to, data needs, modeling techniques, growth forecasts, the impacts of regional jobs-housing balance on interregional travel and greenhouse gas emissions, economic and demographic trends, the magnitude of greenhouse gas reduction benefits from a variety of land use and transportation strategies, and appropriate methods to describe regional targets and to monitor performance in attaining those targets. The state board shall consider the report prior to setting the targets.

(ii) Prior to setting the targets for a region, the state board shall exchange technical information with the metropolitan planning organization and the affected air district. The metropolitan planning organization may recommend a target for the region. The metropolitan planning organization shall hold at least one public workshop within the region after receipt of the report from the advisory committee. The state board shall release draft targets for each region no later than June 30, 2010.

(iii) In establishing these targets, the state board shall take into account greenhouse gas emission reductions that will be achieved by improved vehicle emission standards, changes in fuel composition, and other measures it has approved that will reduce greenhouse gas emissions in the affected regions, and prospective measures the state board plans to adopt to reduce greenhouse gas emissions from other greenhouse gas emission sources as that term is defined in subdivision (i) of Section 38505 of the Health and Safety Code and consistent with the regulations promulgated pursuant to the California Global Warming Solutions Act of 2006 (Division 12.5 (commencing with Section 38500) of the Health and Safety Code).

(iv) The state board shall update the regional greenhouse gas emission reduction targets every eight years consistent with each metropolitan planning organization's timeframe for updating its regional transportation plan under federal law until 2050. The state board may revise the targets every four years based on changes in the factors considered under clause (iii) above. The state board shall exchange technical information with the Department of Transportation, metropolitan planning organizations, local governments, and affected air districts and engage in a consultative

process with public and private stakeholders prior to updating these targets.

(v) The greenhouse gas emission reduction targets may be expressed in gross tons, tons per capita, tons per household, or in any other metric deemed appropriate by the state board.

(B) Each metropolitan planning organization shall prepare a sustainable communities strategy, subject to the requirements of Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations, including the requirement to utilize the most recent planning assumptions considering local general plans and other factors. The sustainable communities strategy shall (i) identify the general location of uses, residential densities, and building intensities within the region; (ii) identify areas within the region sufficient to house all the population of the region, including all economic segments of the population, over the course of the planning period of the regional transportation plan taking into account net migration into the region, population growth, household formation and employment growth; (iii) identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region pursuant to Section 65584; (iv) identify a transportation network to service the transportation needs of the region; (v) gather and consider the best practically available scientific information regarding resource areas and farmland in the region as defined in subdivisions (a) and (b) of Section 65080.01; (vi) consider the state housing goals specified in Sections 65580 and 65581; (vii) set forth a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce the greenhouse gas emissions from automobiles and light trucks to achieve, if there is a feasible way to do so, the greenhouse gas emission reduction targets approved by the state board; and (viii) allow the regional transportation plan to comply with Section 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506). Within the jurisdiction of the Metropolitan Transportation Commission, as defined by Section 66502, the Association of Bay Area Governments shall be responsible for clauses (i), (ii), (iii), (v), and (vi), the Metropolitan Transportation Commission shall be responsible for clauses (iv) and (viii); and the Association of Bay Area Governments and the Metropolitan Transportation Commission shall jointly be responsible for clause (vii).

(C) In the region served by the multicounty transportation planning agency described in Section 130004 of the Public Utilities Code, a subregional council of governments and the county transportation commission may work together to propose the sustainable communities strategy and an alternative planning strategy, if one is prepared pursuant

to subparagraph (H), for that subregional area. The metropolitan planning organization may adopt a framework for a subregional sustainable communities strategy or a subregional alternative planning strategy to address the intraregional land use, transportation, economic, air quality, and climate policy relationships. The metropolitan planning organization shall include the subregional sustainable communities strategy for that subregion in the regional sustainable communities strategy to the extent consistent with this section and federal law and approve the subregional alternative planning strategy, if one is prepared pursuant to subparagraph (H), for that subregional area to the extent consistent with this section. The metropolitan planning organization shall develop overall guidelines, create public participation plans pursuant to subparagraph (E), ensure coordination, resolve conflicts, make sure that the overall plan complies with applicable legal requirements, and adopt the plan for the region.

(D) The metropolitan planning organization shall conduct at least two informational meetings in each county within the region for members of the board of supervisors and city councils on the sustainable communities strategy and alternative planning strategy, if any. The metropolitan planning organization may conduct only one informational meeting if it is attended by representatives of the county board of supervisors and city council members representing a majority of the cities representing a majority of the population in the incorporated areas of that county. Notice of the meeting shall be sent to the clerk of the board of supervisors and to each city clerk. The purpose of the meeting shall be to present a draft of the sustainable communities strategy to the members of the board of supervisors and the city council members in that county and to solicit and consider their input and recommendations.

(E) Each metropolitan planning organization shall adopt a public participation plan, for development of the sustainable communities strategy and an alternative planning strategy, if any, that includes all of the following:

(i) Outreach efforts to encourage the active participation of a broad range of stakeholder groups in the planning process, consistent with the agency's adopted Federal Public Participation Plan, including, but not limited to, affordable housing advocates, transportation advocates, neighborhood and community groups, environmental advocates, home builder representatives, broad-based business organizations, landowners, commercial property interests, and homeowner associations.

(ii) Consultation with congestion management agencies, transportation agencies, and transportation commissions.

(iii) Workshops throughout the region to provide the public with the information and tools necessary to provide a clear understanding of the issues and policy choices. At least one workshop shall be held in each

county in the region. For counties with a population greater than 500,000, at least three workshops shall be held. Each workshop, to the extent practicable, shall include urban simulation computer modeling to create visual representations of the sustainable communities strategy and the alternative planning strategy.

(iv) Preparation and circulation of a draft sustainable communities strategy and an alternative planning strategy, if one is prepared, not less than 55 days before adoption of a final regional transportation plan.

(v) At least three public hearings on the draft sustainable communities strategy in the regional transportation plan and alternative planning strategy, if one is prepared. If the metropolitan transportation organization consists of a single county, at least two public hearings shall be held. To the maximum extent feasible, the hearings shall be in different parts of the region to maximize the opportunity for participation by members of the public throughout the region.

(vi) A process for enabling members of the public to provide a single request to receive notices, information, and updates.

(F) In preparing a sustainable communities strategy, the metropolitan planning organization shall consider spheres of influence that have been adopted by the local agency formation commissions within its region.

(G) Prior to adopting a sustainable communities strategy, the metropolitan planning organization shall quantify the reduction in greenhouse gas emissions projected to be achieved by the sustainable communities strategy and set forth the difference, if any, between the amount of that reduction and the target for the region established by the state board.

(H) If the sustainable communities strategy, prepared in compliance with subparagraph (B) or (C), is unable to reduce greenhouse gas emissions to achieve the greenhouse gas emission reduction targets established by the state board, the metropolitan planning organization shall prepare an alternative planning strategy to the sustainable communities strategy showing how those greenhouse gas emission targets would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies. The alternative planning strategy shall be a separate document from the regional transportation plan, but it may be adopted concurrently with the regional transportation plan. In preparing the alternative planning strategy, the metropolitan planning organization:

(i) Shall identify the principal impediments to achieving the targets within the sustainable communities strategy.

(ii) May include an alternative development pattern for the region pursuant to subparagraphs (B) to (F), inclusive.

(iii) Shall describe how the greenhouse gas emission reduction targets would be achieved by the alternative planning strategy, and why the development pattern, measures, and policies in the alternative planning strategy are the most practicable choices for achievement of the greenhouse gas emission reduction targets.

(iv) An alternative development pattern set forth in the alternative planning strategy shall comply with Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations, except to the extent that compliance will prevent achievement of the greenhouse gas emission reduction targets approved by the state board.

(v) For purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), an alternative planning strategy shall not constitute a land use plan, policy, or regulation, and the inconsistency of a project with an alternative planning strategy shall not be a consideration in determining whether a project may have an environmental effect.

(I) (i) Prior to starting the public participation process adopted pursuant to subparagraph (E) of paragraph (2) of subdivision (b) of Section 65080, the metropolitan planning organization shall submit a description to the state board of the technical methodology it intends to use to estimate the greenhouse gas emissions from its sustainable communities strategy and, if appropriate, its alternative planning strategy. The state board shall respond to the metropolitan planning organization in a timely manner with written comments about the technical methodology, including specifically describing any aspects of that methodology it concludes will not yield accurate estimates of greenhouse gas emissions, and suggested remedies. The metropolitan planning organization is encouraged to work with the state board until the state board concludes that the technical methodology operates accurately.

(ii) After adoption, a metropolitan planning organization shall submit a sustainable communities strategy or an alternative planning strategy, if one has been adopted, to the state board for review, including the quantification of the greenhouse gas emission reductions the strategy would achieve and a description of the technical methodology used to obtain that result. Review by the state board shall be limited to acceptance or rejection of the metropolitan planning organization's determination that the strategy submitted would, if implemented, achieve the greenhouse gas emission reduction targets established by the state board. The state board shall complete its review within 60 days.

(iii) If the state board determines that the strategy submitted would not, if implemented, achieve the greenhouse gas emission reduction targets, the metropolitan planning organization shall revise its strategy or adopt an alternative planning strategy, if not previously adopted, and

submit the strategy for review pursuant to clause (ii). At a minimum, the metropolitan planning organization must obtain state board acceptance that an alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets established for that region by the state board.

(J) Neither a sustainable communities strategy nor an alternative planning strategy regulates the use of land, nor, except as provided by subparagraph (I), shall either one be subject to any state approval. Nothing in a sustainable communities strategy shall be interpreted as superseding the exercise of the land use authority of cities and counties within the region. Nothing in this section shall be interpreted to limit the state board's authority under any other provision of law. Nothing in this section shall be interpreted to authorize the abrogation of any vested right whether created by statute or by common law. Nothing in this section shall require a city's or county's land use policies and regulations, including its general plan, to be consistent with the regional transportation plan or an alternative planning strategy. Nothing in this section requires a metropolitan planning organization to approve a sustainable communities strategy that would be inconsistent with Part 450 of Title 23 of, or Part 93 of Title 40 of, the Code of Federal Regulations and any administrative guidance under those regulations. Nothing in this section relieves a public or private entity or any person from compliance with any other local, state, or federal law.

(K) Nothing in this section requires projects programmed for funding on or before December 31, 2011, to be subject to the provisions of this paragraph if they (i) are contained in the 2007 or 2009 Federal Statewide Transportation Improvement Program, (ii) are funded pursuant to Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2, or (iii) were specifically listed in a ballot measure prior to December 31, 2008, approving a sales tax increase for transportation projects. Nothing in this section shall require a transportation sales tax authority to change the funding allocations approved by the voters for categories of transportation projects in a sales tax measure adopted prior to December 31, 2010. For purposes of this subparagraph, a transportation sales tax authority is a district, as defined in Section 7252 of the Revenue and Taxation Code, that is authorized to impose a sales tax for transportation purposes.

(L) A metropolitan planning organization, or a regional transportation planning agency not within a metropolitan planning organization, that is required to adopt a regional transportation plan not less than every five years, may elect to adopt the plan not less than every four years. This election shall be made by the board of directors of the metropolitan planning organization or regional transportation planning agency no

later than June 1, 2009, or thereafter 54 months prior to the statutory deadline for the adoption of housing elements for the local jurisdictions within the region, after a public hearing at which comments are accepted from members of the public and representatives of cities and counties within the region covered by the metropolitan planning organization or regional transportation planning agency. Notice of the public hearing shall be given to the general public and by mail to cities and counties within the region no later than 30 days prior to the date of the public hearing. Notice of election shall be promptly given to the Department of Housing and Community Development. The metropolitan planning organization or the regional transportation planning agency shall complete its next regional transportation plan within three years of the notice of election.

(M) Two or more of the metropolitan planning organizations for Fresno County, Kern County, Kings County, Madera County, Merced County, San Joaquin County, Stanislaus County, and Tulare County may work together to develop and adopt multiregional goals and policies that may address interregional land use, transportation, economic, air quality, and climate relationships. The participating metropolitan planning organizations may also develop a multiregional sustainable communities strategy, to the extent consistent with federal law, or an alternative planning strategy for adoption by the metropolitan planning organizations. Each participating metropolitan planning organization shall consider any adopted multiregional goals and policies in the development of a sustainable communities strategy and, if applicable, an alternative planning strategy for its region.

(3) An action element that describes the programs and actions necessary to implement the plan and assigns implementation responsibilities. The action element may describe all transportation projects proposed for development during the 20-year or greater life of the plan. The action element shall consider congestion management programming activities carried out within the region.

(4) (A) A financial element that summarizes the cost of plan implementation constrained by a realistic projection of available revenues. The financial element shall also contain recommendations for allocation of funds. A county transportation commission created pursuant to Section 130000 of the Public Utilities Code shall be responsible for recommending projects to be funded with regional improvement funds, if the project is consistent with the regional transportation plan. The first five years of the financial element shall be based on the five-year estimate of funds developed pursuant to Section 14524. The financial element may recommend the development of specified new sources of revenue, consistent with the policy element and action element.

(B) The financial element of transportation planning agencies with populations that exceed 200,000 persons may include a project cost breakdown for all projects proposed for development during the 20-year life of the plan that includes total expenditures and related percentages of total expenditures for all of the following:

(i) State highway expansion.

(ii) State highway rehabilitation, maintenance, and operations.

(iii) Local road and street expansion.

(iv) Local road and street rehabilitation, maintenance, and operation.

(v) Mass transit, commuter rail, and intercity rail expansion.

(vi) Mass transit, commuter rail, and intercity rail rehabilitation, maintenance, and operations.

(vii) Pedestrian and bicycle facilities.

(viii) Environmental enhancements and mitigation.

(ix) Research and planning.

(x) Other categories.

(C) The metropolitan planning organization or county transportation agency, whichever entity is appropriate, shall consider financial incentives for cities and counties that have resource areas or farmland, as defined in Section 65080.01, for the purposes of, for example, transportation investments for the preservation and safety of the city street or county road system and farm to market and interconnectivity transportation needs. The metropolitan planning organization or county transportation agency, whichever entity is appropriate, shall also consider financial assistance for counties to address countywide service responsibilities in counties that contribute towards the greenhouse gas emission reduction targets by implementing policies for growth to occur within their cities.

(c) Each transportation planning agency may also include other factors of local significance as an element of the regional transportation plan, including, but not limited to, issues of mobility for specific sectors of the community, including, but not limited to, senior citizens.

(d) Except as otherwise provided in this subdivision, each transportation planning agency shall adopt and submit, every four years, an updated regional transportation plan to the California Transportation Commission and the Department of Transportation. A transportation planning agency located in a federally designated air quality attainment area or that does not contain an urbanized area may at its option adopt and submit a regional transportation plan every five years. When applicable, the plan shall be consistent with federal planning and programming requirements and shall conform to the regional transportation plan guidelines adopted by the California Transportation Commission. Prior to adoption of the regional transportation plan, a

public hearing shall be held after the giving of notice of the hearing by publication in the affected county or counties pursuant to Section 6061.

SEC. 5. Section 65080.01 is added to the Government Code, to read:

65080.01. The following definitions apply to terms used in Section 65080:

(a) "Resource areas" include (1) all publicly owned parks and open space; (2) open space or habitat areas protected by natural community conservation plans, habitat conservation plans, and other adopted natural resource protection plans; (3) habitat for species identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies or protected by the federal Endangered Species Act of 1973, the California Endangered Species Act, or the Native Plan Protection Act; (4) lands subject to conservation or agricultural easements for conservation or agricultural purposes by local governments, special districts, or nonprofit 501(c)(3) organizations, areas of the state designated by the State Mining and Geology Board as areas of statewide or regional significance pursuant to Section 2790 of the Public Resources Code, and lands under Williamson Act contracts; (5) areas designated for open-space or agricultural uses in adopted open-space elements or agricultural elements of the local general plan or by local ordinance; (6) areas containing biological resources as described in Appendix G of the CEQA Guidelines that may be significantly affected by the sustainable communities strategy or the alternative planning strategy; and (7) an area subject to flooding where a development project would not, at the time of development in the judgment of the agency, meet the requirements of the National Flood Insurance Program or where the area is subject to more protective provisions of state law or local ordinance.

(b) "Farmland" means farmland that is outside all existing city spheres of influence or city limits as of January 1, 2008, and is one of the following:

(1) Classified as prime or unique farmland or farmland of statewide importance.

(2) Farmland classified by a local agency in its general plan that meets or exceeds the standards for prime or unique farmland or farmland of statewide importance.

(c) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

(d) "Consistent" shall have the same meaning as that term is used in Section 134 of Title 23 of the United States Code.

(e) "Internally consistent" means that the contents of the elements of the regional transportation plan must be consistent with each other.

SEC. 6. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). Prior to and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

(C) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order

or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 7. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

(i) The maximum number of beds or persons permitted to be served nightly by the facility.

(ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.

(iii) The size and location of exterior and interior onsite waiting and client intake areas.

(iv) The provision of onsite management.

(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.

(vi) The length of stay.

(vii) Lighting.

(viii) Security during hours that the emergency shelter is in operation.

(B) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(C) A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

(D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(7) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter. The need for emergency shelter shall be assessed based on annual and seasonal need. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period.

(8) An analysis of opportunities for energy conservation with respect to residential development.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue

bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the

maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, rezoning of those sites, including adoption of minimum density and development standards, for jurisdictions with an eight-year housing element planning period pursuant to Section 65588, shall be completed no later than three years after either the date the housing element is adopted pursuant to subdivision (f) of Section 65585 or the date that is 90 days after receipt of comments from the department pursuant to subdivision (b) of Section 65585, whichever is earlier, unless the deadline is extended pursuant to subdivision (f). Notwithstanding the foregoing, for a local government that fails to adopt a housing element within 120 days of the statutory deadline in Section 65588 for adoption of the

housing element, rezoning of those sites, including adoption of minimum density and development standards, shall be completed no later than three years and 120 days from the statutory deadline in Section 65588 for adoption of the housing element.

(B) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2. The identification of sites shall include all components specified in subdivision (b) of Section 65583.2.

(C) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and

the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.

(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:

(A) How the joint facility will meet the jurisdiction's emergency shelter need.

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

(C) The amount and source of the funding that the jurisdiction contributes to the facility.

(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.

(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

(f) The deadline for completing required rezoning pursuant to subparagraph (A) of paragraph (1) of subdivision (c) shall be extended by one year if the local government has completed the rezoning at densities sufficient to accommodate at least 75 percent of the sites for

low- and very low income households and if the legislative body at the conclusion of a public hearing determines, based upon substantial evidence, that any of the following circumstances exist:

(1) The local government has been unable to complete the rezoning because of the action or inaction beyond the control of the local government of any other state federal or local agency.

(2) The local government is unable to complete the rezoning because of infrastructure deficiencies due to fiscal or regulatory constraints.

(3) The local government must undertake a major revision to its general plan in order to accommodate the housing related policies of a sustainable communities strategy or an alternative planning strategy adopted pursuant to Section 65080.

The resolution and the findings shall be transmitted to the department together with a detailed budget and schedule for preparation and adoption of the required rezonings, including plans for citizen participation and expected interim action. The schedule shall provide for adoption of the required rezoning within one year of the adoption of the resolution.

(g) (1) If a local government fails to complete the rezoning by the deadline provided in subparagraph (A) of paragraph (1) of subdivision (c), as it may be extended pursuant to subdivision (f), except as provided in paragraph (2), a local government may not disapprove a housing development project, nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose a condition that would render the project infeasible, if the housing development project (A) is proposed to be located on a site required to be rezoned pursuant to the program action required by that subparagraph; and (B) complies with applicable, objective general plan and zoning standards and criteria, including design review standards, described in the program action required by that subparagraph. Any subdivision of sites shall be subject to the Subdivision Map Act. Design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) A local government may disapprove a housing development described in paragraph (1) if it makes written findings supported by substantial evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies,

or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(3) The applicant or any interested person may bring an action to enforce this subdivision. If a court finds that the local agency disapproved a project or conditioned its approval in violation of this subdivision, the court shall issue an order or judgment compelling compliance within 60 days. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders to ensure that the purposes and policies of this subdivision are fulfilled. In any such action, the city, county, or city and county shall bear the burden of proof.

(4) For purposes of this subdivision, "housing development project" means a project to construct residential units for which the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of at least 49 percent of the housing units for very low, low-, and moderate-income households with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing.

(h) An action to enforce the program actions of the housing element shall be brought pursuant to Section 1085 of the Code of Civil Procedure.

SEC. 8. Section 65584.01 of the Government Code is amended to read:

65584.01. (a) For the fourth and subsequent revision of the housing element pursuant to Section 65588, the department, in consultation with each council of governments, where applicable, shall determine the existing and projected need for housing for each region in the following manner:

(b) The department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. If the total regional population forecast for the planning period, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 3 percent of the total regional population forecast for the planning period over the same time period by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department

determines the existing and projected need for housing in the region. If the difference between the total population growth projected by the council of governments and the total population growth projected for the region by the Department of Finance is greater than 3 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.

(c) (1) At least 26 months prior to the scheduled revision pursuant to Section 65588 and prior to developing the existing and projected housing need for a region, the department shall meet and consult with the council of governments regarding the assumptions and methodology to be used by the department to determine the region's housing needs. The council of governments shall provide data assumptions from the council's projections, including, if available, the following data for the region:

(A) Anticipated household growth associated with projected population increases.

(B) Household size data and trends in household size.

(C) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures.

(D) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs.

(E) Other characteristics of the composition of the projected population.

(F) The relationship between jobs and housing, including any imbalance between jobs and housing.

(2) The department may accept or reject the information provided by the council of governments or modify its own assumptions or methodology based on this information. After consultation with the council of governments, the department shall make determinations in writing on the assumptions for each of the factors listed in subparagraphs (A) to (F), inclusive, of paragraph (1) and the methodology it shall use and shall provide these determinations to the council of governments.

(d) (1) After consultation with the council of governments, the department shall make a determination of the region's existing and projected housing need based upon the assumptions and methodology determined pursuant to subdivision (c). The region's existing and

projected housing need shall reflect the achievement of a feasible balance between jobs and housing within the region using the regional employment projections in the applicable regional transportation plan. Within 30 days following notice of the determination from the department, the council of governments may file an objection to the department's determination of the region's existing and projected housing need with the department.

(2) The objection shall be based on and substantiate either of the following:

(A) The department failed to base its determination on the population projection for the region established pursuant to subdivision (b), and shall identify the population projection which the council of governments believes should instead be used for the determination and explain the basis for its rationale.

(B) The regional housing need determined by the department is not a reasonable application of the methodology and assumptions determined pursuant to subdivision (c). The objection shall include a proposed alternative determination of its regional housing need based upon the determinations made in subdivision (c), including analysis of why the proposed alternative would be a more reasonable application of the methodology and assumptions determined pursuant to subdivision (c).

(3) If a council of governments files an objection pursuant to this subdivision and includes with the objection a proposed alternative determination of its regional housing need, it shall also include documentation of its basis for the alternative determination. Within 45 days of receiving an objection filed pursuant to this section, the department shall consider the objection and make a final written determination of the region's existing and projected housing need that includes an explanation of the information upon which the determination was made.

SEC. 9. Section 65584.02 of the Government Code is amended to read:

65584.02. (a) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the existing and projected need for housing may be determined for each region by the department as follows, as an alternative to the process pursuant to Section 65584.01:

(1) In a region in which at least one subregion has accepted delegated authority pursuant to Section 65584.03, the region's housing need shall be determined at least 26 months prior to the housing element update deadline pursuant to Section 65588. In a region in which no subregion has accepted delegation pursuant to Section 65584.03, the region's housing need shall be determined at least 24 months prior to the housing element deadline.

(2) At least six months prior to the department's determination of regional housing need pursuant to paragraph (1), a council of governments may request the use of population and household forecast assumptions used in the regional transportation plan. This request shall include all of the following:

(A) Proposed data and assumptions for factors contributing to housing need beyond household growth identified in the forecast. These factors shall include allowance for vacant or replacement units, and may include other adjustment factors.

(B) A proposed planning period that is not longer than the period of time covered by the regional transportation improvement plan or plans of the region pursuant to Section 14527, but a period not less than five years, and not longer than six years.

(C) A comparison between the population and household assumptions used for the Regional Transportation Plan with population and household estimates and projections of the Department of Finance.

(b) The department shall consult with the council of governments regarding requests submitted pursuant to paragraph (2) of subdivision (a). The department may seek advice and consult with the Demographic Research Unit of the Department of Finance, the State Department of Transportation, a representative of a contiguous council of governments, and any other party as deemed necessary. The department may request that the council of governments revise data, assumptions, or methodology to be used for the determination of regional housing need, or may reject the request submitted pursuant to paragraph (2) of subdivision (a). Subsequent to consultation with the council of governments, the department will respond in writing to requests submitted pursuant to paragraph (1) of subdivision (a).

(c) If the council of governments does not submit a request pursuant to subdivision (a), or if the department rejects the request of the council of governments, the determination for the region shall be made pursuant to Sections 65584 and 65584.01.

SEC. 10. Section 65584.04 of the Government Code is amended to read:

65584.04. (a) At least two years prior to a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall be consistent with the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing

need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (d) that will allow the development of a methodology based upon the factors established in subdivision (d).

(2) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(3) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) The market demand for housing.

(5) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.

(6) The loss of units contained in assisted housing developments, as defined in paragraph (9) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(7) High-housing cost burdens.

(8) The housing needs of farmworkers.

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

(10) Any other factors adopted by the council of governments.

(e) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (d) was incorporated into the methodology and how the methodology is

consistent with subdivision (d) of Section 65584. The methodology may include numerical weighting.

(f) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation to those local governments by the council of governments or delegate subregion pursuant to Section 65584.05.

(h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion as applicable, and to the department.

(i) (1) It is the intent of the Legislature that housing planning be coordinated and integrated with the regional transportation plan. To achieve this goal, the allocation plan shall allocate housing units within the region consistent with the development pattern included in the sustainable communities strategy.

(2) The final allocation plan shall ensure that the total regional housing need, by income category, as determined under Section 65584, is maintained, and that each jurisdiction in the region receive an allocation of units for low- and very low income households.

(3) The resolution approving the final housing need allocation plan shall demonstrate that the plan is consistent with the sustainable communities strategy in the regional transportation plan.

SEC. 11. Section 65587 of the Government Code is amended to read:

65587. (a) Each city, county, or city and county shall bring its housing element, as required by subdivision (c) of Section 65302, into conformity with the requirements of this article on or before October 1, 1981, and the deadlines set by Section 65588. Except as specifically provided in subdivision (b) of Section 65361, the Director of Planning

and Research shall not grant an extension of time from these requirements.

(b) Any action brought by any interested party to review the conformity with the provisions of this article of any housing element or portion thereof or revision thereto shall be brought pursuant to Section 1085 of the Code of Civil Procedure; the court's review of compliance with the provisions of this article shall extend to whether the housing element or portion thereof or revision thereto substantially complies with the requirements of this article.

(c) If a court finds that an action of a city, county, or city and county, which is required to be consistent with its general plan, does not comply with its housing element, the city, county, or city and county shall bring its action into compliance within 60 days. However, the court shall retain jurisdiction throughout the period for compliance to enforce its decision. Upon the court's determination that the 60-day period for compliance would place an undue hardship on the city, county, or city and county, the court may extend the time period for compliance by an additional 60 days.

(d) (1) If a court finds that a city, county, or city and county failed to complete the rezoning required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583, as that deadline may be modified by the extension provided for in subdivision (f) of that section, the court shall issue an order or judgment, after considering the equities of the circumstances presented by all parties, compelling the local government to complete the rezoning within 60 days or the earliest time consistent with public hearing notice requirements in existence at the time the action was filed. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out, the court shall issue further orders to ensure that the purposes and policies of this article are fulfilled, including ordering, after considering the equities of the circumstances presented by all parties, that any rezoning required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 be completed within 60 days or the earliest time consistent with public hearing notice requirements in existence at the time the action was filed and may impose sanctions on the city, county, or city and county.

(2) Any interested person may bring an action to compel compliance with the deadlines and requirements of paragraphs (1), (2), and (3) of subdivision (c) of Section 65583. The action shall be brought pursuant to Section 1085 of the Code of Civil Procedure. An action may be brought pursuant to the notice and accrual provisions of subdivision (d) of Section 65009. In any such action, the city, county, or city and county shall bear the burden of proof.

SEC. 12. Section 65588 of the Government Code is amended to read:

65588. (a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.

(3) The progress of the city, county, or city and county in implementation of the housing element.

(b) Except as provided in paragraph (7) of subdivision (e), the housing element shall be revised as appropriate, but not less than every eight years, to reflect the results of this periodic review, by those local governments that are located within a region covered by (1) a metropolitan planning organization in a region classified as nonattainment for one or more pollutants regulated by the federal Clean Air Act or (2) a metropolitan planning organization or regional transportation planning agency that is required, or has elected pursuant to subparagraph (L) of paragraph (2) of subdivision (b) of Section 65080, to adopt a regional transportation plan not less than every four years, except that a local government that does not adopt a housing element within 120 days of the statutory deadline for adoption of the housing element shall revise its housing element as appropriate, but not less than every four years. The housing element shall be revised, as appropriate, but not less than every five years by those local governments that are located within a region covered by a metropolitan planning organization or regional transportation planning agency that is required to adopt a regional transportation plan not less than every five years, to reflect the results of this periodic review. Nothing in this section shall be construed to excuse the obligations of the local government to adopt a revised housing element no later than the date specified in this section.

(c) The review and revision of housing elements required by this section shall take into account any low- or moderate-income housing provided or required pursuant to Section 65590.

(d) The review pursuant to subdivision (c) shall include, but need not be limited to, the following:

(1) The number of new housing units approved for construction within the coastal zone after January 1, 1982.

(2) The number of housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, required to be provided in new housing developments either within the coastal zone or within three miles of the coastal zone pursuant to Section 65590.

(3) The number of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been authorized to be demolished or converted since January 1, 1982, in the coastal zone.

(4) The number of residential dwelling units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been required for replacement or authorized to be converted or demolished as identified in paragraph (3). The location of the replacement units, either onsite, elsewhere within the locality's jurisdiction within the coastal zone, or within three miles of the coastal zone within the locality's jurisdiction, shall be designated in the review.

(e) Notwithstanding subdivision (b) or the date of adoption of the housing elements previously in existence, each city, county, and city and county shall revise its housing element according to the following schedule:

(1) Local governments within the regional jurisdiction of the Southern California Association of Governments: June 30, 2006, for the fourth revision.

(2) Local governments within the regional jurisdiction of the Association of Bay Area Governments: June 30, 2007, for the fourth revision.

(3) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: June 30, 2002, for the third revision, and June 30, 2008, for the fourth revision.

(4) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: December 31, 2002, for the third revision, and June 30, 2009, for the fourth revision.

(5) Local governments within the regional jurisdiction of the San Diego Association of Governments: June 30, 2005, for the fourth revision.

(6) All other local governments: December 31, 2003, for the third revision, and June 30, 2009, for the fourth revision.

(7) (A) All local governments within a metropolitan planning organization in a region classified as nonattainment for one or more pollutants regulated by the federal Clean Air Act (42 U.S.C. Sec. 7506), except those within the regional jurisdiction of the San Diego Association of Governments, shall adopt the fifth revision of the housing element no later than 18 months after adoption of the first regional transportation plan to be adopted after September 30, 2010.

(B) All local governments within the regional jurisdiction of the San Diego Association of Governments shall adopt their fifth revision no more than five years from the fourth revision and their sixth revision no

later than 18 months after adoption of the first regional transportation plan to be adopted after the fifth revision due date.

(C) All local governments within the regional jurisdiction of a metropolitan planning organization or a regional transportation planning agency that has made an election pursuant to subparagraph (L) of paragraph (2) of subdivision (b) of Section 65080 shall be subject to the eight-year planning period pursuant to subdivision (b) of Section 65588 and shall adopt its next housing element 18 months after adoption of the first regional transportation plan following the election.

(f) For purposes of this article, "planning period" shall be the time period for periodic revision of the housing element pursuant to this section.

SEC. 13. Section 21061.3 of the Public Resources Code is amended to read:

21061.3. "Infill site" means a site in an urbanized area that meets either of the following criteria:

(a) The site has not been previously developed for urban uses and both of the following apply:

(1) The site is immediately adjacent to parcels that are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses, and the remaining 25 percent of the site adjoins parcels that have previously been developed for qualified urban uses.

(2) No parcel within the site has been created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency.

(b) The site has been previously developed for qualified urban uses.

SEC. 14. Chapter 4.2 (commencing with Section 21155) is added to Division 13 of the Public Resources Code, to read:

## CHAPTER 4.2. IMPLEMENTATION OF THE SUSTAINABLE COMMUNITIES STRATEGY

21155. (a) This chapter applies only to a transit priority project that is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(b) For purposes of this chapter, a transit priority project shall (1) contain at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75; (2) provide a minimum net density of at least 20 dwelling units per acre; and (3) be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. A major transit stop is as defined in Section 21064.3, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. A project shall be considered to be within one-half mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.

21155.1. If the legislative body finds, after conducting a public hearing, that a transit priority project meets all of the requirements of subdivisions (a) and (b) and one of the requirements of subdivision (c), the transit priority project is declared to be a sustainable communities project and shall be exempt from this division.

(a) The transit priority project complies with all of the following environmental criteria:

(1) The transit priority project and other projects approved prior to the approval of the transit priority project but not yet built can be adequately served by existing utilities, and the transit priority project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.

(2) (A) The site of the transit priority project does not contain wetlands or riparian areas and does not have significant value as a wildlife habitat, and the transit priority project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.

(B) For the purposes of this paragraph, "wetlands" has the same meaning as in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) For the purposes of this paragraph:

(i) "Riparian areas" means those areas transitional between terrestrial and aquatic ecosystems and that are distinguished by gradients in biophysical conditions, ecological processes, and biota. A riparian area is an area through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. A riparian area includes those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems. A riparian area is adjacent to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine shorelines.

(ii) "Wildlife habitat" means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

(iii) Habitat of "significant value" includes wildlife habitat of national, statewide, regional, or local importance; habitat for species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531, et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code); habitat identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies; or habitat essential to the movement of resident or migratory wildlife.

(3) The site of the transit priority project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.

(4) The site of the transit priority project is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

(A) If a release of a hazardous substance is found to exist on the site, the release shall be removed or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(B) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(5) The transit priority project does not have a significant effect on historical resources pursuant to Section 21084.1.

(6) The transit priority project site is not subject to any of the following:

(A) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

(B) An unusually high risk of fire or explosion from materials stored or used on nearby properties.

(C) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

(D) Seismic risk as a result of being within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.

(E) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

(7) The transit priority project site is not located on developed open space.

(A) For the purposes of this paragraph, "developed open space" means land that meets all of the following criteria:

(i) Is publicly owned, or financed in whole or in part by public funds.

(ii) Is generally open to, and available for use by, the public.

(iii) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.

(B) For the purposes of this paragraph, "developed open space" includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired with public funds dedicated to the acquisition of land for housing purposes.

(8) The buildings in the transit priority project are 15 percent more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations and the buildings and landscaping are designed to achieve 25 percent less water usage than the average household use in the region.

(b) The transit priority project meets all of the following land use criteria:

(1) The site of the transit priority project is not more than eight acres in total area.

(2) The transit priority project does not contain more than 200 residential units.

(3) The transit priority project does not result in any net loss in the number of affordable housing units within the project area.

(4) The transit priority project does not include any single level building that exceeds 75,000 square feet.

(5) Any applicable mitigation measures or performance standards or criteria set forth in the prior environmental impact reports, and adopted in findings, have been or will be incorporated into the transit priority project.

(6) The transit priority project is determined not to conflict with nearby operating industrial uses.

(7) The transit priority project is located within one-half mile of a rail transit station or a ferry terminal included in a regional transportation plan or within one-quarter mile of a high-quality transit corridor included in a regional transportation plan.

(c) The transit priority project meets at least one of the following three criteria:

(1) The transit priority project meets both of the following:

(A) At least 20 percent of the housing will be sold to families of moderate income, or not less than 10 percent of the housing will be rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.

(B) The transit priority project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.

(2) The transit priority project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to paragraph (1).

(3) The transit priority project provides public open space equal to or greater than five acres per 1,000 residents of the project.

21155.2. (a) A transit priority project that has incorporated all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports and adopted in findings made pursuant to Section 21081, shall be eligible for either the provisions of subdivision (b) or (c).

(b) A transit priority project that satisfies the requirements of subdivision (a) may be reviewed through a sustainable communities environmental assessment as follows:

(1) An initial study shall be prepared to identify all significant or potentially significant impacts of the transit priority project, other than those which do not need to be reviewed pursuant to Section 21159.28 based on substantial evidence in light of the whole record. The initial study shall identify any cumulative effects that have been adequately addressed and mitigated pursuant to the requirements of this division in prior applicable certified environmental impact reports. Where the lead agency determines that a cumulative effect has been adequately addressed and mitigated, that cumulative effect shall not be treated as cumulatively considerable for the purposes of this subdivision.

(2) The sustainable communities environmental assessment shall contain measures that either avoid or mitigate to a level of insignificance all potentially significant or significant effects of the project required to be identified in the initial study.

(3) A draft of the sustainable communities environmental assessment shall be circulated for public comment for a period of not less than 30 days. Notice shall be provided in the same manner as required for an environmental impact report pursuant to Section 21092.

(4) Prior to acting on the sustainable communities environmental assessment, the lead agency shall consider all comments received.

(5) A sustainable communities environmental assessment may be approved by the lead agency after conducting a public hearing, reviewing the comments received, and finding that:

(A) All potentially significant or significant effects required to be identified in the initial study have been identified and analyzed.

(B) With respect to each significant effect on the environment required to be identified in the initial study, either of the following apply:

(i) Changes or alterations have been required in or incorporated into the project that avoid or mitigate the significant effects to a level of insignificance.

(ii) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

(6) The legislative body of the lead agency shall conduct the public hearing or a planning commission may conduct the public hearing if local ordinances allow a direct appeal of approval of a document prepared pursuant to this division to the legislative body subject to a fee not to exceed five hundred dollars ($500).

(7) The lead agency's decision to review and approve a transit priority project with a sustainable communities environmental assessment shall be reviewed under the substantial evidence standard.

(c) A transit priority project that satisfies the requirements of subdivision (a) may be reviewed by an environmental impact report that complies with all of the following:

(1) An initial study shall be prepared to identify all significant or potentially significant effects of the transit priority project other than those that do not need to be reviewed pursuant to Section 21159.28 based upon substantial evidence in light of the whole record. The initial study shall identify any cumulative effects that have been adequately addressed and mitigated pursuant to the requirements of this division in prior applicable certified environmental impact reports. Where the lead agency determines that a cumulative effect has been adequately addressed and mitigated, that cumulative effect shall not be treated as cumulatively considerable for the purposes of this subdivision.

(2) An environmental impact report prepared pursuant to this subdivision need only address the significant or potentially significant effects of the transit priority project on the environment identified pursuant to paragraph (1). It is not required to analyze off-site alternatives to the transit priority project. It shall otherwise comply with the requirements of this division.

21155.3. (a) The legislative body of a local jurisdiction may adopt traffic mitigation measures that would apply to transit priority projects. These measures shall be adopted or amended after a public hearing and may include requirements for the installation of traffic control improvements, street or road improvements, and contributions to road improvement or transit funds, transit passes for future residents, or other measures that will avoid or mitigate the traffic impacts of those transit priority projects.

(b) (1) A transit priority project that is seeking a discretionary approval is not required to comply with any additional mitigation measures required by paragraph (1) or (2) of subdivision (a) of Section 21081, for the traffic impacts of that project on intersections, streets, highways, freeways, or mass transit, if the local jurisdiction issuing that discretionary approval has adopted traffic mitigation measures in accordance with this section.

(2) Paragraph (1) does not restrict the authority of a local jurisdiction to adopt feasible mitigation measures with respect to the effects of a project on public health or on pedestrian or bicycle safety.

(c) The legislative body shall review its traffic mitigation measures and update them as needed at least every five years.

SEC. 15. Section 21159.28 is added to the Public Resources Code, to read:

21159.28. (a) If a residential or mixed-use residential project is consistent with the use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board pursuant to subparagraph (I) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code has accepted the metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets and if the project incorporates the mitigation measures required by an applicable prior environmental document, then any findings or other determinations for an exemption, a negative declaration, a mitigated negative declaration, a sustainable communities environmental assessment, an environmental impact report, or addenda prepared or adopted for the project pursuant to this division shall not be required to reference, describe, or discuss (1) growth inducing impacts; or (2) any project specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming or the regional transportation network.

(b) Any environmental impact report prepared for a project described in subdivision (a) shall not be required to reference, describe, or discuss a reduced residential density alternative to address the effects of car and light-duty truck trips generated by the project.

(c) "Regional transportation network," for purposes of this section, means all existing and proposed transportation system improvements, including the state transportation system, that were included in the transportation and air quality conformity modeling, including congestion modeling, for the final regional transportation plan adopted by the metropolitan planning organization, but shall not include local streets and roads. Nothing in the foregoing relieves any project from a requirement to comply with any conditions, exactions, or fees for the mitigation of the project's impacts on the structure, safety, or operations of the regional transportation network or local streets and roads.

(d) A residential or mixed-use residential project is a project where at least 75 percent of the total building square footage of the project consists of residential use or a project that is a transit priority project as defined in Section 21155.

SEC. 16. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7

(commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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## CHAPTER 729

An act to amend Sections 75076 and 75077 of, and to add Chapter 12 (commencing with Section 75100) and Chapter 13 (commencing with Section 75120) to Division 43 of, the Public Resources Code, relating to the environment, and making an appropriation therefor.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 75076 of the Public Resources Code is amended to read:

75076. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the development and adoption of program guidelines and selection criteria adopted pursuant to this division.

SEC. 2. Section 75077 of the Public Resources Code is amended to read:

75077. Funds provided pursuant to this division, and any appropriation or transfer of those funds, shall not be deemed to be a transfer of funds for the purposes of Chapter 9 (commencing with Section 2780) of Division 3 of the Fish and Game Code.

SEC. 3. Chapter 12 (commencing with Section 75100) is added to Division 43 of the Public Resources Code, to read:

### Chapter 12. Implementation Provisions

75100. (a) (1) Each state agency disbursing a competitive grant pursuant to this division shall develop project solicitation and evaluation guidelines. The guidelines may include a limitation on the size of a competitive grant to be awarded.

(2) Prior to disbursing a competitive grant, each state agency shall conduct at least one public meeting to consider public comments prior to finalizing the guidelines. Each state agency shall publish the draft solicitation and evaluation guidelines on its Internet Web site at least 30 days before the public meetings. Meetings shall be held at geographically appropriate locations. Upon adoption, each state agency shall transmit

copies of the guidelines to the fiscal committees and the appropriate policy committees of the Legislature. To the extent feasible, each state agency shall provide outreach to disadvantaged communities to promote access and participation in those meetings.

(3) The guidelines may include a requirement for the applicant to illustrate an ongoing commitment of financial resources, unless the purposes of awarding a grant financed by this division is to assist a disadvantaged community.

(4) The guidelines shall require a new grant solicitation for each funding cycle. Each funding cycle shall consider only those applications received as a part of the solicitation for that funding cycle.

(b) Notwithstanding subdivision (a), a state agency, in lieu of adopting guidelines pursuant to subdivision (a), may use guidelines existing on January 1, 2007, and those guidelines as periodically amended thereafter.

75101. (a) For the purposes of implementing Section 75025, the State Department of Public Health shall do all of the following:

(1) Develop guidelines pursuant to Section 75100 in collaboration with the Department of Toxic Substances Control and the state board.

(2) In collaboration with the Department of Toxic Substances Control and the state board, develop and adopt regulations governing the repayment of costs that are subsequently recovered from parties responsible for the contamination.

(b) For the purposes of implementing subdivision (a) of Section 75050, the Department of Fish and Game, when funding a natural community conservation plan, shall fund only the development of a natural community conservation plan that is consistent with the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code).

(c) The San Francisco Bay Area Conservancy may use the funds made available pursuant to subdivision (c) of Section 75060 to restore the salt ponds in the south San Francisco Bay and to create trails and visitor facilities for public use in that area.

75102. Before the adoption of a negative declaration or environmental impact report required under Section 75070, the lead agency shall notify the proposed action to a California Native American tribe, which is on the contact list maintained by the Native American Heritage Commission, if that tribe has traditional lands located within the area of the proposed project.

75103. It is the intent of the Legislature that any public funds made available by this division to investor-owned utilities regulated by the Public Utilities Commission should be for the benefit of the ratepayers or the public and not the investors pursuant to oversight by the Public Utilities Commission.

75104. State agencies that are authorized to award a loan or grant financed by this division shall provide technical assistance with regard to the preparation of an application for a loan or grant in a manner that, among other things, addresses the needs of economically disadvantaged communities.

SEC. 4. Chapter 13 (commencing with Section 75120) is added to Division 43 of the Public Resources Code, to read:

## Chapter 13. Strategic Growth Council and Climate Change Reduction

75120. For purposes of this chapter, the following definitions shall apply:

(a) "Council" means the Strategic Growth Council established pursuant to Section 75121.

(b) "Regional plan" means either of the following:

(1) A long-range transportation plan developed pursuant to Section 134(g) of Title 23 of the United States Code and any applicable state requirements.

(2) A regional blueprint plan, which is a regional plan that implements statutory requirements intended to foster comprehensive planning as defined in Section 65041.1 of, Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7 of, and Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of, the Government Code. A regional blueprint plan articulates regional consensus and performance outcomes on a more efficient land use pattern that supports improved mobility and reduces dependency on single-occupancy vehicle trips; accommodates an adequate supply of housing for all income levels; reduces impacts on valuable farmland, natural resources, and air quality, including the reduction of greenhouse gas emissions, increases water and energy conservation and efficiency; and promotes a prosperous economy and safe, healthy, sustainable, and vibrant neighborhoods.

75121. (a) The Strategic Growth Council is hereby established in state government and it shall consist of the Director of State Planning and Research, the Secretary of the Resources Agency, the Secretary for Environmental Protection, the Secretary of Business, Transportation and Housing, the Secretary of California Health and Human Services, and one member of the public to be appointed by the Governor. The public member shall have a background in land use planning, local government, resource protection and management, or community development or revitalization.

(b) Staff for the council shall be reflective of the council's membership.

75122. The members of the council shall elect a chair of the council every two years.

75123. (a) The council's meetings shall be open to the public and shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(b) The council may sponsor conferences, symposia, and other public forums, to seek a broad range of public advice regarding local, regional, and natural resource planning, sustainable development, and strategies to reduce and mitigate climate change.

75124. Of the funds made available pursuant to subdivisions (a) and (c) of Section 75065, the sum of five hundred thousand dollars ($500,000) is hereby appropriated to the Resources Agency to be used in support of the council and its activities in accordance with this chapter.

75125. The council shall do all of the following:

(a) Identify and review activities and funding programs of member state agencies that may be coordinated to improve air and water quality, improve natural resource protection, increase the availability of affordable housing, improve transportation, meet the goals of the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), encourage sustainable land use planning, and revitalize urban and community centers in a sustainable manner. At a minimum, the council shall review and comment on the five-year infrastructure plan developed pursuant to Article 2 (commencing with Section 13100) of Chapter 2 of Part 3 of Division 3 of the Government Code and the State Environmental Goals and Policy Report developed pursuant to Section 65041 of the Government Code.

(b) Recommend policies and investment strategies and priorities to the Governor, the Legislature, and to appropriate state agencies to encourage the development of sustainable communities, such as those communities that promote equity, strengthen the economy, protect the environment, and promote public health and safety, and is consistent with subdivisions (a) and (c) of Section 75065.

(c) Provide, fund, and distribute data and information to local governments and regional agencies that will assist in developing and planning sustainable communities.

(d) Manage and award grants and loans to support the planning and development of sustainable communities, pursuant to Sections 75127, 75128, and 75129. To implement this subdivision, the council may do all of the following:

(1) Develop guidelines for awarding financial assistance, including criteria for eligibility and additional consideration.

(2) Develop criteria for determining the amount of financial assistance to be awarded. The council shall award a revolving loan to an applicant for a planning project, unless the council determines that the applicant lacks the fiscal capacity to carry out the project without a grant. The council may establish criteria that would allow the applicant to illustrate an ongoing commitment of financial resources to ensure the completion of the proposed plan or project.

(3) Provide for payments of interest on loans made pursuant to this article. The rate of interest shall not exceed the rate earned by the Pooled Money Investment Board.

(4) Provide for the time period for repaying a loan made pursuant to this article.

(5) Provide for the recovery of funds from an applicant that fails to complete the project for which financial assistance was awarded. The council shall direct the State Controller to recover funds by any available means.

(6) Provide technical assistance for application preparation.

(7) Designate a state agency or department to administer technical and financial assistance programs for the disbursing of grants and loans to support the planning and development of sustainable communities, pursuant to Sections 75127, 75128, and 75129.

(e) No later than July 1, 2010, and every year thereafter, provide a report to the Legislature that shall include, but is not limited to, all of the following:

(1) A list of applicants for financial assistance.

(2) Identification of which applications were approved.

(3) The amounts awarded for each approved application.

(4) The remaining balance of available funds.

(5) A report on the proposed or ongoing management of each funded project.

(6) Any additional minimum requirements and priorities for a project or plan proposed in a grant or loan application developed and adopted by the council pursuant to subdivision (c) of Section 75216.

75126. (a) An applicant shall declare, in the application submitted to the council for financial assistance for a plan or project pursuant to this chapter, the applicant's intention to follow a detailed budget and schedule for the completion of the plan or project. The budget and schedule shall be of sufficient detail to allow the council to assess the progress of the applicant at regular intervals.

(b) A project or plan funded pursuant to this chapter shall meet both of the following criteria:

(1) Be consistent with the state's planning policies pursuant to Section 65041.1 of the Government Code.

(2) Reduce, on as permanent a basis that is feasible, greenhouse gas emissions consistent with the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), and any applicable regional plan.

(c) The council may develop additional minimum requirements and priorities for a project or plan proposed in a grant and loan application, including those related to improving air quality.

75127. (a) To support the planning and development of sustainable communities, the council shall manage and award financial assistance to a city or county for preparing, adopting, and implementing a general plan or general plan element that is designed to reduce greenhouse gas emissions, promote water conservation, reduce automobile use and fuel consumption, encourage greater infill and compact development, protect natural resources and agricultural lands, and revitalize urban and community centers.

(b) For the purposes of this section, the preparation and adoption of a general plan may include a comprehensive update of a general plan, amendment or adoption of an individual element of a general plan, or any other revision consistent with the intent of Section 75065.

(c) For the purposes of this section, the implementation of a general plan may include amendment or adoption of a specific plan, community plan, zoning ordinance, or any other plan, ordinance, or policy that is consistent with the intent of Section 75065.

(d) The funding provided pursuant to this section for the preparation, adoption, and implementation of a general plan may also include funding any activity necessary to conform a general plan to a regional plan.

75128. (a) To support the planning and development of sustainable communities, the council shall manage and award financial assistance to a council of governments, metropolitan planning organization, regional transportation planning agency, city, county, or joint powers authority, to develop, adopt or implement a regional plan or other planning instrument consistent with a regional plan that improves air and water quality, improves natural resource protection, increases the availability of affordable housing, improves transportation, meets the goals of the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), and encourages sustainable land use. The financial assistance provided pursuant to this section shall be funded from moneys made available pursuant to subdivision (c) of Section 75065.

(b) In awarding financial assistance pursuant to this section, the council shall give first priority to an application seeking funding to add or enhance elements of a regional plan that are not funded with federal moneys.

75129. (a) To support the planning and development of sustainable communities, the council shall manage and award financial assistance to a city, county, or nonprofit organization for the preparation, planning, and implementation of an urban greening project that provides multiple benefits, including, but not limited to, a decrease in air and water pollution, a reduction in the consumption of natural resources and energy, an increase in the reliability of local water supplies, or an increased adaptability to climate change. An eligible project funded pursuant to this section shall not include a mitigation action that is required under existing law. The financial assistance provided pursuant to this section shall be funded from moneys made available pursuant to subdivision (a) of Section 75065.

(b) The council shall develop minimum requirements for funding eligible projects pursuant to this section, which shall require a project to meet at least one of the following criteria:

(1) Use natural systems, or systems that mimic natural systems, to achieve the benefits identified in subdivision (a).

(2) Create, enhance, or expand community green spaces.

(c) The multiple benefits of a project, may include, but are not limited to, the establishment or enhancement of one or more of the following:

(1) Tree canopy.

(2) Urban forestry.

(3) Local parks and open space.

(4) Greening of existing public lands and structures, including schools.

(5) Multi-objective stormwater projects, including construction of permeable surfaces and collection basins and barriers.

(6) Urban streams, including restoration.

(7) Community, demonstration, or outdoor education gardens and orchards.

(8) Urban heat island mitigation and energy conservation efforts through landscaping and green roof projects.

(9) Nonmotorized urban trails that provide safe routes for both recreation and travel between residences, workplaces, commercial centers, and schools.

(d) The council shall give additional consideration to a funding project pursuant to this section that meets one or more of the following criteria:

(1) The project uses interagency cooperation and integration.

(2) The project uses existing public lands and facilitates use of public resources and investments including schools.

(3) The project is proposed by an economically disadvantaged community.

(e) Up to 25 percent of the moneys allocated pursuant to subdivision (a) of Section 75065 may be used to award revolving loans or grants to

a council of governments, countywide authority, a metropolitan planning organization, local government, or nonprofit organization, for the purpose of creating urban greening plans that will serve as the master document guiding and coordinating greening projects in the applicant's jurisdiction. These urban greening plans shall be consistent with the jurisdiction's general plan or regional plan, where one exists.

75130. This chapter does not authorize the council to take an action with regard to the exercise of a local government's land use permitting authority.

SEC. 5. In any case in which any of the provisions of this act, and Division 43 (commencing with Section 75001) of the Public Resources Code conflict, that division shall prevail.

SEC. 6. 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.

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## CHAPTER 730

An act to amend Sections 21606, 21606.5, 21608, and 21609 of, and to add Sections 21608.3 and 21608.5 to, the Business and Professions Code, relating to junk dealers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 21606 of the Business and Professions Code is amended to read:

21606. (a) Every junk dealer and every recycler shall set out in the written record required by this article all of the following:

(1) The place and date of each sale or purchase of junk made in the conduct of his or her business as a junk dealer or recycler.

(2) The name, valid driver's license number and state of issue or California-issued identification card number, and vehicle license number including the state of issue of any motor vehicle used in transporting the junk to the junk dealer's or recycler's place of business.

(3) The name and address of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in

transporting the junk from the junk dealer's or recycler's place of business.

(4) A description of the item or items of junk purchased or sold, including the item type and quantity, and identification number, if visible.

(5) A statement indicating either that the seller of the junk is the owner of it, or the name of the person he or she obtained it from, as shown on a signed transfer document.

(b) A person who makes, or causes to be made, a false or fictitious statement regarding any information required by this section is guilty of a misdemeanor.

(c) (1) Every junk dealer and every recycler shall report the information required under subdivision (a) to the chief of police, if the dealer's or recycler's business is located in a city, or to the sheriff, if the dealer's or recycler's business is located in an unincorporated part of a county, upon request of the chief of police or sheriff and on a monthly basis, except as provided in paragraph (2).

(2) The chief of police or sheriff may request the report described in this section on a weekly basis if there is an ongoing investigation of the junk dealer or recycler concerning possible criminal activity. The chief of police or sheriff may request weekly reports for no more than a two-month period unless the investigation of the junk dealer or recycler continues and the chief of police or sheriff makes a subsequent request for weekly reports for an additional two-month period or part thereof.

(d) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

SEC. 2. Section 21606.5 of the Business and Professions Code is amended to read:

21606.5. Every junk dealer or recycler shall, during normal business hours, allow periodic inspection of any premises maintained and any junk thereon for the purpose of determining compliance with the recordkeeping requirements of this article, and shall during those hours produce his or her records of sales and purchases, except as provided in subparagraph (A) of paragraph (4) of subdivision (a) of Section 21608.5, and all property purchased incident to those transactions which is in the possession of the junk dealer or recycler for inspection by any of the following persons:

(a) An officer holding a warrant authorizing him or her to search for personal property.

(b) A person appointed by the sheriff of a county or appointed by the head of the police department of a city.

(c) An officer holding a court order directing him or her to examine the records or property.

(d) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

SEC. 3. Section 21608 of the Business and Professions Code is amended to read:

21608. (a) A junk dealer or recycler who fails in any respect to keep the written record required by this article, or to set out in that written record any matter required by this article to be set out therein, is guilty of a misdemeanor.

Every junk dealer or recycler who refuses, upon demand pursuant to Section 21606.5, to exhibit the written record required by this article, or who destroys that record within two years after making the final entry of a purchase or sale of junk therein, is guilty of a misdemeanor.

(b) Any knowing and willful violation of subdivision (a) shall be punishable as follows:

(1) For a first offense, by a fine of not less than one thousand dollars ($1,000), or by imprisonment in the county jail for not less than 30 days, or by both that fine and imprisonment.

(2) For a second offense, by a fine of not less than two thousand dollars ($2,000), or by imprisonment in the county jail for not less than 30 days, or by both that fine and imprisonment. In addition to any other sentence imposed pursuant to this paragraph, the court may order the defendant to stop engaging in business as a junk dealer or recycler for a period not to exceed 30 days.

(3) For a third or any subsequent offense, by a fine of not less than four thousand dollars ($4,000), or by imprisonment in the county jail for not less than six months, or by both that fine and imprisonment. In addition to any other sentence imposed pursuant to this paragraph, the court shall order the defendant to stop engaging in business as a junk dealer or recycler for not less than one year.

(c) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

SEC. 4. Section 21608.3 is added to the Business and Professions Code, to read:

21608.3. (a) Any unauthorized disclosure of personal identification information collected from a seller by a junk dealer or recycler is prohibited, and any such disclosure shall render the violator liable for a civil fine of up to five thousand dollars ($5,000).

(b) This section shall become operative on December 1, 2008.

SEC. 5. Section 21608.5 is added to the Business and Professions Code, to read:

21608.5. (a) A junk dealer or recycler in this state shall not provide payment for nonferrous material unless, in addition to meeting the written

record requirements of Sections 21605 and 21606, all of the following requirements are met:

(1) The payment for the material is made by cash or check. The check may be mailed to the seller at the address provided pursuant to paragraph (3) or the check or cash may be collected by the seller from the junk dealer or recycler on the third business day after the date of sale.

(2) At the time of sale, the junk dealer or recycler obtains a clear photograph or video of the seller.

(3) (A) Except as provided in subparagraph (B), the junk dealer or recycler obtains a copy of the valid driver's license of the seller containing a photograph and an address of the seller or a copy of a state or federal government issued identification card containing a photograph and an address of the seller.

(B) If the seller prefers to have the check for the material mailed to an alternative address, other than a post office box, the junk dealer or recycler shall obtain a copy of a driver's license or identification card described in subparagraph (A) and a gas or electric utility bill addressed to the seller at that alternative address with a payment due date no more than two months prior to the date of sale. For purposes of this paragraph, "alternative address" means an address that is different from the address appearing on the seller's driver's license or identification card.

(4) The junk dealer or recycler obtains a clear photograph or video of the nonferrous material being purchased.

(5) The junk dealer or recycler shall preserve the information obtained pursuant to this paragraph for a period of two years after the date of sale.

(6) (A) The junk dealer or recycler obtains a thumbprint of the seller, as prescribed by the Department of Justice. The junk dealer or recycler shall keep this thumbprint with the information obtained under this subdivision and shall preserve the thumbprint in either hard copy or electronic format for a period of two years after the date of sale.

(B) Inspection or seizure of the thumbprint shall only be performed by a peace officer acting within the scope of his or her authority in response to a criminal search warrant signed by a magistrate and served on the junk dealer or recycler by the peace officer. Probable cause for the issuance of that warrant must be based upon a theft specifically involving the transaction for which the thumbprint was given.

(b) Paragraph (1) of subdivision (a) shall not apply if, during any three-month period commencing on or after the effective date of this section, the junk dealer or recycler completes five or more separate transactions per month, on five or more separate days per month, with the seller and, in order for paragraph (1) of subdivision (a) to continue to be inapplicable, the seller must continue to complete five or more separate transactions per month with the junk dealer or recycler.

(c) This section shall not apply if, on the date of sale, the junk dealer or recycler has on file or receives all of the following information:

(1) The name, physical business address, and business telephone number of the seller's business.

(2) The business license number or tax identification number of the seller's business.

(3) A copy of the valid driver's license of the person delivering the nonferrous material on behalf of the seller to the junk dealer or the recycler.

(d) This section shall not apply to the redemption of nonferrous material having a value of not more than twenty dollars ($20) in a single transaction when the primary purpose of the transaction is the redemption of beverage containers under the California Beverage Container Recycling and Litter Reduction Act, as set forth in Division 12.1 (commencing with Section 14500) of the Public Resources Code.

(e) This section shall not apply to coin dealers or to automobile dismantlers, as defined in Section 220 of the Vehicle Code.

(f) For the purposes of this section, "nonferrous material" means copper, copper alloys, stainless steel, or aluminum, but does not include beverage containers, as defined in Section 14505 of the Public Resources Code, that are subject to a redemption payment pursuant to Section 14560 of the Public Resources Code.

(g) This section is intended to occupy the entire field of law related to junk dealer or recycler transactions involving nonferrous material. However, a city or county ordinance, or a city and county ordinance, relating to the subject matter of this section is not in conflict with this section if the ordinance is passed by a two-thirds vote and it can be demonstrated by clear and convincing evidence that the ordinance is both necessary and addresses a unique problem within and specific to the jurisdiction of the ordinance that cannot effectively be addressed under this section.

(h) This section shall become operative on December 1, 2008.

SEC. 6. Section 21609 of the Business and Professions Code is amended to read:

21609. (a) Whenever a peace officer has probable cause to believe that property in the possession of a junk dealer or recycler is stolen, in lieu of seizing the property, the peace officer as defined in subdivision (b) of Section 21606.5, at his or her option, may place a hold on the property for a period not to exceed 90 days. When a peace officer places a hold on the property, the peace officer shall give the junk dealer or recycler a written notice at the time the hold is placed, describing the item or items to be held plus the case number. During that period the junk dealer or recycler shall not release or dispose of the property, except

pursuant to a court order or upon receipt of a written authorization signed by a peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member. Except as specifically set forth in this section, a junk dealer or recycler shall not be subject to civil liability for compliance with this section.

(b) Whenever property that is in the possession of a junk dealer or recycler is subject to a hold and the property is required by a peace officer in a criminal investigation, the junk dealer or recycler, upon reasonable notice, shall produce the property at reasonable times and places or may deliver the property to any peace officer upon the request of any peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member.

(c) Whenever property that is in the possession of a junk dealer or recycler is subject to a hold and the property is no longer required for the purpose of criminal investigation, the law enforcement agency that placed the hold on the property shall undertake the following:

(1) With respect to the property being held, if the law enforcement agency has no knowledge of the property on hold being reported as stolen, the property shall be released upon written notice to the junk dealer or recycler. The notice shall be provided in a timely fashion.

(2) If the law enforcement agency has knowledge that the property has been reported stolen, the law enforcement agency shall notify the person who reported the stolen property of the name and address of the junk dealer or recycler holding the property and authorize the release of the property to that person.

The law enforcement agency that placed the property on hold shall release the hold after 60 days has elapsed following the delivery of the notice to the person who reported the property stolen.

(3) If a victim seeks to recover property that is subject to a hold, the junk dealer or recycler shall advise the victim of the name and badge number of the peace officer who placed the hold on the property and the name of the law enforcement agency of which the officer is a member. If the property is not required to be held pursuant to a criminal prosecution the hold shall be released.

(d) Upon conviction of a person for the theft of property placed on hold pursuant to this section, the court shall order the defendant to do both of the following:

(1) Pay the junk dealer or recycler reasonable costs for storage of the property.

(2) Pay the victim for both the value of the property stolen and any reasonable collateral damage caused in the commission of the theft.

(e) The amendments to this section made by the act this subdivision shall become operative on December 1, 2008.

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.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address statewide concerns related to public safety, and to decrease theft of nonferrous materials, it is necessary that this act take effect immediately.

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## CHAPTER 731

An act to amend Sections 21606, 21606.5, 21608, and 21609 of, and to add Sections 21608.3 and 21608.5 to, the Business and Professions Code, relating to junk dealers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 21606 of the Business and Professions Code is amended to read:

21606. (a) Every junk dealer and every recycler shall set out in the written record required by this article all of the following:

(1) The place and date of each sale or purchase of junk made in the conduct of his or her business as a junk dealer or recycler.

(2) The name, valid driver's license number and state of issue or California-issued identification card number, and vehicle license number including the state of issue of any motor vehicle used in transporting the junk to the junk dealer's or recycler's place of business.

(3) The name and address of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in transporting the junk from the junk dealer's or recycler's place of business.

(4) A description of the item or items of junk purchased or sold, including the item type and quantity, and identification number, if visible.

(5) A statement indicating either that the seller of the junk is the owner of it, or the name of the person he or she obtained it from, as shown on a signed transfer document.

(b) A person who makes, or causes to be made, a false or fictitious statement regarding any information required by this section is guilty of a misdemeanor.

(c) (1) Every junk dealer and every recycler shall report the information required under subdivision (a) to the chief of police, if the dealer's or recycler's business is located in a city, or to the sheriff, if the dealer's or recycler's business is located in an unincorporated part of a county, upon request of the chief of police or sheriff and on a monthly basis, except as provided in paragraph (2).

(2) The chief of police or sheriff may request the report described in this section on a weekly basis if there is an ongoing investigation of the junk dealer or recycler concerning possible criminal activity. The chief of police or sheriff may request weekly reports for no more than a two-month period unless the investigation of the junk dealer or recycler continues and the chief of police or sheriff makes a subsequent request for weekly reports for an additional two-month period or part thereof.

(d) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

SEC. 2. Section 21606.5 of the Business and Professions Code is amended to read:

21606.5. Every junk dealer or recycler shall, during normal business hours, allow periodic inspection of any premises maintained and any junk thereon for the purpose of determining compliance with the recordkeeping requirements of this article, and shall during those hours produce his or her records of sales and purchases, except as provided in subparagraph (A) of paragraph (3) of subdivision (a) of Section 21608.5, and all property purchased incident to those transactions which is in the possession of the junk dealer or recycler for inspection by any of the following persons:

(a) An officer holding a warrant authorizing him or her to search for personal property.

(b) A person appointed by the sheriff of a county or appointed by the head of the police department of a city.

(c) An officer holding a court order directing him or her to examine the records or property.

(d) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

SEC. 3. Section 21608 of the Business and Professions Code is amended to read:

21608. (a) A junk dealer or recycler who fails in any respect to keep the written record required by this article, or to set out in that written record any matter required by this article to be set out therein, is guilty of a misdemeanor.

Every junk dealer or recycler who refuses, upon demand pursuant to Section 21606.5, to exhibit the written record required by this article, or who destroys that record within two years after making the final entry of a purchase or sale of junk therein, is guilty of a misdemeanor.

(b) Any knowing and willful violation of subdivision (a) shall be punishable as follows:

(1) For a first offense, by a fine of not less than one thousand dollars ($1,000), or by imprisonment in the county jail for not less than 30 days, or by both that fine and imprisonment.

(2) For a second offense, by a fine of not less than two thousand dollars ($2,000), or by imprisonment in the county jail for not less than 30 days, or by both that fine and imprisonment. In addition to any other sentence imposed pursuant to this paragraph, the court may order the defendant to stop engaging in business as a junk dealer or recycler for a period not to exceed 30 days.

(3) For a third or any subsequent offense, by a fine of not less than four thousand dollars ($4,000), or by imprisonment in the county jail for not less than six months, or by both that fine and imprisonment. In addition to any other sentence imposed pursuant to this paragraph, the court shall order the defendant to stop engaging in business as a junk dealer or recycler for not less than one year.

(c) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

SEC. 4. Section 21608.3 is added to the Business and Professions Code, to read:

21608.3. (a) Any unauthorized disclosure of personal identification information collected from a seller by a junk dealer or recycler is prohibited, and any such disclosure shall render the violator liable for a civil fine of up to five thousand dollars ($5,000).

(b) This section shall become operative on December 1, 2008.

SEC. 5. Section 21608.5 is added to the Business and Professions Code, to read:

21608.5. (a) A junk dealer or recycler in this state shall not provide payment for nonferrous material unless, in addition to meeting the written record requirements of Sections 21605 and 21606, all of the following requirements are met:

(1) The payment for the material is made by cash or check. The check may be mailed to the seller at the address provided pursuant to paragraph (3) or the cash or check may be collected by the seller from the junk dealer or recycler on the third business day after the date of sale.

(2) At the time of sale, the junk dealer or recycler obtains a clear photograph or video of the seller.

(3) (A) Except as provided in subparagraph (B), the junk dealer or recycler obtains a copy of the valid driver's license of the seller containing a photograph and an address of the seller or a copy of a state or federal government-issued identification card containing a photograph and an address of the seller.

(B) If the seller prefers to have the check for the material mailed to an alternative address, other than a post office box, the junk dealer or recycler shall obtain a copy of a driver's license or identification card described in subparagraph (A), and a gas or electric utility bill addressed to the seller at that alternative address with a payment due date no more than two months prior to the date of sale. For purposes of this paragraph, "alternative address" means an address that is different from the address appearing on the seller's driver's license or identification card.

(4) The junk dealer or recycler obtains a clear photograph or video of the nonferrous material being purchased.

(5) The junk dealer or recycler shall preserve the information obtained pursuant to this paragraph for a period of two years after the date of sale.

(6) (A) The junk dealer or recycler obtains a thumbprint of the seller, as prescribed by the Department of Justice. The junk dealer or recycler shall keep this thumbprint with the information obtained under this subdivision and shall preserve the thumbprint in either hardcopy or electronic format for a period of two years after the date of sale.

(B) Inspection or seizure of the thumbprint shall only be performed by a peace officer acting within the scope of his or her authority in response to a criminal search warrant signed by a magistrate and served on the junk dealer or recycler by the peace officer. Probable cause for the issuance of that warrant must be based upon a theft specifically involving the transaction for which the thumbprint was given.

(b) Paragraph (1) of subdivision (a) shall not apply if, during any three-month period commencing on or after the effective date of this section, the junk dealer or recycler completes five or more separate transactions per month, on five or more separate days per month, with the seller and, in order for paragraph (1) of subdivision (a) to continue to be inapplicable, the seller must continue to complete five or more separate transactions per month with the junk dealer or recycler.

(c) This section shall not apply if, on the date of sale, the junk dealer or recycler has on file or receives all of the following information:

(1) The name, physical business address, and business telephone number of the seller's business.

(2) The business license number or tax identification number of the seller's business.

(3) A copy of the valid driver's license of the person delivering the nonferrous material on behalf of the seller to the junk dealer or the recycler.

(d) This section shall not apply to the redemption of nonferrous material having a value of not more than twenty dollars ($20) in a single transaction, when the primary purpose of the transaction is the redemption of beverage containers under the California Beverage Container Recycling and Litter Reduction Act, as set forth in Division 12.1 (commencing with Section 14500) of the Public Resources Code.

(e) This section shall not apply to coin dealers or to automobile dismantlers, as defined in Section 220 of the Vehicle Code.

(f) For the purposes of this section, "nonferrous material" means copper, copper alloys, stainless steel, or aluminum, but does not include beverage containers, as defined in Section 14505 of the Public Resources Code, that are subject to a redemption payment pursuant to Section 14560 of the Public Resources Code.

(g) This section is intended to occupy the entire field of law related to junk dealer or recycler transactions involving nonferrous material. However, a city or county ordinance, or a city and county ordinance, relating to the subject matter of this section is not in conflict with this section if the ordinance is passed by a two-thirds vote and it can be demonstrated by clear and convincing evidence that the ordinance is both necessary and addresses a unique problem within and specific to the jurisdiction of the ordinance that cannot effectively be addressed under this section.

(h) This section shall become operative on December 1, 2008.

SEC. 6. Section 21609 of the Business and Professions Code is amended to read:

21609. (a) Whenever a peace officer has probable cause to believe that property in the possession of a junk dealer or recycler is stolen, in lieu of seizing the property, the peace officer as defined in subdivision (b) of Section 21606.5, at his or her option, may place a hold on the property for a period not to exceed 90 days. When a peace officer places a hold on the property, the peace officer shall give the junk dealer or recycler a written notice at the time the hold is placed, describing the item or items to be held plus the case number. During that period the junk dealer or recycler shall not release or dispose of the property, except pursuant to a court order or upon receipt of a written authorization signed by a peace officer who is a member of the law enforcement agency of

which the peace officer placing the hold on the property is a member. Except as specifically set forth in this section, a junk dealer or recycler shall not be subject to civil liability for compliance with this section.

(b) Whenever property that is in the possession of a junk dealer or recycler is subject to a hold and the property is required by a peace officer in a criminal investigation, the junk dealer or recycler, upon reasonable notice, shall produce the property at reasonable times and places or may deliver the property to any peace officer upon the request of any peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member.

(c) Whenever property that is in the possession of a junk dealer or recycler is subject to a hold and the property is no longer required for the purpose of criminal investigation, the law enforcement agency that placed the hold on the property shall undertake the following:

(1) With respect to the property being held, if the law enforcement agency has no knowledge of the property on hold being reported as stolen, the property shall be released upon written notice to the junk dealer or recycler. The notice shall be provided in a timely fashion.

(2) If the law enforcement agency has knowledge that the property has been reported stolen, the law enforcement agency shall notify the person who reported the stolen property of the name and address of the junk dealer or recycler holding the property and authorize the release of the property to that person.

The law enforcement agency that placed the property on hold shall release the hold after 60 days has elapsed following the delivery of the notice to the person who reported the property stolen.

(3) If a victim seeks to recover property that is subject to a hold, the junk dealer or recycler shall advise the victim of the name and badge number of the peace officer who placed the hold on the property and the name of the law enforcement agency of which the officer is a member. If the property is not required to be held pursuant to a criminal prosecution the hold shall be released.

(d) Upon conviction of a person for the theft of property placed on hold pursuant to this section, the court shall order the defendant to do both of the following:

(1) Pay the junk dealer or recycler reasonable costs for the storage of the property.

(2) Pay the victim for both the value of the property stolen and any reasonable collateral damage caused in the commission of the theft.

(e) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

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.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address statewide concerns related to public safety, and to decrease the rising theft of nonferrous materials, it is necessary that this act take effect immediately.

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## CHAPTER 732

An act to amend Section 21606 of the Business and Professions Code, relating to junk dealers.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 21606 of the Business and Professions Code is amended to read:

21606. (a) Every junk dealer and every recycler shall set out in the written record required by this article all of the following:

(1) The place and date of each sale or purchase of junk made in the conduct of his or her business as a junk dealer or recycler.

(2) The name, valid driver's license number and state of issue or California-issued identification card number, and vehicle license number including the state of issue of any motor vehicle used in transporting the junk to the junk dealer's or recycler's place of business.

(3) The name and address of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in transporting the junk from the junk dealer's or recycler's place of business.

(4) A description of the item or items of junk purchased or sold, including the item type and quantity, and identification number, if visible.

(5) A statement indicating either that the seller of the junk is the owner of it, or the name of the person he or she obtained the junk from, as shown on a signed transfer document.

(b) Any person who makes, or causes to be made, any false or fictitious statement regarding any information required by this section, is guilty of a misdemeanor.

(c) Every junk dealer and every recycler shall report the information required in subdivision (a) to the chief of police or to the sheriff in the same manner as described in Section 21628.

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## CHAPTER 733

An act to add Section 21608.6 to the Business and Professions Code, relating to junk dealers.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 21608.6 is added to the Business and Professions Code, to read:

21608.6. (a) A junk dealer or recycler, as defined in subdivision (f), in this state shall not provide payment for newspaper, as defined in Section 538c of the Penal Code, or for California Redemption Value (CRV) containers unless, in addition to meeting the written record requirements of Sections 21605 and 21606, all of the following requirements are met:

(1) The payment for the newspaper or for the CRV containers is made by check or by other electronic transfer from the junk dealer or recycler to the seller. A recycler, if authorized by regulations adopted pursuant to Division 12.1 (commencing with Section 14500) of the Public Resources Code, may provide payment for CRV containers through a voucher that is immediately redeemable for cash.

(2) The junk dealer or recycler obtains and records a valid, documented address for the seller by obtaining a copy of the valid driver's license of the seller containing a photograph and an address of the seller, or a copy of a state or federal government-issued identification card containing a photograph and an address of the seller, or other valid identification containing the seller's address, such as utility bills in the seller's name. The junk dealer or recycler shall preserve the photograph

and the address or the copies obtained pursuant to this paragraph for a period of two years after the date of sale.

(b) The requirements of paragraph (1) of subdivision (a) shall not apply if, during any three-month period commencing on or after the effective date of this section, the junk dealer or recycler completes five or more separate transactions per month with the seller, and in order for the requirements of paragraph (1) of subdivision (a) to continue to be inapplicable, the seller must continue to complete five or more separate transactions per month with the junk dealer or recycler.

(c) This section shall not apply if, on the date of sale, the junk dealer or recycler has on file or receives all of the following information:

(1) The name, physical business address, and business telephone number of the seller's business.

(2) The business license number or tax identification number of the seller's business.

(3) A copy of the valid driver's license or a copy of a state or federal government-issued identification card containing a photograph and an address of the person delivering newspaper or CRV containers on behalf of the seller to the junk dealer or the recycler.

(d) Any unauthorized disclosure of personal identification information collected from a seller by a junk dealer or recycler is prohibited, and any violation of this prohibition is subject to a civil fine not to exceed five thousand dollars ($5,000).

(e) This section shall not apply to the payment for newspaper having a value of fifty dollars ($50) or less in a single transaction or CRV containers having a value of one hundred dollars ($100) or less in a single transaction.

(f) This section shall only apply in jurisdictions that offer curbside pickup of materials that include newspaper and CRV containers.

(g) Notwithstanding Section 21605, for purposes of this section, "recycler" means any processor, recycling center, or noncertified recycler, as those terms are defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

## CHAPTER 734

An act to add Section 326.45 to the Penal Code, relating to bingo, and making an appropriation therefor.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 326.45 is added to the Penal Code, to read:

326.45. Up to five hundred thousand dollars ($500,000), as determined by order of the Director of Finance, is hereby appropriated from the California Bingo Fund to the California Gambling Control Commission for use in the 2008–09 fiscal year for the purposes described in subparagraph (C) of paragraph (3) of subdivision (p) of Section 326.3.

SEC. 2. This act shall become operative only if Senate Bill 1369 of the 2007–08 Regular Session is enacted and becomes operative.

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## CHAPTER 735

An act to add Chapter 7 (commencing with Section 20600) to Division 20 of the Elections Code, to add and repeal Chapter 12 (commencing with Section 91015) of Title 9 of, and to repeal Sections 85300 and 86102 of, the Government Code, and to add and repeal Article 8.6 (commencing with Section 18798) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Chapter 7 (commencing with Section 20600) is added to Division 20 of the Elections Code, to read:

### Chapter 7. Fair Elections Fund

20600. (a) Each lobbying firm, as defined by Section 82038.5 of the Government Code, each lobbyist, as defined by Section 82039 of the Government Code, and each lobbyist employer, as defined by Section

82039.5 of the Government Code, shall pay the Secretary of State a nonrefundable fee of seven hundred dollars ($700) every two years. Twenty-five dollars ($25) of each fee from each lobbyist shall be deposited in the General Fund and used, when appropriated, for the purposes of Article 1 (commencing with Section 86100) of Chapter 6 of Title 9 of the Government Code. The remaining amount of each fee shall be deposited in the Fair Elections Fund established pursuant to Section 91133 of the Government Code. The fees in this section may be paid in even-numbered years when registrations are renewed pursuant to Section 86106 of the Government Code.

(b) The Secretary of State shall biennially adjust the amount of the fees collected pursuant to this section to reflect any increase or decrease in the Consumer Price Index.

SEC. 2. Section 85300 of the Government Code is repealed.

SEC. 3. Section 86102 of the Government Code is repealed.

SEC. 4. Chapter 12 (commencing with Section 91015) is added to Title 9 of the Government Code, to read:

## Chapter 12. California Fair Elections Act of 2008

### Article 1. General

91015. This chapter shall be known and may be cited as the California Fair Elections Act of 2008.

91017. The people find and declare all of the following:

(a) The current campaign finance system burdens candidates with the incessant rigors of fundraising and thus decreases the time available to carry out their public responsibilities.

(b) The current campaign finance system diminishes the free speech rights of nonwealthy voters and candidates whose voices are drowned out by those who can afford to monopolize the arena of paid political communications.

(c) The current campaign finance system fuels the public perception of corruption at worst and conflict of interest at best and undermines public confidence in the democratic process and democratic institutions.

(d) Existing term limits place a greater demand on fundraising for the next election even for elected officials in safe seats.

(e) The current campaign finance system undermines the First Amendment right of voters and candidates to be heard in the political process, undermines the First Amendment right of voters to hear all candidates' speech, and undermines the core First Amendment value of open and robust debate in the political process.

(f) Citizens want to ensure the integrity of California's system of electronically reporting lobbyist contributions and the integrity of future Secretaries of State to administer lobbyist disclosure programs. Voters would like the opportunity to elect a Secretary of State who has not accepted any contributions from entities or individuals that employ lobbyists.

(g) In states where the fair elections full public financing laws have been enacted and used, election results show that more individuals, especially women and minorities, run as candidates and growth in overall campaign costs diminish.

91019. The people enact this chapter to establish a Fair Elections pilot program in campaigns for the office of Secretary of State to accomplish the following purposes:

(a) To reduce the perception of influence of large contributions on the decisions made by state government.

(b) To remove wealth as a major factor affecting whether an individual chooses to become a candidate.

(c) To provide a greater diversity of candidates to participate in the electoral process.

(d) To permit candidates to pursue policy issues instead of being preoccupied with fundraising and allow officeholders more time to carry out their official duties.

(e) To diminish the danger of actual corruption or the public perception of corruption and strengthen public confidence in the governmental and election processes.

(f) To reduce the perception of influence of lobbyist employers upon future Secretaries of State and their administration of the lobbyist disclosure program.

(g) To protect the public's fiscal interest by providing sufficient resources to make the public financing program a viable option for qualified candidates, while not wasting resources by providing candidates with an unnecessarily large initial grant of public funds.

91021. The people enact this chapter to further accomplish the following purposes:

(a) To foster more equal and meaningful participation in the political process.

(b) To provide candidates who participated in the program with sufficient resources with which to communicate with voters.

(c) To increase the accountability of the Secretary of State to the constituents who elect him or her.

(d) To provide voters with timely information regarding the sources of campaign contributions, expenditures, and political advertising.

Article 2. Applicability to the Political Reform Act of 1974

91023. Unless specifically superseded by this act, the definitions and provisions of the Political Reform Act of 1974 shall govern the interpretation of this chapter.

Article 3. Definitions

91024. "Address" means the mailing address as provided on the voter registration form.

91025. For purposes of this chapter, "candidate" means, unless otherwise stated, a candidate for Secretary of State.

91027. A "coordinated expenditure" means a payment made for the purpose of influencing the outcome of an election for Secretary of State that is made by any of the following methods:

(a) By a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to a particular understanding with a candidate, a candidate's controlled committee, or an agent acting on behalf of a candidate or a controlled committee.

(b) By a person for the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's controlled committee, or an agent of a candidate or a controlled committee.

(c) Based on specific information about the candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with a view toward having the payment made.

(d) By a person if, in the same primary and general election in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's controlled committee in an executive or policymaking position.

(e) By a person if the person making the payment has served in any formal policy or advisory position with the candidate's campaign or has participated in strategic or policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to the office of Secretary of State in the same primary and general election as the primary and general election in which the payment is made.

(f) By a person if the person making the payment retains the professional services of an individual or person who, in a nonministerial capacity, has provided or is providing campaign-related services in the

same election to a candidate who is pursuing the same nomination or election as any of the candidates to whom the communication refers.

91028. "Effective expenditures" for a nonparticipating candidate means the amount spent plus any independent electioneering expenditures intended to help elect the candidate minus any expenditure treated as an independent electioneering expenditure intended to defeat the candidate. For a participating candidate, it means the amount of Fair Elections funding the candidate has received plus any independent electioneering expenditures intended to help elect the candidate minus any expenditure treated as an independent electioneering expenditure intended to defeat the candidate.

91029. "Entity" means any person other than an individual.

91031. "Excess expenditure amount" means the amount of funds spent or obligated to be spent by a nonparticipating candidate in excess of the Fair Elections funding amount available to a participating candidate running for the same office.

91033. "Exploratory period" means the period beginning 18 months before the primary election and ending on the last day of the qualifying period. The exploratory period begins before, but extends to the end of, the qualifying period.

91035. "General election campaign period" means the period beginning the day after the primary election and ending on the day of the general election.

91037. "Independent candidate" means a candidate who does not represent a political party that has been granted ballot status for the general election and who has qualified, or is seeking to qualify, to be on the general election ballot.

91039. "Independent electioneering expenditure" means any expenditure of two thousand five hundred dollars ($2,500) or more made by a person, party committee, political committee or political action committee, or any entity required to file reports pursuant to Section 84605, during the 45 calendar days before a primary or the 60 calendar days before a general election, which expressly advocates the election or defeat of a clearly identified candidate or names or depicts clearly identified candidates.

91043. "Nonparticipating candidate" means a candidate who is on the ballot but has chosen not to apply for Fair Elections campaign funding or a candidate who is on the ballot and has applied but has not satisfied the requirements for receiving Fair Elections funding.

91045. "Office-qualified party" means a political party whose gubernatorial or Secretary of State nominee has received 10 percent or more of the votes at the last election.

91046. "Office-qualified candidate" is a candidate seeking nomination from an office-qualified party.

91049. "Participating candidate" means a candidate who qualifies for Fair Elections campaign funding. These candidates are eligible to receive Fair Elections funding during primary and general election campaign periods.

91051. "Party candidate" means a candidate who represents a political party that has been granted ballot status and holds a primary election to choose its nominee for the general election.

91053. "Performance-qualified candidate" means either an office-qualified candidate or a candidate who has shown a broad base of support by gathering twice the number of qualifying contributions as is required for an office-qualified candidate. Independent candidates may qualify for funding as performance-qualified candidates.

91055. "Petty cash" means cash amounts of one hundred dollars ($100) or less per day that are drawn on the Fair Elections Debit Card and used to pay expenses of no more than twenty-five dollars ($25) each.

91059. "Primary election campaign period" means the period beginning 120 days before the primary election and ending on the day of the primary election.

91061. "Qualified candidate" means a candidate seeking nomination from a party that is not an office-qualified party.

91063. "Qualifying contribution" means a contribution of five dollars ($5) that is received during the designated qualifying period by a candidate seeking to become eligible for Fair Elections campaign funding from a registered voter of the district in which the candidate is running for office.

91065. "Qualifying period" means the period during which candidates are permitted to collect qualifying contributions in order to qualify for Fair Elections funding. It begins 270 days before the primary election and ends 90 days before the day of the primary election for party candidates and begins any time after January 1 of the election year and lasts 180 days, but in no event ending later than 90 days, before the general election for performance-qualified candidates who are running as independent candidates.

91067. "Seed money contribution" means a contribution of no more than one hundred dollars ($100) made by a California registered voter during the exploratory period.

Article 4. Fair Elections Eligibility

91071. (a) An office-qualified candidate qualifies as a participating candidate for the primary election campaign period if the following requirements are met:

(1) The candidate files a declaration with the commission that the candidate has complied and will comply with all of the requirements of this act, including the requirement that during the exploratory period and the qualifying period the candidate not accept or spend private contributions from any source other than seed money contributions, qualifying contributions, Fair Elections funds, and political party funds as specified in Section 91123.

(2) The candidate meets the following qualifying contribution requirements before the close of the qualifying period:

(A) The office-qualified candidate shall collect at least 7,500 qualifying contributions.

(B) Each qualifying contribution shall be acknowledged by a receipt to the contributor, with a copy submitted by the candidate to the county registrar of voters in the county where the candidate files his or her declaration of candidacy. The receipt shall include the contributor's signature, printed name, and address, the date, and the name of the candidate on whose behalf the contribution is made. In addition, the receipt shall indicate by the contributor's signature that the contributor understands that the purpose of the qualifying contribution is to help the candidate qualify for Fair Elections campaign funding, that the contribution is the only qualifying contribution the contributor has provided to a candidate for this office, and that the contribution is made without coercion or reimbursement.

(C) A contribution submitted as a qualifying contribution that does not include a signed and fully completed receipt shall not be counted as a qualifying contribution.

(D) All five-dollar ($5) qualifying contributions, whether in the form of cash, check, or money order made out to the candidate's campaign account, shall be deposited by the candidate in the candidate's campaign account.

(E) All qualifying contributions' signed receipts shall be sent to the county registrar of voters in the county where the candidate files his or her declaration of candidacy and shall be accompanied by a check or other written instrument from the candidate's campaign account for the total amount of qualifying contribution funds received for deposit in the Fair Elections Fund. This submission shall be accompanied by a signed statement from the candidate indicating that all of the information on the qualifying contribution receipts is complete and accurate to the best

of the candidate's knowledge and that the amount of the enclosed check or other written instrument is equal to the sum of all of the five-dollar ($5) qualifying contributions the candidate has received. County registrars of voters shall forward these checks or other written instruments to the commission.

(b) A candidate qualifies as a participating candidate for the general election campaign period if both of the following requirements are met:

(1) The candidate met all of the applicable requirements and filed a declaration with the commission that the candidate has fulfilled and will fulfill all of the requirements of a participating candidate as stated in this act.

(2) As a participating party candidate during the primary election campaign period, the candidate had the highest number of votes of the candidates contesting the primary election from the candidate's respective party and, therefore, won the party's nomination.

91073. (a) A qualified candidate shall collect at least one-half of the number of qualifying contributions as required for an office-qualified candidate for the same office. A qualified candidate may show a greater base of support by collecting double the amount of qualifying contributions as required for an office-qualified candidate to become a performance-qualified candidate. The candidate shall also file a declaration with the commission that the candidate has complied and will comply with all of the requirements of this act.

(b) An independent candidate who does not run in a primary may become a performance-qualified candidate by collecting twice as many qualifying contributions as required of an office-qualified candidate. The qualifying period for such candidates shall begin any time after January 1 of the election year and shall last 180 days, except that it shall end no later than 90 days before the general election. An independent candidate shall notify the commission within 24 hours of the day when the candidate has begun collecting qualifying contributions. The candidate shall also file a declaration with the commission that he or she has complied and will comply with all of the requirements of this chapter.

91075. During the first election that occurs after the effective date of this act, a candidate may be certified as a participating candidate, notwithstanding the acceptance of contributions or making of expenditures from private funds before the date of enactment that would, absent this section, disqualify the candidate as a participating candidate, provided that any private funds accepted but not expended before the effective date of this act meet any of the following criteria:

(a) Are returned to the contributor.

(b) Are held in a segregated account and used only for retiring a debt from a previous campaign.

(c) Are submitted to the commission for deposit in the Fair Elections Fund.

91077. A participating candidate who accepts any benefits during the primary election campaign period shall comply with all of the requirements of this act through the general election campaign period whether the candidate continues to accept benefits or not.

91079. (a) During the primary and general election campaign periods, a participating candidate who has voluntarily agreed to participate in, and has become eligible for, Fair Elections benefits, shall not accept private contributions from any source other than the candidate's political party as specified in Section 91123.

(b) During the qualifying period and the primary and general election campaign periods, a participating candidate who has voluntarily agreed to participate in, and has become eligible for, Fair Elections benefits shall not solicit or receive contributions for any other candidate or for any political party or other political committee.

(c) No person shall make a contribution in the name of another person. A participating candidate who receives a qualifying contribution or a seed money contribution that is not from the person listed on the receipt required by subparagraph (D) of paragraph (2) of subdivision (a) of Section 91071 shall be liable to pay the commission the entire amount of the inaccurately identified contribution, in addition to any penalties.

(d) During the primary and general election campaign periods, a participating candidate shall pay for all of the candidate's campaign expenditures, except petty cash expenditures, by means of a "Fair Elections Debit Card" issued by the commission, as authorized under Section 91137.

(e) Participating candidates shall furnish complete campaign records to the commission upon request. Candidates shall cooperate with any audit or examination by the commission, the Franchise Tax Board, or any enforcement agency.

91081. (a) During the primary election period and the general election period, each participating candidate shall conduct all campaign financial activities through a single campaign account.

(b) Notwithstanding Section 85201, a participating candidate may maintain a campaign account other than the campaign account described in subdivision (a) if the other campaign account is for the purpose of retiring a net debt outstanding that was incurred during a previous election campaign in which the candidate was not a participating candidate.

(c) Contributions for the purposes of retiring a previous campaign debt that are deposited in the "other campaign account" described in subdivision (b) shall not be considered "contributions" to the candidate's

current campaign. Those contributions shall only be raised during the six-month period following the date of the election.

91083. (a) Participating candidates shall use their Fair Elections funds only for direct campaign purposes.

(b) A participating candidate shall not use Fair Elections funds for any of the following:

(1) Costs of legal defense or fines resulting from any campaign law enforcement proceeding under this act.

(2) Indirect campaign purposes, including, but not limited to, the following:

(A) The candidate's personal support or compensation to the candidate or the candidate's family.

(B) The candidate's personal appearance.

(C) A contribution or loan to the campaign committee of another candidate for any elective office or to a party committee or other political committee.

(D) An independent electioneering expenditure.

(E) A gift in excess of twenty-five dollars ($25) per person.

(F) Any payment or transfer for which compensating value is not received.

91085. (a) Personal funds contributed as seed money by a candidate seeking to become eligible as a participating candidate or by adult members of the candidate's family shall not exceed the maximum of one hundred dollars ($100) per contributor.

(b) Personal funds shall not be used to meet the qualifying contribution requirement except for one five-dollar ($5) contribution from the candidate and one five-dollar ($5) contribution from the candidate's spouse.

91087. (a) The only private contributions a candidate seeking to become eligible for Fair Elections funding shall accept, other than qualifying contributions and limited contributions from the candidate's political party as specified in Section 91123, are seed money contributions contributed by duly registered voters in the district in which the candidate is running for election prior to the end of the qualifying period.

(b) A seed money contribution shall not exceed one hundred dollars ($100) per donor, and the aggregate amount of seed money contributions accepted by a candidate seeking to become eligible for Fair Elections funding shall not exceed seventy-five thousand dollars ($75,000).

(c) Receipts for seed money contributions shall include the contributor's signature, printed name, address, and ZIP Code. Receipts described in this subdivision shall be made available to the commission upon request.

(d) Seed money shall be spent only during the exploratory and qualifying periods. Seed money shall not be spent during the primary or general election campaign periods, except when they overlap with the candidate's qualifying period. Any unspent seed money shall be turned over to the commission for deposit in the Fair Elections Fund.

(e) Within 72 hours after the close of the qualifying period, candidates seeking to become eligible for Fair Elections funding shall do both of the following:

(1) Fully disclose all seed money contributions and expenditures to the commission.

(2) Turn over to the commission for deposit in the Fair Elections Fund any seed money the candidate has raised during the exploratory period that exceeds the aggregate seed money limit.

91091. Participating candidates in contested races shall agree to participate in at least one public debate during a contested primary election and two public debates during a contested general election, to be conducted pursuant to regulations promulgated by the commission.

91093. (a) No more than five business days after a candidate applies for Fair Elections benefits, the county registrar of voters in the county where the candidate files his or her declaration of candidacy shall certify that the candidate is or is not eligible. Eligibility may be revoked if the candidate violates the requirements of this act, in which case all Fair Elections funds shall be repaid.

(b) The candidate's request for certification shall be signed by the candidate and the candidate's campaign treasurer under penalty of perjury.

(c) The certification determination of the county registrar of voters is final except that it is subject to a prompt judicial review.

## Article 5. Fair Elections Benefits

91095. (a) Candidates who qualify for Fair Elections funding for primary and general elections shall:

(1) Receive Fair Elections funding from the commission for each election in an amount specified by Section 91099. This funding may be used to finance campaign expenses during the particular campaign period for which it was allocated consistent with Section 91081.

(2) Receive, if a performance-qualified candidate, additional Fair Elections funding to match the effective expenditures of any candidates in the election that exceed the effective expenditures of the performance-qualified candidate.

(b) The maximum aggregate amount of funding a participating performance-qualified candidate shall receive to match independent

electioneering expenditures and excess expenditures of nonparticipating candidates shall not exceed four times the base funding amount pursuant to Section 91099 for a particular primary or general election campaign period.

91095.5. (a) An expenditure by a candidate in a primary election against a candidate running for that office in another party's primary shall be treated as an independent electioneering expenditure against that candidate when that candidate's effective expenditures are less than those of the candidate making the expenditure for the purposes of Section 91095.

(b) The commission shall promulgate regulations allocating the share of expenditures that reference or depict more than one candidate for the purposes of Section 91095.

(c) Expenditures made before the general election period that consist of a contract, promise, or agreement to make an expenditure during the general election period resulting in an extension of credit shall be treated as though made at the beginning of the general election period.

91097. (a) An eligible qualified or performance-qualified candidate running in a primary election shall receive the candidate's Fair Elections funding for the primary election campaign period on the date on which the county registrar of voters certifies the candidate as a participating candidate or at the beginning of the primary election period, whichever is later.

(b) An eligible qualified or performance-qualified candidate shall receive the candidate's Fair Elections funding for the general election campaign period within two business days after certification of the primary election results.

91099. (a) For eligible candidates in a primary election:

(1) The base amount of Fair Elections funding for an eligible office-qualified candidate in a primary election is one million dollars ($1,000,000).

(2) The amount of Fair Elections funding for an eligible qualified candidate in a primary election is 20 percent of the base amount that an office-qualified candidate would receive.

(b) For eligible candidates in a general election:

(1) The base amount of Fair Elections funding for a performance-qualified candidate in a general, special, or special runoff election is one million three hundred thousand dollars ($1,300,000).

(2) The amount of Fair Elections funding for an eligible qualified candidate in a contested general election is 25 percent of the base amount a performance-qualified candidate would receive.

Article 6. Disclosure Requirements

91107. (a) If a nonparticipating candidate's total expenditures or promises to make campaign expenditures exceed the amount of Fair Elections funding allocated to the candidate's Fair Elections opponent or opponents, the candidate shall declare every excess expenditure amount which, in the aggregate, is more than five thousand dollars ($5,000) to the commission online or electronically within 24 hours of the time the expenditure or promise is made, whichever occurs first.

(b) The commission may make its own determination as to whether excess expenditures have been made by nonparticipating candidates.

(c) Upon receiving an excess expenditure declaration or determining that an excess expenditure has been made, the commission shall immediately release additional Fair Elections funding to the opposing performance-qualified candidates pursuant to Section 91095.

91111. (a) In addition to any other report required by this chapter, a committee, including a political party committee, that is required to file reports pursuant to Section 84605 and that makes independent electioneering expenditures of two thousand five hundred dollars ($2,500) or more during a calendar year in connection with a candidate for Secretary of State, shall file online or electronically a report with the Secretary of State disclosing the making of the independent electioneering expenditure. This report shall disclose the same information required by subdivision (b) of Section 84204 and shall be filed within 24 hours of the time the independent electioneering expenditure is made.

(b) The report to the Secretary of State shall include a signed statement under penalty of perjury by the person or persons making the independent electioneering expenditure identifying the candidate or candidates whom the independent electioneering expenditure is intended to help elect or defeat and affirming that the expenditure is independent and whether it is coordinated with a candidate or a political party.

(c) Any individual or organization that fails to file the required report to the Secretary of State or provides materially false information in a report filed pursuant to subdivision (a) or (b) may be fined up to three times the amount of the independent electioneering expenditure, in addition to any other remedies provided by this act.

(d) The Secretary of State shall provide information received pursuant to subdivision (a) to the commission simultaneously upon receipt. Upon receiving a report that an independent electioneering expenditure has been made or obligated to be made, the commission shall immediately release additional Fair Elections funding pursuant to Section 91095.

91113. All broadcast and print advertisements placed by candidates or their committees shall include a clear written or spoken statement

indicating that the candidate has approved of the contents of the advertisement.

Article 7. Legal Defense, Officeholder, and Inaugural Funds

91115. (a) Notwithstanding Section 85316, a Secretary of State or candidate for the office of Secretary of State may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or elected state officer's legal defense if the candidate or elected state officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the elected state officer's governmental activities and duties. These funds may be used only to defray those attorney's fees and other related legal costs.

(b) A Secretary of State may establish a separate account for expenses associated with holding office that are reasonably related to a legislative or governmental purpose as specified in this subdivision and in regulations of the commission. The total amount of funds that may be deposited in a calendar year into an account established pursuant to this subdivision shall not exceed fifty thousand dollars ($50,000).

(c) A Secretary of State may establish an inaugural account to cover the cost of events, celebrations, gatherings, and communications that take place as part of, or in honor of, the inauguration of the Secretary of State.

(d) The maximum amount of contributions a candidate or elected state officer whose office is covered by these provisions may receive from a contributor in a calendar year for all of the accounts described in subdivisions (a), (b), and (c) combined is five hundred dollars ($500). All contributions, whether cash or in kind, shall be reported in a manner prescribed by the commission. Contributions to such funds shall not be considered campaign contributions.

(e) Once the legal dispute is resolved, the candidate shall dispose of any funds remaining after all expenses associated with the dispute are discharged or after the elected state officer whose office is covered by these provisions leaves office, for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

Article 8. Restrictions on Candidates

91121. A nonparticipating candidate may accept an otherwise lawful contribution after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election.

91123. Participating candidates may accept monetary or in-kind contributions from political parties provided that the aggregate amount of such contributions from all political party committees combined does not exceed the equivalent of 5 percent of the original Fair Elections financing allotment for that office for that election. Such expenditures shall not count against the moneys spent by Fair Elections candidates.

Article 9. Ballot Pamphlet Statements

91127. The Secretary of State shall designate in the state ballot pamphlet and on any Internet Web site listing of candidates maintained by any government agency including, but not limited, to the Secretary of State those candidates who have voluntarily agreed to be participating candidates.

91131. (a) A candidate for Secretary of State who is a participating candidate may place a statement in the state ballot pamphlet that does not exceed 250 words. The statement shall not make any reference to any opponent of the candidate. The candidate may also provide a list of up to 10 endorsers for placement in the state ballot pamphlet or sample ballot, as appropriate. This statement and list of endorsers shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlets and by county elections officials for the preparation of sample ballots.

(b) A nonparticipating candidate for Secretary of State may pay to place a statement in the state ballot pamphlet that does not exceed 250 words. A nonparticipating candidate may also pay to place a list of up to 10 endorsers in the state ballot pamphlet or sample ballot, as appropriate. The statement shall not make any reference to any opponent of the candidate. This statement and list of endorsers shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlets and by county elections officials for the preparation of sample ballots. The nonparticipating candidate shall be charged the pro rata cost of printing, handling, translating, and mailing any ballot pamphlet statement and list of endorsers provided pursuant to this subdivision.

Article 10. Appropriations for the Fair Elections Fund

91133. (a) A special, dedicated, nonlapsing Fair Elections Fund is created in the State Treasury. Commencing January 1, 2011, the funds collected pursuant to Section 20600 of the Elections Code shall, when appropriated by the Legislature, be available from the Fair Elections Fund to the commission for expenditure for the purpose of providing

public financing for the election campaigns of certified participating candidates during primary and general campaign periods.

(b) Funding for the administrative and enforcement costs of the commission related to this act shall be from the Fair Elections Fund and shall be, for each four-year election cycle, no more than 10 percent of the total amount deposited in the Fair Elections Fund during the four-year election cycle.

91135. Other sources of revenue to be deposited in the Fair Elections Fund shall include all of the following:

(a) The qualifying contributions required of candidates seeking to become certified as participating candidates and candidates' excess qualifying contributions.

(b) The excess seed money contributions of candidates seeking to become certified as participating candidates.

(c) Unspent funds distributed to any participating candidate who does not remain a candidate until the primary or general election for which they were distributed, or funds that remain unspent by a participating candidate following the date of the primary or general election for which they were distributed.

(d) Voluntary donations made directly to the Fair Elections Fund.

(e) Other funds appropriated by the Legislature.

(f) Any interest generated by the Fair Elections Fund.

(g) Any other sources of revenue from the General Fund or from other sources as determined by the Legislature.

## Article 11. Administration

91137. (a) Upon a determination that a candidate has met all the requirements for becoming a participating candidate as provided for in this act, the commission shall issue to the candidate a card, known as the "Fair Elections Debit Card," and a "line of debit" entitling the candidates and members of the candidate's staff to draw Fair Elections funds from a commission account to pay for all campaign costs and expenses up to the amount of Fair Elections funding the candidate has received.

(b) Neither a participating candidate nor any other person on behalf of a participating candidate shall pay campaign costs by cash, check, money order, loan, or by any other financial means other than the Fair Elections Debit Card.

(c) Cash amounts of one hundred dollars ($100) or less per day may be drawn on the Fair Elections Debit Card and used to pay expenses of no more than twenty-five dollars ($25) each. Records of all such

expenditures shall be maintained and, upon request, made available to the commission.

91139. If the commission determines that there are insufficient funds in the program to fund adequately all candidates eligible for Fair Elections funds, the commission shall reduce the grants proportionately to all eligible candidates. If the commission notifies a candidate that the Fair Elections funds will be reduced and the candidate has not received any Fair Elections funds, the candidate may decide to be a nonparticipating candidate. If a candidate has already received Fair Elections funds or wishes to start receiving such funds, a candidate who wishes to collect contributions may do so in amounts up to the contribution limits provided for nonparticipating candidates but shall not collect more than the total of Fair Elections funds that the candidate was entitled to receive had there been sufficient funds in the program less the amount of Fair Elections funds that will be or have been provided. If, at a later point, the commission determines that adequate funds have become available, candidates, who have not raised private funds, shall receive the funds owed to them.

91140. The commission shall adjust the seed money limitations in subdivision (a) of Section 91085 and in subdivision (b) of Section 91087 and the Fair Elections Fund funding amounts in Section 91099 in January after the election of the Secretary of State to reflect any increase or decrease in the Consumer Price Index and the increase or decrease in the number of registered voters in California. The adjustments made pursuant to this section shall be rounded to the nearest ten dollars ($10) for the seed money limitations and one thousand dollars ($1,000) for the Fair Elections funding amounts.

## Article 12. Enforcement

91141. (a) If a participating candidate spends or obligates to spend more than the Fair Elections funding the candidate is given, and if it is determined by the commission, subject to court review, not to be an amount that had or could have been expected to have a significant impact on the outcome of the election, then the candidate shall repay to the Fair Elections Fund an amount equal to the excess.

(b) If a participating candidate spends or obligates to spend more than the Fair Elections funding the candidate is given, and if that excess amount is determined by the commission, subject to court review, to be an amount that had or could have been expected to have a significant impact on the outcome of the election, then the candidate shall repay to the Fair Elections Fund an amount up to 10 times the value of the excess.

91143. It is unlawful for candidates to knowingly accept more benefits than those to which they are entitled, spend more than the amount of Fair Elections funding they have received, or misuse such benefits or Fair Elections funding.

91145. Any person who knowingly or willfully violates any provision of this chapter is guilty of a misdemeanor. Any person who knowingly or willfully causes any other person to violate any provision of this chapter, or who aids and abets any other person in the violation of any provision of this chapter shall be liable under this section.

91147. Prosecution for a violation of any provision of this chapter shall be commenced within four years after the date on which the violation occurred.

91149. No person convicted of a misdemeanor under this chapter shall act as a lobbyist or state contractor, or run for elective state office, for a period of five years following the date of conviction unless the court at the time of sentencing specifically determines that this provision shall not be applicable.

91157. This chapter shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 5. Article 8.6 (commencing with Section 18798) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 8.6. Voters Fair Elections Fund

18798. (a) An individual may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the Voters Fair Elections Fund, pursuant to Section 18798.1.

(b) Contributions shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation under subdivision (a) shall be made for any taxable year on the individual return for that taxable year and, once made, shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the individual's account, do not exceed the individual's liability, the return shall be treated as if no designation were made.

(d) The Franchise Tax Board shall revise the forms of the return to include a space labeled "Voters Fair Elections Fund" to allow for the designation permitted under subdivision (a). The forms shall also include instructions that the contribution may be in the amount of one dollar ($1) or more and that the contribution will be used to provide public

funding for the campaigns of qualified candidates for Secretary of State who agree to take no private moneys for their campaigns.

(e) Notwithstanding any other provision of law, a voluntary contribution designation for the Voters Fair Elections Fund shall not be added to the tax return until another voluntary contribution is removed.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

18798.1. There is hereby established in the State Treasury the Voters Fair Elections Fund to receive contributions made pursuant to Section 18798. The Franchise Tax Board shall notify the Controller of both the amount of moneys paid by taxpayers in excess of their tax liability and the amount of refund moneys which taxpayers have designated pursuant to Section 18798 to be transferred to the Voters Fair Elections Fund. The Controller shall transfer from the Personal Income Tax Fund to the Voters Fair Elections Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18798 for payment into that fund.

18798.2. All moneys transferred to the Voters Fair Elections Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) To the Fair Elections Fund established pursuant to Section 91133 of the Government Code.

18798.3. (a) Except as otherwise provided in subdivision (b), this article shall remain in effect only until January 1 of the fifth taxable year following the first appearance of the Voters Fair Elections Fund on the personal income tax return, and as of that date is repealed, unless a later enacted statute that is enacted before the applicable date deletes or extends that date.

(b) (1) By September 1 of the second calendar year, and by September 1 of each subsequent calendar year that the Voters Fair Elections 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 Fair Political Practices Commission 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 second calendar year after the first appearance of the Voters Fair Elections Fund on the personal income tax return or the adjusted minimum contribution amount adjusted pursuant to subdivision (c).

(c) For each calendar year, beginning with the third calendar year after the first appearance of the Voters Fair Elections Fund on the personal income tax return, the Franchise Tax Board shall adjust, on or before September 1, the minimum contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the calendar year multiplied by the inflation factor adjustment as specified in subparagraph (A) of paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

SEC. 6. The provisions of Section 81012 of the Government Code, which allow legislative amendments to the Political Reform Act of 1974, shall apply to all of the provisions of this act that are placed on the June 8, 2010, ballot, except that Section 91157 of the Government Code, and Article 8.6 (commencing with Section 18798) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, may be amended or repealed by a statute passed in each house of the Legislature, a majority of the membership concurring, and signed by the Governor.

SEC. 7. (a) The Secretary of State shall, pursuant to subdivision (b) of Section 81012 of the Government Code, submit Sections 1, 2, 3, 4, 5, 6, and 8 of this act for approval by the voters at the June 8, 2010,

statewide primary election, notwithstanding Section 9040 of the Elections Code.

(b) (1) Notwithstanding any other provision of law, all ballots of the June 8, 2010, primary election shall have printed thereon as the ballot label the following: "CALIFORNIA FAIR ELECTIONS ACT. Creates a voluntary system for candidates for Secretary of State to qualify for a public campaign grant if they agree to strict spending limits and no private contributions. Each candidate demonstrating enough public support would receive the same amount. Participating candidates would be prohibited from raising or spending money beyond the grant. There would be strict enforcement and accountability. Funded by voluntary contributions and by an annual fee on lobbyists, lobbying firms, and lobbyist employers." At the appropriate location on the ballot, in the manner prescribed by law, there shall be provided the opportunity for voters to indicate whether they vote for or against the measure.

(2) Notwithstanding Sections 13247 and 13281 of the Elections Code, the language in paragraph (1) shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General shall include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and summary and the financial impact summary.

(c) Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this section.

(d) (1) Notwithstanding any other provision of law, the Secretary of State shall use the following as the ballot title and summary for the act: "CALIFORNIA FAIR ELECTIONS ACT. This act creates a voluntary system for candidates for Secretary of State to qualify for a public campaign grant if they agree to strict spending limits and take no private contributions. Candidates would have to qualify before receiving the grant. Candidates who demonstrate sufficient public support would receive the same amount. Participating candidates would be prohibited from raising or spending money beyond the grant. There would be strict enforcement and accountability with published reports open to the public. Funded by voluntary contributions and by a $350 annual registration fee on lobbyists, lobbying firms, and lobbyist employers."

(2) Notwithstanding any other provision of law, the language in paragraph (1) shall be the only language included in the ballot title and summary, and the Attorney General shall not supplement, subtract from,

or otherwise revise that language, except that the Attorney General shall include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code.

(e) The Secretary of State shall include, in the ballot pamphlets mailed pursuant to Section 9094 of the Elections Code, the information specified in Section 9084 of the Elections Code regarding the act described in subdivision (a).

SEC. 8. The section of this act that adds Chapter 12 (commencing with Section 91015) to Title 9 of the Government Code shall be deemed to amend the Political Reform Act of 1974 as amended and all of the provisions of the Political Reform Act of 1974 as amended that do not conflict with Chapter 12 shall apply to the provisions of that chapter.

SEC. 9. 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.

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## CHAPTER 736

An act to amend Section 22651 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 22651 of the Vehicle Code, as amended by Chapter 749 of the Statutes of 2007, is amended to read:

22651. A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or a regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city, county, or jurisdiction of a state agency in which a vehicle is located, may remove a vehicle located within the territorial limits in which the officer or employee may act, under the following circumstances:

(a) When a vehicle is left unattended upon a bridge, viaduct, or causeway or in a tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When a vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.

(c) When a vehicle is found upon a highway or public land and a report has previously been made that the vehicle is stolen or a complaint has been filed and a warrant thereon is issued charging that the vehicle is embezzled.

(d) When a vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.

(e) When a vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

(f) When a vehicle, except highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of a freeway that has full control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.

(g) When the person in charge of a vehicle upon a highway or public land is, by reason of physical injuries or illness, incapacitated to an extent so as to be unable to provide for its custody or removal.

(h) (1) When an officer arrests a person driving or in control of a vehicle for an alleged offense and the officer is, by this code or other law, required or permitted to take, and does take, the person into custody.

(2) When an officer serves a notice of an order of suspension or revocation pursuant to Section 13388 or 13389.

(i) (1) When a vehicle, other than a rented vehicle, is found upon a highway or public land, or is removed pursuant to this code, and it is known that the vehicle has been issued five or more notices of parking violations to which the owner or person in control of the vehicle has not responded within 21 calendar days of notice of citation issuance or citation issuance or 14 calendar days of the mailing of a notice of delinquent parking violation to the agency responsible for processing notices of parking violations, or the registered owner of the vehicle is known to have been issued five or more notices for failure to pay or failure to appear in court for traffic violations for which a certificate has not been issued by the magistrate or clerk of the court hearing the case showing that the case has been adjudicated or concerning which the registered owner's record has not been cleared pursuant to Chapter 6 (commencing with Section 41500) of Division 17, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency all of the following:

(A) Evidence of his or her identity.

(B) An address within this state at which he or she can be located.

(C) Satisfactory evidence that all parking penalties due for the vehicle and all other vehicles registered to the registered owner of the impounded vehicle, and all traffic violations of the registered owner, have been cleared.

(2) The requirements in subparagraph (C) of paragraph (1) shall be fully enforced by the impounding law enforcement agency on and after the time that the Department of Motor Vehicles is able to provide access to the necessary records.

(3) A notice of parking violation issued for an unlawfully parked vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of furnishing satisfactory evidence that the full amount of parking penalties or bail has been deposited, that person may demand to be taken without unnecessary delay before a magistrate, for traffic offenses, or a hearing examiner, for parking offenses, within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded, or, at the discretion of the impounding law enforcement agency, a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

(4) A vehicle shall be released to the legal owner, as defined in Section 370, if the legal owner does all of the following:

(A) Pays the cost of towing and storing the vehicle.

(B) Submits evidence of payment of fees as provided in Section 9561.

(C) Completes an affidavit in a form acceptable to the impounding law enforcement agency stating that the vehicle was not in possession of the legal owner at the time of occurrence of the offenses relating to standing or parking. A vehicle released to a legal owner under this subdivision is a repossessed vehicle for purposes of disposition or sale. The impounding agency shall have a lien on any surplus that remains upon sale of the vehicle to which the registered owner is or may be entitled, as security for the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5. The legal owner shall promptly remit to, and deposit with, the agency responsible for processing notices of parking violations from that surplus, on receipt of that surplus, the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5.

(5) The impounding agency that has a lien on the surplus that remains upon the sale of a vehicle to which a registered owner is entitled pursuant to paragraph (4) has a deficiency claim against the registered owner for

the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5, less the amount received from the sale of the vehicle.

(j) When a vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located.

(k) When a vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When a vehicle is illegally parked on a highway in violation of a local ordinance forbidding standing or parking and the use of a highway, or a portion thereof, is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by a local authority pursuant to the ordinance.

(m) Wherever the use of the highway, or a portion of the highway, is authorized by a local authority for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of a vehicle would prohibit or interfere with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by a local authority pursuant to the ordinance.

(n) Whenever a vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles. A vehicle shall not be removed unless signs are posted giving notice of the removal.

(o) (1) When a vehicle is found or operated upon a highway, a public land, or an offstreet parking facility under the following circumstances:

(A) With a registration expiration date in excess of six months before the date it is found or operated on the highway, public lands, or the offstreet parking facility.

(B) Displaying in, or upon, the vehicle, a registration card, identification card, temporary receipt, license plate, special plate, registration sticker, device issued pursuant to Section 4853, or permit that was not issued for that vehicle, or is not otherwise lawfully used on that vehicle under this code.

(C) Displaying in, or upon, the vehicle, an altered, forged, counterfeit, or falsified registration card, identification card, temporary receipt,

license plate, special plate, registration sticker, device issued pursuant to Section 4853, or permit.

(2) When a vehicle described in paragraph (1) is occupied, only a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove the vehicle.

(3) For the purposes of this subdivision, the vehicle shall be released to the owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of current registration and a currently valid driver's license to operate the vehicle.

(4) As used in this subdivision, "offstreet parking facility" means an offstreet facility held open for use by the public for parking vehicles and includes a publicly owned facility for offstreet parking, and a privately owned facility for offstreet parking if a fee is not charged for the privilege to park and it is held open for the common public use of retail customers.

(p) When the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle is not impounded pursuant to Section 22655.5. A vehicle so removed from the highway or public land, or from private property after having been on a highway or public land, shall not be released to the registered owner or his or her agent, except upon presentation of the registered owner's or his or her agent's currently valid driver's license to operate the vehicle and proof of current vehicle registration, or upon order of a court.

(q) Whenever a vehicle is parked for more than 24 hours on a portion of highway that is located within the boundaries of a common interest development, as defined in subdivision (c) of Section 1351 of the Civil Code, and signs, as required by paragraph (1) of subdivision (a) of Section 22658, have been posted on that portion of highway providing notice to drivers that vehicles parked thereon for more than 24 hours will be removed at the owner's expense, pursuant to a resolution or ordinance adopted by the local authority.

(r) When a vehicle is illegally parked and blocks the movement of a legally parked vehicle.

(s) (1) When a vehicle, except highway maintenance or construction equipment, an authorized emergency vehicle, or a vehicle that is properly permitted or otherwise authorized by the Department of Transportation, is stopped, parked, or left standing for more than eight hours within a roadside rest area or viewpoint.

(2) For purposes of this subdivision, a roadside rest area or viewpoint is a publicly maintained vehicle parking area, adjacent to a highway, utilized for the convenient, safe stopping of a vehicle to enable motorists to rest or to view the scenery. If two or more roadside rest areas are located on opposite sides of the highway, or upon the center divider,

within seven miles of each other, then that combination of rest areas is considered to be the same rest area.

(t) When a peace officer issues a notice to appear for a violation of Section 25279.

(u) When a peace officer issues a citation for a violation of Section 11700 and the vehicle is being offered for sale.

SEC. 2. Section 22651 of the Vehicle Code, as amended by Chapter 749 of the Statutes of 2007, is amended to read:

22651. A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or a regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city, county, or jurisdiction of a state agency in which a vehicle is located, may remove a vehicle located within the territorial limits in which the officer or employee may act, under the following circumstances:

(a) When a vehicle is left unattended upon a bridge, viaduct, or causeway or in a tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When a vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.

(c) When a vehicle is found upon a highway or public land and a report has previously been made that the vehicle is stolen or a complaint has been filed and a warrant thereon is issued charging that the vehicle is embezzled.

(d) When a vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.

(e) When a vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

(f) When a vehicle, except highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of a freeway that has full control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.

(g) When the person in charge of a vehicle upon a highway or public land is, by reason of physical injuries or illness, incapacitated to an extent so as to be unable to provide for its custody or removal.

(h) (1) When an officer arrests a person driving or in control of a vehicle for an alleged offense and the officer is, by this code or other law, required or permitted to take, and does take, the person into custody.

(2) When an officer serves a notice of an order of suspension or revocation pursuant to Section 13388 or 13389.

(i) (1) When a vehicle, other than a rented vehicle, is found upon a highway or public land, or is removed pursuant to this code, and it is known that the vehicle has been issued five or more notices of parking violations to which the owner or person in control of the vehicle has not responded within 21 calendar days of notice of citation issuance or citation issuance or 14 calendar days of the mailing of a notice of delinquent parking violation to the agency responsible for processing notices of parking violations, or the registered owner of the vehicle is known to have been issued five or more notices for failure to pay or failure to appear in court for traffic violations for which a certificate has not been issued by the magistrate or clerk of the court hearing the case showing that the case has been adjudicated or concerning which the registered owner's record has not been cleared pursuant to Chapter 6 (commencing with Section 41500) of Division 17, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency all of the following:

(A) Evidence of his or her identity.

(B) An address within this state at which he or she can be located.

(C) Satisfactory evidence that all parking penalties due for the vehicle and all other vehicles registered to the registered owner of the impounded vehicle, and all traffic violations of the registered owner, have been cleared.

(2) The requirements in subparagraph (C) of paragraph (1) shall be fully enforced by the impounding law enforcement agency on and after the time that the Department of Motor Vehicles is able to provide access to the necessary records.

(3) A notice of parking violation issued for an unlawfully parked vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of furnishing satisfactory evidence that the full amount of parking penalties or bail has been deposited, that person may demand to be taken without unnecessary delay before a magistrate, for traffic offenses, or a hearing examiner, for parking offenses, within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded, or, at the discretion of the impounding law enforcement agency, a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

(4) A vehicle shall be released to the legal owner, as defined in Section 370, if the legal owner does all of the following:

(A) Pays the cost of towing and storing the vehicle.

(B) Submits evidence of payment of fees as provided in Section 9561.

(C) Completes an affidavit in a form acceptable to the impounding law enforcement agency stating that the vehicle was not in possession of the legal owner at the time of occurrence of the offenses relating to standing or parking. A vehicle released to a legal owner under this subdivision is a repossessed vehicle for purposes of disposition or sale. The impounding agency shall have a lien on any surplus that remains upon sale of the vehicle to which the registered owner is or may be entitled, as security for the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5. The legal owner shall promptly remit to, and deposit with, the agency responsible for processing notices of parking violations from that surplus, on receipt of that surplus, the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5.

(5) The impounding agency that has a lien on the surplus that remains upon the sale of a vehicle to which a registered owner is entitled pursuant to paragraph (4) has a deficiency claim against the registered owner for the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5, less the amount received from the sale of the vehicle.

(j) When a vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located.

(k) When a vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When a vehicle is illegally parked on a highway in violation of a local ordinance forbidding standing or parking and the use of a highway, or a portion thereof, is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by a local authority pursuant to the ordinance.

(m) Wherever the use of the highway, or a portion of the highway, is authorized by a local authority for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of a vehicle would prohibit or interfere

with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by a local authority pursuant to the ordinance.

(n) Whenever a vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles. A vehicle shall not be removed unless signs are posted giving notice of the removal.

(o) (1) When a vehicle is found or operated upon a highway, public land, or an offstreet parking facility under the following circumstances:

(A) With a registration expiration date in excess of six months before the date it is found or operated on the highway, public lands, or the offstreet parking facility.

(B) Displaying in, or upon, the vehicle, a registration card, identification card, temporary receipt, license plate, special plate, registration sticker, device issued pursuant to Section 4853, or permit that was not issued for that vehicle, or is not otherwise lawfully used on that vehicle under this code.

(C) Displaying in, or upon, the vehicle, an altered, forged, counterfeit, or falsified registration card, identification card, temporary receipt, license plate, special plate, registration sticker, device issued pursuant to Section 4853, or permit.

(2) When a vehicle described in paragraph (1) is occupied, only a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove the vehicle.

(3) For the purposes of this subdivision, the vehicle shall be released to the owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of current registration and a currently valid driver's license to operate the vehicle.

(4) As used in this subdivision, "offstreet parking facility" means an offstreet facility held open for use by the public for parking vehicles and includes a publicly owned facility for offstreet parking, and a privately owned facility for offstreet parking if a fee is not charged for the privilege to park and it is held open for the common public use of retail customers.

(p) When the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle is not impounded pursuant to Section 22655.5. A vehicle so removed from the highway or public land, or from private property after having been on a highway or public land, shall not be released to the registered owner or his or her agent, except upon presentation of the registered owner's or his or her agent's currently valid driver's license to operate the vehicle and proof of current vehicle registration, or upon order of a court.

(q) Whenever a vehicle is parked for more than 24 hours on a portion of highway that is located within the boundaries of a common interest development, as defined in subdivision (c) of Section 1351 of the Civil Code, and signs, as required by paragraph (1) of subdivision (a) of Section 22658, have been posted on that portion of highway providing notice to drivers that vehicles parked thereon for more than 24 hours will be removed at the owner's expense, pursuant to a resolution or ordinance adopted by the local authority.

(r) When a vehicle is illegally parked and blocks the movement of a legally parked vehicle.

(s) (1) When a vehicle, except highway maintenance or construction equipment, an authorized emergency vehicle, or a vehicle that is properly permitted or otherwise authorized by the Department of Transportation, is stopped, parked, or left standing for more than eight hours within a roadside rest area or viewpoint.

(2) Notwithstanding paragraph (1), when a commercial motor vehicle, as defined in paragraph (1) of subdivision (b) of Section 15210, is stopped, parked, or left standing for more than 10 hours within a roadside rest area or viewpoint.

(3) For purposes of this subdivision, a roadside rest area or viewpoint is a publicly maintained vehicle parking area, adjacent to a highway, utilized for the convenient, safe stopping of a vehicle to enable motorists to rest or to view the scenery. If two or more roadside rest areas are located on opposite sides of the highway, or upon the center divider, within seven miles of each other, then that combination of rest areas is considered to be the same rest area.

(t) When a peace officer issues a notice to appear for a violation of Section 25279.

(u) When a peace officer issues a citation for a violation of Section 11700 and the vehicle is being offered for sale.

SEC. 3. Section 2 of this bill incorporates amendments to Section 22651 of the Vehicle Code proposed by both this bill and AB 2402. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 22651 of the Vehicle Code, and (3) this bill is enacted after AB 2402, in which case Section 1 of this bill shall not become operative.

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## CHAPTER 737

An act to amend Section 18031.7 of, and to repeal and add Section 18029.6 of, the Health and Safety Code, relating to manufactured housing.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. Section 18029.6 of the Health and Safety Code is repealed.

SEC. 2. Section 18029.6 is added to the Health and Safety Code, to read:

18029.6. (a) (1) On or after January 1, 2009, all used manufactured homes, used mobilehomes, and used multifamily manufactured homes that are sold shall have a smoke alarm installed in each room designed for sleeping that is operable on the date of transfer of title. For manufactured homes and multifamily manufactured homes manufactured on or after September 16, 2002, each smoke alarm shall comply with the federal Manufactured Housing Construction and Safety Standards Act. For manufactured homes and multifamily manufactured homes manufactured before September 16, 2002, each smoke alarm shall be installed in accordance with the terms of its listing and installation requirements, and battery-powered smoke alarms shall be acceptable for use when installed in accordance with the terms of their listing and installation requirements.

(2) For manufactured homes and multifamily manufactured homes manufactured before September 16, 2002, the smoke alarm manufacturer's information describing the operation, method and frequency of testing, and proper maintenance of the smoke alarm shall be provided to the purchaser for any smoke alarm installed pursuant to paragraph (1).

(b) On or after January 1, 2009, the requirements of subdivision (a) shall be satisfied if, within 45 days prior to the date of transfer of title, the transferor signs a declaration stating that each smoke alarm in the manufactured home, mobilehome, or multifamily manufactured home is installed pursuant to subdivision (a) and is operable on the date the declaration is signed.

(c) The department may promulgate rules and regulations to clarify or implement this section.

(d) For sales of manufactured homes or mobilehomes installed on real property pursuant to subdivision (a) of Section 18551, as to real estate agents licensed pursuant to Division 4 (commencing with Section 10000) of the Business and Professions Code, the real estate licensee liability provisions of subdivisions (e), (f), and (g) of Section 13113.8 shall apply to the disclosures required by this section.

SEC. 3. Section 18031.7 of the Health and Safety Code is amended to read:

18031.7. (a) Nothing in this part shall prohibit the replacement of water heaters in manufactured homes or mobilehomes with fuel-gas-burning water heaters not specifically listed for use in a manufactured home or mobilehome or from having hot water supplied from an approved source within the manufactured home or mobilehome, or in the garage, in accordance with this part or Part 2.1 (commencing with Section 18200).

(b) Replacement fuel-gas-burning water heaters shall be listed for residential use and installed within the specifications of that listing to include tiedown or bracing to prevent overturning.

(c) Replacement fuel-gas-burning water heaters installed in accordance with subdivision (b) shall bear a label permanently affixed in a visible location adjacent to the fuel gas inlet which reads, as applicable:

| |
|---|
| WARNING<br><br>This appliance is approved only for use with natural gas (NG). |

OR

| |
|---|
| WARNING<br><br>This appliance is approved only for use with liquefied petroleum gas (LPG). |

Lettering on the label shall be black on a red background and not less than ¼ inch in height except for the word "WARNING" which shall be not less than ½ inch in height.

(d) (1) All fuel-gas-burning water heater appliances in new manufactured homes or new multifamily manufactured homes installed in the state shall be seismically braced, anchored, or strapped pursuant to paragraph (3) and shall be completed before or at the time of installation of the homes.

(2) Any replacement fuel-gas-burning water heater appliances installed in existing mobilehomes, existing manufactured homes, or existing multifamily manufactured homes that are offered for sale, rent, or lease

shall be seismically braced, anchored, or strapped pursuant to paragraph (3).

(3) On or before July 1, 2009, the department shall promulgate rules and regulations that include standards for water heater seismic bracing, anchoring, or strapping. These standards shall be substantially in accordance with either the guidelines developed pursuant to Section 19215 or the California Plumbing Code (Part 5 of Title 24 of the California Code of Regulations), and shall be applicable statewide.

(4) The dealer, or manufacturer acting as a dealer, responsible, as part of the purchase contract, for both the sale and installation of any home subject to this subdivision shall ensure all water heaters are seismically braced, anchored, or strapped in compliance with this subdivision prior to completion of installation.

(5) In the event of a sale of a home, pursuant to either paragraph (1) of subdivision (e) of Section 18035 or Section 18035.26, the homeowner or contractor responsible for the installation of the home shall ensure all fuel-gas-burning water heater appliances are seismically braced, anchored, or strapped consistent with the requirements of paragraph (3). This requirement shall be satisfied when the homeowner or responsible contractor both completes that work and signs a declaration stating each fuel-gas-burning water heater is secured as required by this section on the date the declaration is signed.

(e) All used mobilehomes, used manufactured homes, and used multifamily manufactured homes that are sold shall, on or before the date of transfer of title, have the fuel-gas-burning water heater appliance or appliances seismically braced, anchored, or strapped consistent with the requirements of paragraph (3) of subdivision (d). This requirement shall be satisfied if, within 45 days prior to the transfer of title, the transferor signs a declaration stating that each water heater appliance in the used mobilehome, used manufactured home, or used multifamily manufactured home is secured pursuant to paragraph (3) of subdivision (d) on the date the declaration is signed.

(f) For sales of manufactured homes or mobilehomes installed on real property pursuant to subdivision (a) of Section 18551, as to real estate agents licensed pursuant to Division 4 (commencing with Section 10000) of the Business and Professions Code, the real estate licensee duty provisions of Section 8897.5 of the Government Code shall apply to this section.

SEC. 3.5. Section 18031.7 of the Health and Safety Code is amended to read:

18031.7. (a) Nothing in this part shall prohibit the replacement of water heaters in manufactured homes or mobilehomes with fuel-gas-burning water heaters not specifically listed for use in a

manufactured home or mobilehome or from having hot water supplied from an approved source within the manufactured home or mobilehome, or in the garage, in accordance with this part or Part 2.1 (commencing with Section 18200).

(b) Nothing in this part shall prohibit the replacement of appliances for comfort heating in manufactured homes, mobilehomes, or multifamily manufactured homes with fuel-gas appliances for comfort heating not specifically listed for use in a manufactured home or mobilehome within the manufactured home, mobilehome, or multifamily manufactured home in accordance with this part, Part 2.1 (commencing with Section 18200), or Part 2.3 (commencing with Section 18860).

(c) Replacement fuel-gas-burning water heaters shall be listed for residential use and installed within the specifications of that listing to include tiedown or bracing to prevent overturning.

(d) Replacement fuel-gas-burning water heaters installed in accordance with subdivision (c) shall bear a label permanently affixed in a visible location adjacent to the fuel gas inlet which reads, as applicable:

| |
|---|
| WARNING<br><br>This appliance is approved only for use with natural gas (NG). |

OR

| |
|---|
| WARNING<br><br>This appliance is approved only for use with liquefied petroleum gas (LPG). |

Lettering on the label shall be black on a red background and not less than ¼ inch in height except for the word "WARNING" which shall be not less than ½ inch in height.

(e) (1) All fuel-gas-burning water heater appliances in new manufactured homes or new multifamily manufactured homes installed in the state shall be seismically braced, anchored, or strapped pursuant to paragraph (3) and shall be completed before or at the time of installation of the homes.

(2) Any replacement fuel-gas-burning water heater appliances installed in existing mobilehomes, existing manufactured homes, or existing multifamily manufactured homes that are offered for sale, rent, or lease shall be seismically braced, anchored, or strapped pursuant to paragraph (3).

(3) On or before July 1, 2009, the department shall promulgate rules and regulations that include standards for water heater seismic bracing, anchoring, or strapping. These standards shall be substantially in accordance with either the guidelines developed pursuant to Section 19215 or the California Plumbing Code (Part 5 of Title 24 of the California Code of Regulations), and shall be applicable statewide.

(4) The dealer, or manufacturer acting as a dealer, responsible, as part of the purchase contract, for both the sale and installation of any home subject to this subdivision shall ensure all water heaters are seismically braced, anchored, or strapped in compliance with this subdivision prior to completion of installation.

(5) In the event of a sale of a home, pursuant to either paragraph (1) of subdivision (e) of Section 18035 or Section 18035.26, the homeowner or contractor responsible for the installation of the home shall ensure all fuel-gas-burning water heater appliances are seismically braced, anchored, or strapped consistent with the requirements of paragraph (3). This requirement shall be satisfied when the homeowner or responsible contractor both completes that work and signs a declaration stating each fuel-gas-burning water heater is secured as required by this section on the date the declaration is signed.

(f) All used mobilehomes, used manufactured homes, and used multifamily manufactured homes that are sold shall, on or before the date of transfer of title, have the fuel-gas-burning water heater appliance or appliances seismically braced, anchored, or strapped consistent with the requirements of paragraph (3) of subdivision (e). This requirement shall be satisfied if, within 45 days prior to the transfer of title, the transferor signs a declaration stating that each water heater appliance in the used mobilehome, used manufactured home, or used multifamily manufactured home is secured pursuant to paragraph (3) of subdivision (e) on the date the declaration is signed.

(g) For sales of manufactured homes or mobilehomes installed on real property pursuant to subdivision (a) of Section 18551, as to real estate agents licensed pursuant to Division 4 (commencing with Section 10000) of the Business and Professions Code, the real estate licensee duty provisions of Section 8897.5 of the Government Code shall apply to this section.

SEC. 4. Section 3.5 of this bill incorporates amendments to Section 18031.7 of the Health and Safety Code proposed by both this bill and

AB 2016. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2009, (2) each bill amends Section 18031.7 of the Health and Safety Code, and (3) this bill is enacted after AB 2016, in which case Section 3 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 738

An act to amend Section 17592 of, and to add Section 17514 to, the Business and Professions Code, relating to advertising.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 17514 is added to the Business and Professions Code, to read:

17514. (a) A person who sends a solicitation by mail that solicits a recipient to consent to receive information via telephone, where that recipient's telephone number is not listed on the national "do not call" registry established and maintained by the Federal Trade Commission, as described in Section 310.4(b)(1)(iii)(B) of Title 16 of the Code of Federal Regulations, shall include in the solicitation a clear and conspicuous disclosure of the following information:

(1) Identification of the name of the sender of the mailing and of the entity that is requesting permission to call.

(2) The telephone number to which calls are to be placed.

(3) Notice that the recipient may be contacted by a telephone solicitor.

(b) A violation of this section shall not be a crime, notwithstanding Section 17534. However, all available civil remedies that are applicable to a violation of this section may be employed.

SEC. 2. Section 17592 of the Business and Professions Code is amended to read:

17592. (a) For purposes of this article:

(1) A "telephone solicitor" means any person or entity who, on his or her own behalf or through salespersons or agents, announcing devices, or otherwise, makes or causes a telephone call to be made to a California telephone number that does any of the following:

(A) Seeks to offer a prize or to rent, sell, exchange, promote, gift, or lease goods or services or documents that can be used to obtain goods or services.

(B) Offers or solicits or seeks to offer or solicit any extension of credit for personal, family, or household purposes.

(C) Seeks marketing information that will or may be used for the direct solicitation of a sale of goods or services to the subscriber.

(D) Seeks to sell or promote any investment, insurance, or financial services.

(E) Seeks to make any telephone solicitation or attempted telephone solicitation as described in Section 17511.1.

(2) "Do not call" list means the California telephone numbers on the national "do not call" registry established and maintained by the Federal Trade Commission, as described in Section 310.4(b)(1)(iii)(B) of Title 16 of the Code of Federal Regulations. A "do not call" list is current if it was obtained from the Federal Trade Commission no more than three months prior to the date a call is made.

(b) A person or entity does not necessarily qualify as a telephone solicitor if the products or services of the person or entity are sold or marketed by an independent contractor whose business practices are not controlled by the person or entity.

(c) Except for telephone calls described in subdivision (e), beginning on the 31st day after the Federal Trade Commission makes its first "do not call" list available to telephone solicitors, no telephone solicitor shall call any telephone number on the then current "do not call" list and do any of the following:

(1) Seek to offer a prize or to rent, sell, exchange, promote, gift, or lease goods or services or documents that can be used to obtain goods or services.

(2) Offer or solicit or seek to offer or solicit any extension of credit for personal, family, or household purposes.

(3) Seek marketing information that will or may be used for the direct solicitation of a sale of goods or services to the subscriber.

(4) Seek to sell or promote any investment, insurance, or financial services.

(5) Seek to make any telephone solicitation or attempted telephone solicitation as described in Section 17511.1.

(d) No person or entity that sells, leases, exchanges, or rents telephone solicitation lists shall include in those lists those telephone numbers that appear on the current "do not call" list, except that this subdivision does not apply to lists used for directory assistance and numbers published in telephone directories that list substantially all publicly available telephone numbers in a specific geographic area.

(e) Subdivision (c) shall not apply to any of the following:

(1) Telephone calls made pursuant to the express agreement, in writing, of the subscriber to place calls to that California telephone number. This written agreement shall clearly evidence the person's authorization that calls made by or on behalf of a specific party may be placed to that California telephone number, and shall include the signature of that person. In any dispute regarding whether a subscriber has provided this express written permission, the telephone solicitor has the burden of proving that the subscriber has provided this permission by producing the original or a facsimile document, signed by the subscriber, evidencing that permission; or an advertisement by the subscriber. "Express agreement" does not include any consent or permission included in any contract of adhesion.

(2) Telephone calls made pursuant to the express request of the subscriber. "Express request" may include a telephone call from a person or entity who has been provided the subscriber's telephone number and name as a referral from a solicitor with which the subscriber has an established business relationship, if that solicitor has obtained the subscriber's express request for the referral. "Express request" does not include any consent or permission included in any contract of adhesion. A telephone call is presumed not to be made at the express request of a subscriber if one of the following occurs, as applicable:

(A) The call is made 30 business days after the last date on which the subscriber contacted a business with the purpose of inquiring about the potential purchase of goods or services.

(B) The call is made 30 business days after the last date on which the subscriber consented to be contacted.

(C) The call is made after the subscriber has requested that no further telephone calls be made to him or her.

(D) The call is made 30 business days after a product or service becomes available where the subscriber has made a request to the business for that product or service that is not then available, and requests a call when the product or service becomes available.

(3) Telephone calls made in connection with the collection of a debt or the offer by a creditor to the subscriber of an extension of credit to pay a delinquent obligation owed by the subscriber to that creditor.

(4) Telephone calls made to a subscriber if the telephone solicitor has an established business relationship with the subscriber. As used in this article, "established business relationship" means a relationship between a seller and a subscriber based on the subscriber's purchase, rental, or lease of the seller's goods or services or a financial transaction between the consumer and seller, within the 18 months immediately preceding the date of a telemarketing call. If a subscriber purchases or obtains a product or service through a licensed agent or broker, for purposes of this article an established business relationship is created with the licensed agent or broker individually, apart from and in addition to, any established business relationship that may have been created by a licensed agent or broker acting on behalf of another, and the licensed agent or broker is a telephone solicitor, as defined in subdivision (a). Notwithstanding the provisions of this paragraph, an established business relationship does not exist between the subscriber and any separate legal entity associated with the telephone solicitor not acting as an agent or vendor on behalf of the telephone solicitor, as defined in subdivision (a), unless the separate legal entity shares the brand name of a business with which the subscriber has an otherwise established business relationship. If the subscriber instructs the telephone solicitor to place the subscriber on the telephone solicitor's list pursuant to Section 64.1200 of Title 47 of the Code of Federal Regulations and Section 310.4(b)(1)(iii)(A) of Title 16 of the Code of Federal Regulations, that instruction shall be binding on the entity with which the subscriber has the established business relationship, with any entity that has the shared brand name, and all other entities that share that brand name, none of whom may initiate further telephone solicitation calls to that subscriber. Separate legal entities include, but are not limited to, any parent company or entity, any subsidiary company or entity, any partnership or copartner, any joint venture or venturer, association member, or comember, or any affiliated company or entity.

(5) Telephone calls made by an individual businessperson or a small business if the individual businessperson or small business employs no more than five full- or part-time employees or independent contractors, the individual businessperson or a principal of the small business makes the telephone calls himself or herself for the sale of goods or services offered by that individual businessperson or small business, and the telephone calls are made to subscribers within a 50-mile radius of the location of the individual businessperson or small business. For purposes of this section, the services offered by the individual businessperson or small business cannot be telemarketing services. For purposes of this section, those independent contractors and employees with whom an individual businessperson or a small business is required to have a written

independent contractor or employment agreement pursuant to a regulatory scheme to ensure regulatory accountability of those independent contractors or employees, are not counted against the total referenced above.

(6) A telephone call made solely to verify that a subscriber, and not an unauthorized third party, has terminated an established business relationship.

(7) Telephone calls made by a tax-exempt charitable organization.

(8) A telephone call made for the purpose of soliciting a donation without the purchase of goods or services.

(f) (1) Nothing in this section prohibits a telephone solicitor from contacting by mail a subscriber whose telephone number appears on the "do not call" list to obtain the subscriber's express written permission allowing the telephone solicitor to make the calls described in subdivision (c).

(2) An express written permission described in paragraph (1) shall include a clear and conspicuous disclosure of all of the following, except as provided in paragraph (3):

(A) Identification of the name of the sender of the mailing and of the entity that is requesting permission to call.

(B) The subscriber's telephone number to which the calls may be placed.

(C) The signature of the subscriber authorizing the call.

(D) Notice that the subscriber may be contacted by a telephone solicitor or someone calling on behalf of the specific party identified in the request for permission, even if the subscriber's telephone number is listed on the federal "do not call" registry.

(3) Where there is an established business relationship, as defined under state or federal law, between a subscriber and a telephone solicitor, express written permission described in paragraph (1)
is not required.

(4) In any dispute regarding whether a subscriber has provided this express written permission, the telephone solicitor has the burden of proving that the subscriber has provided this permission by producing the original or a facsimile document, signed by the subscriber, evidencing that permission.

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.

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## CHAPTER 739

An act to amend Section 17538.9 of the Business and Professions Code, relating to advertising.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 17538.9 of the Business and Professions Code is amended to read:

17538.9. (a) For the purposes of this section:

(1) "Ancillary charges" means all surcharges, taxes, fees, connection charges, maintenance fees, monthly or other periodic fees, per-call access fees, or other assessments or charges of any kind, however denominated, that may be imposed in connection with the use of a card or services, other than the per unit or per minute rate charged.

(2) "Cellular telephone services" means facilities-based, commercial mobile telephone services.

(3) "Company" refers to any entity providing prepaid calling services to the public using its own or a resold telecommunications network.

(4) "Distributor" means any person who offers or sells a card or services to a retail vendor or to any other person for ultimate resale to a retail vendor.

(5) "Prepaid calling card" or "card" means any object containing an access number and authorization code that enables a consumer to use prepaid calling services. It does not include any object of that type used for promotional purposes.

(6) "Prepaid calling services" or "services" refers to any prepaid telecommunications service that allows consumers to originate calls through an access number and authorization code, whether manually or electronically dialed.

(7) "Retail vendor" means any person who sells a card or service to a consumer for use in making telephone calls.

(b) The following standards and requirements for consumer disclosure and services shall apply to the advertising and sale of prepaid calling cards and prepaid calling services:

(1) Any advertisement of the price, rate, or unit value in connection with the sale of prepaid calling cards or services shall clearly and conspicuously disclose all of the following:

(A) Any geographic limitation to the advertised price, rate, or unit value.

(B) All ancillary charges and the conditions under which each applies. This disclosure shall be made prominently near the beginning of the advertisement. In a written advertisement this disclosure shall appear in table form in a box with the bold label, "Other Charges." The amount of each ancillary charge shall be identified in one column and the conditions under which each applies shall be stated on the same line in the column immediately to the right of the charge.

(2) The following information shall be legibly printed on the card:

(A) The name of the company.

(B) A toll-free customer service number.

(C) A toll-free network access number, if required to access service.

(D) The authorization code, if required to access service.

(E) The expiration date or policy, if applicable, except where paragraph (11) applies.

(3) The company shall print legibly on the card or packaging, so that it may be read without having to open any packaging, and the retail vendor shall make available clearly and conspicuously in a prominent area immediately proximate to the point of sale of the prepaid calling card or prepaid calling services the following information, which shall be current at the time of printing and for as long as it is displayed:

(A) The value of the card and all ancillary charges.

(B) Ancillary charges for international calls to each country for which the card may be used or, in lieu of disclosing ancillary charges for each country, the highest ancillary charges for any international calls applicable on that card and any additional or different prices, rates, or unit values applicable to international usage of the prepaid calling card or prepaid calling services.

(C) The minimum charge per call, such as a three-minute minimum charge, if any.

(D) The definition of the term "unit," if applicable.

(E) The billing decrement.

(F) The name of the company.

(G) The recharge policy, if any.

(H) The refund policy, if any.

(I) The expiration policy, if any.

(J) The 24-hour customer service toll-free telephone number required in paragraph (9).

(4) Before a customer has recharged a card or service, no company shall provide fewer minutes than those stated, charge more than the rate stated, or charge more for ancillary services than stated on the card or packaging, or in an advertisement available to the public at the time the card or service is purchased.

(5) Service may be recharged by the customer at a rate higher than the rate at initial purchase or last recharge. However, the customer shall be informed of any increased rates or charges prior to the customer agreeing to pay for the recharge.

(6) If a language other than English is used on the card or packaging to provide dialing instructions to place a call or to contact customer service, the information required by paragraph (3) shall also be disclosed in that language in the point of sale disclosure in the manner described in paragraph (3).

(7) If a language other than English is used in the advertising or promotion of the card or prepaid calling services or is used on the card or packaging other than for dialing instructions, the information required by paragraph (3) shall also be disclosed in that language on the card or packaging and in the point of sale disclosure in the manner described in paragraph (3).

(8) A company shall provide a voice prompt, immediately after a caller enters a personal identification number and destination number, that states the number of minutes for that call if the entire remaining value of the card or service were consumed in one continuous call to the dialed destination, substantially in the following form:

"You have [insert number] minutes if used up in this call."

(9) A company shall establish and maintain a toll-free customer service telephone number that shall meet the following requirements:

(A) A live operator shall answer incoming calls to the telephone number 24 hours a day, seven days a week.

(B) The telephone number shall have sufficient capacity and staffing to accommodate a reasonably anticipated number of calls without incurring a busy signal or undue wait. The company shall provide customer service in each language used on a prepaid calling card or its packaging and in the advertising or promotion of the prepaid calling card or prepaid calling services.

(C) The telephone number shall allow consumers to lodge complaints and obtain information on all of the following:

(i) All rates and ancillary charges.

(ii) The company's recharge, refund, and expiration policies.

(iii) The balance of use available in the consumer's account, if applicable.

(D) A company shall not impose any ancillary charge related to obtaining customer service, including any charge related to connecting with the customer service number or waiting to speak to a live operator.

A company offering prepaid cellular telephone services shall be deemed to be in compliance with the requirements of this paragraph if, when a request for information is made outside of normal business hours, that company provides the information requested on the next business day.

(10) A company that issues prepaid calling cards or prepaid calling services shall provide a refund to any purchaser of a prepaid calling card or prepaid calling services if the network services associated with that card or services fail to operate in a commercially reasonable manner. The refund shall be in an amount not less than the value remaining on the card or in the form of a replacement card, and shall be provided to the consumer within 30 days from the date of receipt of notification from the consumer that the card has failed to operate in a commercially reasonable manner.

(11) Cards without a specific expiration date or policy printed on the card, and with a balance of service remaining, shall be considered active for a minimum of one year from the date of purchase, or if recharged, from the date of the last recharge.

(12) In the case of prepaid calling cards or services utilized at a pay telephone, the company may provide voice prompt notification of any ancillary charges related to pay telephone usage, in lieu of providing notice of those ancillary charges as required by paragraph (1) and by subparagraph (A) of paragraph (3), provided that the company provides users of prepaid calling cards or services with reasonable time to terminate the call after notification of the ancillary charges related to pay telephone usage without incurring any charge for the call.

(13) A company shall maintain access numbers with sufficient capacity to accommodate a reasonably anticipated number of calls without incurring a busy signal or undue delay.

(14) A company may not impose any ancillary charges that are not disclosed as required by this section or that exceed the amount disclosed by the company.

(15) A company may not impose any charges if the consumer is not connected to the number called. For the purpose of this paragraph, the customer shall not be considered connected to the number called if the customer receives a busy signal or the call is unanswered.

(16) The value of the card and the amount of any ancillary charges, that are required to be disclosed by paragraph (3), shall be expressed in the same format. If the value of a card is expressed in minutes, the minutes shall be identified as domestic or international and the

identification shall be printed on the same line or next line as the value of the card in minutes.

(17) No person shall offer or sell any prepaid calling card or prepaid calling services that do not contain the information required to be disclosed on the card or packaging as provided in paragraph (3).

(18) A distributor that sells directly to a retail vendor shall provide the retail vendor with the current information required by paragraph (3) in a form that may be displayed by the retail vendor as provided in paragraph (3).

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.

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## CHAPTER 740

An act to amend Sections 6409.1 and 6410 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 6409.1 of the Labor Code is amended to read:

6409.1. (a) Every employer shall file a complete report of every occupational injury or occupational illness, as defined in subdivision (b) of Section 6409, to each employee which results in lost time beyond the date of the injury or illness, or which requires medical treatment beyond first aid. An insured employer shall file the report with the insurer on a form prescribed by the Administrative Director of the Division of Workers' Compensation for that purpose within five days after the employer obtains knowledge of the injury or illness that has, or is alleged to have, arisen out of and in the course of employment. A self-insured employer, the state, or the insurer of an insured employer shall file the report in the electronic form prescribed for that purpose by the administrative director pursuant to Section 138.6 within the time prescribed by the administrative director. The administrative director

shall ensure that the report required by this subdivision contains necessary information to continue to be acceptable as substitute documentation for purposes of recordkeeping required under the federal Occupational Safety and Health Act of 1970 (29 U.S.C. Sec. 651 et seq.). Each report of occupational injury or occupational illness shall indicate the social security number of the injured employee. In the event an employer has filed a report of injury or illness pursuant to this subdivision and the employee subsequently dies as a result of the reported injury or illness, the employer shall file an amended report indicating the death with the Department of Industrial Relations, through its Division of Workers' Compensation or, if an insured employer, with the insurer, within five days after the employer is notified or learns of the death. A copy of any amended reports received by the insurer shall be filed with the Division of Workers' Compensation in electronic form as prescribed by the administrative director.

(b) In every case involving a serious injury or illness, or death, in addition to the report required by subdivision (a), a report shall be made immediately by the employer to the Division of Occupational Safety and Health by telephone or telegraph. An employer who violates this subdivision may be assessed a civil penalty of not less than five thousand dollars ($5,000). Nothing in this subdivision shall be construed to increase the maximum civil penalty, pursuant to Sections 6427 to 6430, inclusive, that may be imposed for a violation of this section.

SEC. 2. Section 6410 of the Labor Code is amended to read:

6410. The reports required by subdivision (a) of Section 6409 and Section 6413 shall be made in the form and detail and within the time limits prescribed by reasonable rules and regulations adopted by the Division of Labor Statistics and Research in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Nothing in this chapter requiring recordkeeping and reporting by employers shall relieve the employer of maintaining records and making reports to the assistant secretary, United States Department of Labor, as required under the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596). The Division of Labor Statistics and Research shall prescribe and provide the forms necessary for maintenance of the required records, and the Division of Occupational Safety and Health shall enforce by citation and penalty assessment any violation of the recordkeeping requirements of this chapter.

All state and local government employers shall maintain records and make reports in the same manner and to the same extent as required of other employers by this section.

SEC. 3. The changes to subdivision (a) of Section 6409.1 and Section 6410 of the Labor Code made by this act shall become effective upon the effective date of regulations adopted by the administrative director to implement the changes made to subdivision (a) of Section 6409.1 of the Labor Code by this act, provided that the regulations specify a transition period of no less than 180 days and no more than 545 days in which the employer or insurer may continue to comply with Section 6409.1 as it was last amended by Chapter 885 of the Statutes of 2002.

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## CHAPTER 741

An act to amend Sections 4760, 4770, 40210, 40220, 40222, 40265, 40267, and 40269 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 4760 of the Vehicle Code is amended to read:

4760. (a) (1) Except as provided in subdivision (b) or (d), the department shall refuse to renew the registration of a vehicle if the registered owner or lessee has been mailed a notice of delinquent parking violation relating to standing or parking, the processing agency has filed or electronically transmitted to the department an itemization of unpaid parking penalties, including administrative fees pursuant to Section 40220, and the owner or lessee has not paid the parking penalty and administrative fee pursuant to Section 40211, unless he or she pays to the department, at the time of application for renewal, the full amount of all outstanding parking penalties and administrative fees, as shown by records of the department.

(2) When the department receives the full amount of all outstanding parking penalties and administrative fees pursuant to paragraph (1), it shall issue a receipt showing each parking penalty and administrative fee that has been paid, the processing agency for that penalty and fee, and a description of the vehicle involved in the parking violations. The receipt shall also state that, to reduce the possibility of impoundment under Section 22651 or immobilization under Section 22651.7 of the vehicle involved in the parking violation, the registered owner or lessee may transmit to that processing agency a copy or other evidence of the receipt.

(b) The department shall not refuse to renew the registration of a vehicle owned by a renter or lessor if the applicant provides the department with the abstract or notice of disposition of parking violation issued pursuant to subdivision (c) for clearing all outstanding parking penalties and administrative fees as shown by the records of the department.

(c) The court or designated processing agency shall issue an abstract or notice of disposition of parking violation to the renter or lessor of a vehicle issued a notice of delinquent parking violation relating to standing or parking if the renter or lessor provides the court or processing agency with the name, address, and driver's license number of the rentee or lessee at the time of occurrence of the parking violation.

(d) The department shall not refuse to renew the registration of a vehicle if the citation was issued prior to the registered owner taking possession of the vehicle.

SEC. 2. Section 4770 of the Vehicle Code is amended to read:

4770. (a) Except as provided in subdivision (c) or (d), the department shall refuse to renew the registration of a vehicle if the registered owner or lessee has been mailed a notice of toll evasion violation, the processing agency has transmitted to the department an itemization of unpaid toll evasion penalties, including administrative fees, pursuant to Section 40267, and the toll evasion penalty and administrative fee have not been paid pursuant to Section 40266, unless the full amount of all outstanding toll evasion penalties and administrative fees, as shown by records of the department are paid to the department at the time of application for renewal.

(b) The designated processing agency shall issue a notice of the disposition of the toll evasion violation or violations to a lessor, if the lessor provides the processing agency with the name, address, and driver's license number of the lessee at the time of the occurrence of the toll evasion violation.

(c) The department shall renew the registration of a vehicle if the applicant provides the department with the notice of the disposition of the toll evasion violation or violations issued pursuant to subdivision (b) for clearing all outstanding toll evasion penalties and administrative fees, as shown by the records of the department, and the applicant has met all other requirements for registration.

(d) The department shall not refuse to renew the registration of a vehicle if the toll evasion violation occurred prior to the date that the registered owner or lessee took possession of the vehicle.

SEC. 3. Section 40210 of the Vehicle Code is amended to read:

40210. (a) If the affidavit of nonliability is returned and indicates that the registered owner served has made a bona fide sale or transfer of

the vehicle and has delivered possession of the vehicle to the purchaser prior to the date of the alleged violation, the processing agency shall obtain verification from the department that the registered owner has complied with Section 5602.

(b) If the registered owner has complied with Section 5602, the processing agency shall cancel the notice of delinquent parking violation or violations with respect to the registered owner.

(c) If the registered owner has not complied with Section 5602, the processing agency shall inform the registered owner that the citation shall be paid in full or contested pursuant to Section 40215 unless the registered owner delivers evidence within 15 days of the notice that establishes that the transfer of ownership and possession of the vehicle occurred prior to the date of the alleged violation. If the registered owner does not comply with this notice, the processing agency shall proceed pursuant to Section 40220. If the registered owner delivers the evidence within 15 days of the notice, the processing agency shall cancel the notice of delinquent parking violation or violations with respect to the registered owner.

(d) For purposes of subdivision (c), evidence sufficient to establish that the transfer of ownership and possession occurred prior to the date of the alleged violation or violations shall include, but is not limited to, a copy of the executed agreement showing the date of the transfer of vehicle ownership.

(e) This section does not limit or impair the ability or the right of the processing agency to pursue the collection of delinquent parking penalties from the person having ownership and possession of the vehicle on the date the alleged violation occurred.

SEC. 4. Section 40220 of the Vehicle Code is amended to read:

40220. Except as otherwise provided in Sections 40221 and 40222, the processing agency shall proceed under only one of the following options in order to collect an unpaid parking penalty:

(a) File an itemization of unpaid parking penalties and service fees with the department for collection with the registration of the vehicle pursuant to Section 4760.

(b) If more than four hundred dollars ($400) in unpaid penalties and fees have been accrued by any person or registered owner, proof thereof may be filed with the court with the same effect as a civil judgment. Execution may be levied and other measures may be taken for the collection of the judgment as are authorized for the collection of an unpaid civil judgment entered against a defendant in an action on a debtor. The court may assess costs against a judgment debtor to be paid upon satisfaction of the judgment. The processing agency shall send a notice by first-class mail to the person or registered owner indicating

that a judgment shall be entered for the unpaid penalties, fees, and costs and that, after 21 calendar days from the date of the mailing of the notice, the judgment shall have the same effect as an entry of judgment against a judgment debtor. The person or registered owner shall also be notified at that time that execution may be levied against his or her assets, liens may be placed against his or her property, his or her wages may be garnisheed, and other steps may be taken to satisfy the judgment. If a judgment is rendered for the processing agency, that agency may contract with a collection agency to collect the amount of that judgment.

Notwithstanding any other provision of law, the processing agency shall pay the established first paper civil filing fee at the time an entry of civil judgment is requested.

(c) If the registration of the vehicle has not been renewed for 60 days beyond the renewal date, and the citation has not been collected by the department pursuant to Section 4760, file proof of unpaid penalties and fees with the court with the same effect as a civil judgment as provided in subdivision (b).

(d) This section does not apply to a registered owner of a vehicle if the citation was issued prior to the registered owner taking possession of the vehicle and the department has notified the processing agency pursuant to Section 4764.

SEC. 5. Section 40222 of the Vehicle Code is amended to read:

40222. The processing agency shall terminate proceedings on a notice of a delinquent parking violation or violations in all of the following cases:

(a) Upon receipt of collected penalties and administrative fees remitted by the department under Section 4762 for that notice of delinquent parking violation or violations. The termination under this subdivision is by satisfaction of the parking penalty or penalties.

(b) If the notice of a delinquent parking violation or violations was returned to the processing agency pursuant to Section 4764 and five years have elapsed since the date of the last violation. The termination under this subdivision is by the running of a statute of limitation of proceedings.

(c) The processing agency receives information, that it shall verify with the department, that the penalty or penalties have been paid to the department pursuant to Section 4762.

(d) (1) If the registered owner of the vehicle provides proof to the processing agency that he or she was not the registered owner on the date of the violation.

(2) This subdivision does not limit or impair the ability or the right of the processing agency to pursue the collection of a delinquent parking

violation or violations from the person who was the registered owner or lessee of the vehicle on the date of the violation.

SEC. 6. Section 40265 of the Vehicle Code is amended to read:

40265. (a) If the affidavit of nonliability is returned and indicates that the registered owner served has made a bona fide sale or transfer of the vehicle and has delivered possession of the vehicle to the purchaser prior to the date of the alleged violation, the processing agency shall obtain verification from the department that the registered owner has complied with subdivision (b) of Section 5602.

(b) If the registered owner has complied with subdivision (b) of Section 5602, the processing agency shall cancel the notice of toll evasion violation with respect to the registered owner.

(c) If the registered owner has not complied with subdivision (b) of Section 5602, the processing agency shall inform the registered owner that the notice shall be paid in full or contested pursuant to Section 40255 unless the registered owner delivers evidence within 15 days of the notice that establishes that the transfer of ownership and possession of the vehicle occurred prior to the date of the alleged violation. If the registered owner does not comply with this notice, the processing agency shall proceed pursuant to Section 40220. If the registered owner delivers the evidence within 15 days of the notice, the processing agency shall cancel the notice of delinquent toll evasion violation or violations with respect to the registered owner.

(d) For purposes of subdivision (c), evidence sufficient to establish that the transfer of ownership and possession occurred prior to the date of the alleged violation or violations shall include, but is not limited to, a copy of the executed agreement showing the date of the transfer of vehicle ownership.

(e) This section does not limit or impair the ability or the right of the processing agency to pursue the collection of delinquent toll evasion penalties from the person having ownership and possession of the vehicle on the date the alleged violation occurred.

SEC. 7. Section 40267 of the Vehicle Code is amended to read:

40267. Except as otherwise provided in Sections 40268 and 40269, the processing agency shall proceed under one or more of the following options to collect an unpaid toll evasion penalty:

(a) The processing agency may file an itemization of unpaid toll evasion penalties and administrative and service fees with the department for collection with the registration of the vehicle pursuant to Section 4770.

(b) (1) If more than four hundred dollars ($400) in unpaid penalties and fees have been accrued by a person or registered owner, the processing agency may file proof of that fact with the court with the

same effect as a civil judgment. Execution may be levied and other measures may be taken for the collection of the judgment as are authorized for the collection of an unpaid civil judgment entered against a defendant in an action on a debt. The court may assess costs against a judgment debtor to be paid upon satisfaction of the judgment. The processing agency shall send a notice by first-class mail to the person or registered owner indicating that a judgment shall be entered for the unpaid penalties, fees, and costs and that, after 30 days from the date of the mailing of the notice, the judgment shall have the same effect as an entry of judgment against a judgment debtor. The person or registered owner shall also be notified at that time that execution may be levied against his or her assets, liens may be placed against his or her property, his or her wages may be garnished, and other steps may be taken to satisfy the judgment. The filing fee plus any costs of collection shall be added to the judgment amount.

(2) Notwithstanding any other provision of law, the processing agency shall pay the established first paper civil filing fee, if required by law, at the time an entry of civil judgment is requested.

(c) If the registration of the vehicle has not been renewed for 60 days beyond the renewal date, and the notice has not been collected by the department pursuant to Section 4770, the processing agency may file proof of unpaid penalties and fees with the court with the same effect as a civil judgment as provided in subdivision (b), except that if the amount of the unpaid penalties and fees is not more than four hundred dollars ($400), the filing fee shall be collectible by the court from the debtor.

(d) The issuing agency may contract with a collection agency to collect unpaid toll evasion penalties, fees, and charges.

(e) This section does not apply to the registered owner of a vehicle if the toll evasion violation occurred prior to the registered owner taking possession of the vehicle and the department has notified the processing agency pursuant to Section 4774.

SEC. 8. Section 40269 of the Vehicle Code is amended to read:

40269. (a) The processing agency shall terminate proceedings on the notice of a delinquent toll evasion violation in any of the following cases:

(1) Upon receipt of collected penalties and administrative fees remitted by the department under Section 4772 for that notice of delinquent toll evasion violation. The termination under this subdivision is by satisfaction of the toll evasion penalty.

(2) If the notice of delinquent toll evasion violation was returned to the processing agency pursuant to Section 4774 and five years have

elapsed since the date of the violation. The termination under this subdivision is by the running of a statute of limitation of proceedings.

(3) The processing agency receives information, which it shall verify with the department, that the penalty has been paid to the department pursuant to Section 4772.

(4) If the registered owner of the vehicle provides proof to the processing agency that he or she was not the registered owner on the date of the toll evasion violation.

(b) This section does not limit or impair the ability or the right of the processing agency to pursue the collection of delinquent toll evasion penalties from the person who was the registered owner or lessee of the vehicle on the date of the alleged toll evasion violation.

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## CHAPTER 742

An act to amend Sections 1987.1 and 1987.2 of the Code of Civil Procedure, relating to civil discovery.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 1987.1 of the Code of Civil Procedure is amended to read:

1987.1. (a) If 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 any person described in subdivision (b), 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 those 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 person from unreasonable or oppressive demands, including unreasonable violations of the right of privacy of the person.

(b) The following persons may make a motion pursuant to subdivision (a):

(1) A party.

(2) A witness.

(3) A consumer described in Section 1985.3.

(4) An employee described in Section 1985.6.

(5) A person whose personally identifying information, as defined in subdivision (b) of Section 1798.79.8 of the Civil Code, is sought in connection with an underlying action involving that person's exercise of free speech rights.

(c) Nothing in this section 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. 2. Section 1987.2 of the Code of Civil Procedure is amended to read:

1987.2. (a) Except as specified in subdivision (b), in making an order pursuant to motion made under subdivision (c) of Section 1987 or under Section 1987.1, the court may in its discretion award the amount of the reasonable expenses incurred in making or opposing the motion, including reasonable attorney's fees, if the court finds the motion was made or opposed in bad faith or without substantial justification or that one or more of the requirements of the subpoena was oppressive.

(b) If a motion is filed under Section 1987.1 for an order to quash or modify a subpoena from a court of this state for personally identifying information, as defined in subdivision (b) of Section 1798.79.8 of the Civil Code, for use in an action pending in another state, territory, or district of the United States, or in a foreign nation, and that subpoena has been served on any Internet service provider, or on the provider of any other interactive computer service, as defined in Section 230(f)(2) of Title 47 of the United States Code, if the moving party prevails, and if the underlying action arises from the moving party's exercise of free speech rights on the Internet and the respondent has failed to make a prima facie showing of a cause of action, the court shall award the amount of the reasonable expenses incurred in making the motion, including reasonable attorney's fees.

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## CHAPTER 743

An act to amend Section 11713.22 of, and to add Sections 331.3 and 11713.23 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 331.3 is added to the Vehicle Code, to read:

331.3. A "recreational vehicle franchise" is a written agreement between two or more persons having both of the following conditions:

(a) A commercial relationship of definite duration or continuing indefinite duration.

(b) The franchisee is granted the right to offer for sale or lease, or to sell or lease at retail, new recreational vehicles, as defined in subdivision (a) of Section 18010 of the Health and Safety Code, that are manufactured or distributed by the franchisor, or the right to perform authorized warranty repairs and service, or the right to perform any combination of these activities.

SEC. 2. Section 11713.22 of the Vehicle Code is amended to read:

11713.22. (a) Upon mutual agreement of the parties to enter into a recreational vehicle franchise, it is unlawful and a violation of this code for a manufacturer, manufacturer branch, distributor, or distributor branch licensed under this code to fail or refuse to provide a recreational vehicle dealer with a written recreational vehicle franchise that complies with the requirements of Section 331.3.

(b) Notwithstanding Section 331.3, a recreational vehicle franchise described in this section shall include, but not be limited to, provisions regarding dealership transfer, dealership termination, sales territory, and reimbursement for costs incurred by the dealer for work related to the manufacturer's warranty for each line-make of recreational vehicle covered by the agreement.

(c) This section applies only to a dealer and manufacturer agreement involving recreational vehicles, as defined in subdivision (a) of Section 18010 of the Health and Safety Code, but does not include an agreement with a dealer who deals exclusively in truck campers.

SEC. 3. Section 11713.23 is added to the Vehicle Code, to read:

11713.23. (a) A recreational vehicle manufacturer, manufacturer branch, distributor, or distributor branch licensed under this code shall not sell a new recreational vehicle in this state to or through a recreational vehicle dealer without having first entered into a written recreational vehicle franchise with that recreational vehicle dealer, that complies with the requirements of Section 331.3 and that has been signed by both parties.

(b) A recreational vehicle dealer shall not sell a new recreational vehicle in this state without having first entered into a written recreational vehicle franchise, that complies with the requirements of Section 331.3, with a recreational vehicle manufacturer, manufacturer branch,

distributor, or distributor branch licensed under this code, that has been signed by both parties.

(c) (1) A recreational vehicle manufacturer, manufacturer branch, distributor, or distributor branch shall not ship a new recreational vehicle to a recreational dealer on or after January 1, 2009, without a recreational vehicle franchise that has been signed by both parties.

(2) A recreational vehicle dealer shall not receive a new recreational vehicle from a recreational vehicle manufacturer, manufacturer branch, distributor, or distributor branch on or after January 1, 2009, without a recreational vehicle franchise that has been signed by both parties.

(d) Any new recreational vehicle inventory that has been purchased by a recreational vehicle dealer, or shipped by a manufacturer, manufacturer branch, distributor, or distributor branch, before January 1, 2009, may be sold at any time without a recreational vehicle franchise.

(e) This section applies only to a dealer and manufacturer agreement involving recreational vehicles, as defined in subdivision (a) of Section 18010 of the Health and Safety Code, but does not include an agreement with a dealer who deals exclusively in truck campers.

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.

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## CHAPTER 744

An act to add Section 1361.1 to the Health and Safety Code, and to add Section 790.037 to the Insurance Code, relating to health care coverage.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 1361.1 is added to the Health and Safety Code, to read:

1361.1. It is an unfair business practice for a solicitor, solicitor firm, or representative of a health care service plan to sell, solicit, or negotiate

the purchase of health care coverage products by any of the following methods:

(a) The use of a marketing technique known as cold lead advertising when marketing a Medicare product. As used in this section, "cold lead advertising" means making use directly or indirectly of a method of marketing that fails to disclose in a conspicuous manner that a purpose of the marketing is health care service plan sales solicitation and that contact will be made by a solicitor, solicitor firm, or representative of a health care service plan.

(b) The use of an appointment that was made to discuss a particular Medicare product or to solicit the sale of a particular Medicare product in order to solicit the sale of another Medicare product or other health care coverage products, unless the consumer specifically agrees in advance of the appointment to discuss that other Medicare product or other types of health care coverage products during the same appointment. As used in this section, "Medicare product" includes Medicare Parts A, B, C, and D, and Medicare supplement plans.

SEC. 2. Section 790.037 is added to the Insurance Code, to read:

790.037. It is an unfair business practice for a health insurance agent or broker to sell, solicit, or negotiate the purchase of health insurance by any of the following methods:

(a) The use of a marketing technique known as cold lead advertising when marketing a Medicare product. As used in this section, "cold lead advertising" means making use directly or indirectly of a method of marketing that fails to disclose in a conspicuous manner that a purpose of the marketing is health insurance sales solicitation and that contact will be made by a health insurance agent or broker.

(b) The use of an appointment that was made to discuss a particular Medicare product or to solicit the sale of a particular Medicare product in order to solicit the sale of another Medicare product or other health insurance products, unless the consumer specifically agrees in advance of the appointment to discuss that other Medicare product or other types of health insurance products during the same appointment. As used in this section, "Medicare product" includes Medicare Parts A, B, C, and D, and Medicare supplement plans.

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.

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## CHAPTER 745

An act to add Section 887 to the Public Utilities Code, relating to telecommunications.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 887 is added to the Public Utilities Code, to read:

887. The commission may enforce the standards and requirements of Section 17538.9 of the Business and Professions Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 746

An act to add Title 1.80 (commencing with Section 1798.79) to Part 4 of Division 3 of the Civil Code, relating to privacy.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) The right to privacy is a personal and fundamental right protected by Section 1 of Article I of the California Constitution and by the United

States Constitution. All individuals have a right of privacy in information pertaining to them.

(b) This state has previously recognized the importance of protecting the confidentiality and privacy of an individual's personal information contained in identification documents such as driver's licenses.

SEC. 2. Title 1.80 (commencing with Section 1798.79) is added to Part 4 of Division 3 of the Civil Code, to read:

## TITLE 1.80. IDENTIFICATION DOCUMENTS

1798.79. (a) Except as provided in this section, a person or entity that intentionally remotely reads or attempts to remotely read a person's identification document using radio frequency identification (RFID), for the purpose of reading that person's identification document without that person's knowledge and prior consent, shall be punished by imprisonment in a county jail for up to one year, a fine of not more than one thousand five hundred dollars ($1,500), or both that fine and imprisonment.

(b) A person or entity that knowingly discloses, or causes to be disclosed, the operational system keys used in a contactless identification document system shall be punished by imprisonment in a county jail for up to one year, a fine of not more than one thousand five hundred dollars ($1,500), or both that fine and imprisonment.

(c) Subdivision (a) shall not apply to:

(1) The reading of a person's identification document for triage or medical care during a disaster and immediate hospitalization or immediate outpatient care directly related to a disaster, as defined by the local emergency medical services agency organized under Section 1797.200 of the Health and Safety Code.

(2) The reading of a person's identification document by a health care professional for reasons relating to the health or safety of that person or an identification document issued to a patient by emergency services.

(3) The reading of an identification document of a person who is incarcerated in the state prison or a county jail, detained in a juvenile facility operated by the Division of Juvenile Facilities in the Department of Corrections and Rehabilitation, or housed in a mental health facility, pursuant to a court order after having been charged with a crime, or to a person pursuant to a court-ordered electronic monitoring.

(4) Law enforcement or government personnel who need to read a lost identification document when the owner is unavailable for notice, knowledge, or consent, or those parties specifically authorized by law enforcement or government personnel for the limited purpose of reading

a lost identification document when the owner is unavailable for notice, knowledge, or consent.

(5) Law enforcement personnel who need to read a person's identification document after an accident in which the person is unavailable for notice, knowledge, or consent.

(6) Law enforcement personnel who need to read a person's identification document pursuant to a search warrant.

(d) Subdivision (a) shall not apply to a person or entity that unintentionally remotely reads a person's identification document using RFID in the course of operating a contactless identification document system unless it knows it unintentionally read the document and thereafter intentionally does any of the following acts:

(1) Discloses what it read to a third party whose purpose is to read a person's identification document, or any information derived therefrom, without that person's knowledge and consent.

(2) Stores what it read for the purpose of reading a person's identification document, or any information derived therefrom, without that person's knowledge and prior consent.

(3) Uses what it read for the purpose of reading a person's identification document, or any information derived therefrom, without that person's knowledge and prior consent.

(e) Subdivisions (a) and (d) shall not apply to the reading, storage, use, or disclosure to a third party of a person's identification document, or information derived therefrom, in the course of an act of good faith security research, experimentation, or scientific inquiry, including, but not limited to, activities useful in identifying and analyzing security flaws and vulnerabilities.

(f) Nothing in this section shall affect the existing rights of law enforcement to access data stored electronically on driver's licenses.

(g) The penalties set forth in subdivisions (a) and (b) are independent of, and do not supersede, any other penalties provided by state law, and in the case of any conflict, the greater penalties shall apply.

1798.795. For purposes of this title, the following definitions shall apply:

(a) "Contactless identification document system" means a group of identification documents issued and operated under a single authority that use RFID to transmit data remotely to readers intended to read that data. In a contactless identification document system, every reader must be able to read every identification document in the system.

(b) "Data" means any information stored or transmitted on an identification document in machine-readable form.

(c) "Identification document" means any document containing data that is issued to an individual and which that individual, and only that

individual, uses alone or in conjunction with any other information for the primary purpose of establishing his or her identity. Identification documents specifically include, but are not limited to, the following:

(1) Driver's licenses or identification cards issued pursuant to Section 13000 of the Vehicle Code.

(2) Identification cards for employees or contractors.

(3) Identification cards issued by educational institutions.

(4) Health insurance or benefit cards.

(5) Benefit cards issued in conjunction with any government-supported aid program.

(6) Licenses, certificates, registration, or other means to engage in a business or profession regulated by the Business and Professions Code.

(7) Library cards issued by any public library.

(d) "Key" means a string of bits of information used as part of a cryptographic algorithm used in encryption.

(e) "Radio frequency identification" or "RFID" means the use of electromagnetic radiating waves or reactive field coupling in the radio frequency portion of the spectrum to communicate to or from an identification document through a variety of modulation and encoding schemes.

(f) "Reader" means a scanning device that is capable of using RFID to communicate with an identification document and read the data transmitted by that identification document.

(g) "Remotely" means that no physical contact between the identification document and a reader is necessary in order to transmit data using RFID.

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.

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## CHAPTER 747

An act to amend Section 3212.1 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 3212.1 of the Labor Code is amended to read:

3212.1. (a) This section applies to all of the following:

(1) Active firefighting members, whether volunteers, partly paid, or fully paid, of all of the following fire departments:

(A) A fire department of a city, county, city and county, district, or other public or municipal corporation or political subdivision.

(B) A fire department of the University of California and the California State University.

(C) The Department of Forestry and Fire Protection.

(D) A county forestry or firefighting department or unit.

(2) Active firefighting members of a fire department that serves a United States Department of Defense installation and who are certified by the Department of Defense as meeting its standards for firefighters.

(3) Peace officers, as defined in Section 830.1, subdivision (a) of Section 830.2, and subdivisions (a) and (b) of Section 830.37, of the Penal Code, who are primarily engaged in active law enforcement activities.

(4) (A) Fire and rescue services coordinators who work for the Office of Emergency Services.

(B) For purposes of this paragraph, "fire and rescue services coordinator" means a coordinator with any of the following job classifications: coordinator, senior coordinator, or chief coordinator.

(b) The term "injury," as used in this division, includes cancer, including leukemia, that develops or manifests itself during a period in which any member described in subdivision (a) is in the service of the department or unit, if the member demonstrates that he or she was exposed, while in the service of the department or unit, to a known carcinogen as defined by the International Agency for Research on Cancer, or as defined by the director.

(c) The compensation that is awarded for cancer shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

(d) The cancer so developing or manifesting itself in these cases shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by evidence that the primary site of the cancer has been established and that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the disabling cancer. Unless so controverted, the appeals board is bound to find in accordance with the presumption. This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service,

but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

(e) The amendments to this section enacted during the 1999 portion of the 1999–2000 Regular Session shall be applied to claims for benefits filed or pending on or after January 1, 1997, including, but not limited to, claims for benefits filed on or after that date that have previously been denied, or that are being appealed following denial.

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## CHAPTER 748

An act to add Sections 19850.5 and 19850.6 to the Business and Professions Code, and to amend Sections 326.5 and 337j of, and to add Sections 326.3 and 326.4 to, the Penal Code, relating to bingo, and making an appropriation therefor.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

*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 Remote Caller Bingo Act.

SEC. 2. Section 19850.5 is added to the Business and Professions Code, to read:

19850.5. Notwithstanding Section 19850 or any other provision of law, this chapter shall apply to both of the following:

(a) The operation, regulation, and enforcement of remote caller bingo, as defined in paragraph (1) of subdivision (t) of Section 326.3 of the Penal Code, to the extent expressly made applicable by Section 326.3 of the Penal Code. No requirement contained in this chapter shall apply to remote caller bingo unless expressly made applicable by Section 326.3 of the Penal Code.

(b) The regulation of card-minding devices as provided in subdivision (p) of Section 326.5 of the Penal Code, to the extent expressly made applicable by Section 326.5 of the Penal Code. No requirement contained in this chapter shall apply to card-minding devices unless expressly made applicable by Section 326.5 of the Penal Code.

SEC. 3. Section 19850.6 is added to the Business and Professions Code, to read:

19850.6. (a) In order to avoid delays in implementing the California Remote Caller Bingo Act, including implementing remote caller bingo, testing and certifying card-minding devices, and to avoid disruption of

fundraising efforts by nonprofit organizations, the Legislature finds and declares that it is necessary to provide the commission with a limited exemption from normal rulemaking procedural requirements. The commission is directed to adopt appropriate emergency regulations as soon as possible, the initial regulatory action to be filed with the Office of Administrative Law no later than May 1, 2009. The commission is further directed to complete the normal public notice and comment process, giving careful consideration to the comments of all interested parties. It is the intent of the Legislature to provide the commission with full authority and sufficient flexibility to adopt all needed regulations. These regulations may be adopted in a series of regulatory actions. Subsequent regulatory actions may amend or repeal earlier regulatory actions, as necessary, to reflect program experience and concerns of the regulated public.

(b) The commission shall adopt emergency regulations concerning remote caller bingo and concerning card-minding devices no later than May 1, 2009. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the commission is hereby exempted for this purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code, but shall otherwise be subject to the review and approval of the Office of Administrative Law.

(c) The emergency regulations adopted pursuant to this section shall be effective initially for a period of 180 days from the date the regulations are filed with the Secretary of State by the Office of Administrative Law or upon any later date specified by the commission in a written instrument filed with, or as part of, the regulation. Notwithstanding subdivision (h) of Section 11346.1 of the Government Code, the regulations may be readopted only once pursuant to this section for a period of not more than 180 days. The exemption created by this section applies to all emergency regulations readopted by the commission pursuant to this section until December 31, 2009.

SEC. 4. Section 326.3 is added to the Penal Code, to read:

326.3. (a) The Legislature finds and declares all of the following:

(1) Nonprofit organizations provide important and essential educational, philanthropic, and social services to the people of the State of California.

(2) One of the great strengths of California is a vibrant nonprofit sector.

(3) Nonprofit and philanthropic organizations touch the lives of every Californian through service and employment.

(4) Many of these services would not be available if nonprofit organizations did not provide them.

(5) There is a need to provide methods of fundraising to nonprofit organizations to enable them to provide these essential services.

(6) Historically, many nonprofit organizations have used charitable bingo as one of their key fundraising strategies to promote the mission of the charity.

(7) Legislation is needed to provide greater revenues for nonprofit organizations to enable them to fulfill their charitable purposes, and especially to meet their increasing social service obligations.

(8) Legislation is also needed to clarify that existing law requires that all charitable bingo must be played using a tangible card and that the only permissible electronic devices to be used by charitable bingo players are card-minding devices.

(b) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any remote caller bingo game that is played or conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the California Constitution, if the ordinance allows a remote caller bingo game to be played or conducted only in accordance with the requirements of this section, including the following requirements:

(1) The game may be conducted only by the following organizations:

(A) An organization that is exempted from the payment of the bank and corporation tax by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701w, or 23701*l* of the Revenue and Taxation Code.

(B) A mobilehome park association.

(C) A senior citizens organization.

(D) Charitable organizations affiliated with a school district.

(2) The organization conducting the game shall have been incorporated or in existence for three years or more.

(3) The organization conducting the game shall be licensed pursuant to subdivision (*l*) of Section 326.5.

(4) The receipts of the game shall be used only for charitable purposes. The organization conducting the game shall determine the disbursement of the net receipts of the game.

(5) The operation of bingo may not be the primary purpose for which the organization is organized.

(c) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any remote caller bingo game, provided that administrative, managerial, technical, financial, and security personnel employed by the organization conducting the bingo game may be paid reasonable fees for services rendered from the revenues of bingo games, as provided in subdivision (*l*), except that fees paid under those

agreements shall not be determined as a percentage of receipts or other revenues from, or be dependant on the outcome of, the game.

(d) A violation of subdivision (c) shall be punishable by a fine not to exceed ten thousand dollars ($10,000), which fine shall be deposited in the general fund of the city, county, or city and county that enacted the ordinance authorizing the remote caller bingo game. A violation of any provision of this section, other than subdivision (c), is a misdemeanor.

(e) The city, county, or city and county that enacted the ordinance authorizing the remote caller bingo game, or the Attorney General, may bring an action to enjoin a violation of this section.

(f) No minors shall be allowed to participate in any remote caller bingo game.

(g) A remote caller bingo game shall not include any site that is not located within this state.

(h) An organization authorized to conduct a remote caller bingo game pursuant to subdivision (b) shall conduct the game only on property that is owned or leased by the organization, or the use of which is donated to the organization, provided that the operation of bingo games may not be a primary purpose for which the organization is organized. Nothing in this subdivision shall be construed to require that the property that is owned or leased by, or the use of which is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.

(i) (1) All remote caller bingo games shall be open to the public, not just to the members of the authorized organization.

(2) No more than 750 players may participate in a remote caller bingo game in a single location.

(3) If the Governor of California or the President of the United States declares a state of emergency in response to a natural disaster or other public catastrophe occurring in California, an organization authorized to conduct remote caller bingo games may, while that declaration is in effect, conduct those games pursuant to this section with more than 750 participants in a single venue if the net proceeds of the games, after deduction of prizes and overhead expenses, are donated to or expended exclusively for the relief of the victims of the disaster or catastrophe, and the organization gives the California Gambling Control Commission at least 10 days' written notice of the intent to conduct those games.

(4) An organization authorized to conduct remote caller bingo games shall provide the commission with at least 30 days' advance written notice of its intent to conduct those games. That notice shall include all of the following:

(A) The legal name of the organization and the address of record of the agent upon whom legal notice may be served.

(B) The locations of the caller and remote players, whether the property is owned by the organization or donated, and if donated, by whom.

(C) The name of the licensed caller and site manager.

(D) The names of administrative, managerial, technical, financial, and security personnel employed.

(E) The name of the vendor and any person or entity maintaining the equipment used to operate and transmit the game.

(F) The name of the person designated as having a fiduciary responsibility for the game pursuant to paragraph (2) of subdivision (j).

(G) The license numbers of all persons specified in subparagraphs (A) to (F), inclusive, who are required to be licensed.

(H) A copy of the local ordinance for the counties in which the game will be played. The commission shall post the ordinance on its Internet Web site.

(j) (1) A remote caller bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a remote caller bingo game shall operate that game, or participate in the promotion, supervision, or any other phase of a remote caller bingo game. Subject to the provisions of subdivision (*l*), this subdivision shall not preclude the employment of administrative, managerial, technical, financial, or security personnel who are not members of the authorized organization at a location participating in the remote caller bingo game by the organization conducting the game. Notwithstanding any other provisions of law, exclusive or other agreements between the authorized organization and other entities or persons to provide services in the administration, management, or conduct of the game shall not be considered a violation of the prohibition against holding a legally cognizable financial interest in the conduct of the remote caller bingo game by persons or entities other than the charitable organization, or other entity authorized to conduct the remote caller bingo games, provided that those persons or entities obtain the gambling licenses, the key employee licenses, or the work permits required by, and otherwise comply with, Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code. Fees to be paid under any such agreements shall be reasonable and shall not be determined as a percentage of receipts or other revenues from, or be dependent on the outcome of, the game.

(2) An organization that conducts a remote caller bingo game shall designate a person as having fiduciary responsibility for the game.

(k) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct or participate in a remote

caller bingo game, shall hold a legally cognizable financial interest in the conduct of such a game.

(*l*) An organization authorized to conduct a remote caller bingo game pursuant to this section shall not have overhead costs exceeding 20 percent of gross sales, except that the limitations of this section shall not apply to one-time, nonrecurring capital acquisitions. For purposes of this subdivision, "overhead costs" includes, but is not limited to, amounts paid for rent and equipment leasing and the reasonable fees authorized to be paid to administrative, managerial, technical, financial, and security personnel employed by the organization pursuant to subdivision (c).

(m) No person shall be allowed to participate in a remote caller bingo game unless the person is physically present at the time and place where the remote caller bingo game is being conducted. A person shall be deemed to be physically present at the place where the remote caller bingo game is being conducted if he or she is present at any of the locations participating in the remote caller bingo game in accordance with this section.

(n) (1) An organization shall not cosponsor a remote caller bingo game with one or more other organizations unless one of the following is true:

(A) All of the cosponsors are affiliated under the master charter or articles and bylaws of a single organization.

(B) All of the cosponsors are affiliated through an organization described in paragraph (1) of subdivision (b), and have the same Internal Revenue Service activity code.

(2) Notwithstanding paragraph (1), a maximum of 10 unaffiliated organizations described in paragraph (1) of subdivision (b) may enter into an agreement to cosponsor a remote caller game, provided the game shall have not more than 10 locations.

(3) An organization shall not conduct remote caller bingo more than one day per week.

(4) Before sponsoring or operating any game authorized under paragraph (1) or (2), each of the cosponsoring organizations shall have entered into a written agreement, a copy of which shall be provided to the commission, setting forth how the expenses and proceeds of the game are to be allocated among the participating organizations, the bank accounts into which all receipts are to be deposited and from which all prizes are to be paid, and how game records are to be maintained and subjected to annual audit.

(o) The value of prizes awarded during the conduct of any remote caller bingo game shall not exceed 37 percent of the gross receipts for that game. Every remote caller bingo game shall be played until a winner is declared. Progressive prizes are prohibited. The declared winner of a

remote caller bingo game shall provide his or her identifying information and a mailing address to the onsite manager of the remote caller bingo game. Prizes shall be paid only by check; no cash prizes shall be paid. The organization conducting the remote caller bingo game may issue a check to the winner at the time of the game, or may send a check to the declared winner by United States Postal Service certified mail, return receipt requested. All prize money exceeding state and federal exemption limits on prize money shall be subject to income tax reporting and withholding requirements under applicable state and federal laws and regulations and those reports and withholding shall be forwarded, within 10 business days, to the appropriate state or federal agency on behalf of the winner. A report shall accompany the amount withheld identifying the person on whose behalf the money is being sent. Any game interrupted by a transmission failure, electrical outage, or act of God shall be considered void in the location that was affected. A refund for a canceled game or games shall be provided to the purchasers.

(p) (1) The California Gambling Control Commission shall regulate remote caller bingo, including, but not limited to, licensure and operation. The commission shall establish reasonable criteria regulating, and shall require the licensure and registration of, the following:

(A) Any person who conducts remote caller bingo games pursuant to this section, including, but not limited to, owners, employees, persons having fiduciary responsibility for remote caller bingo games, site managers, and bingo callers.

(B) Any person who directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provide supplies, devices, services, or other equipment designed for use in the playing of bingo games by any nonprofit organization registered to conduct bingo games.

(C) Beginning January 31, 2009, or a later date as may be established by the commission, all persons described in subparagraph (A) or (B) may submit to the commission a letter of intent to submit an application for registration or licensure. The letter shall clearly identify the principal applicant, all categories under which the application will be filed, and the names of all those particular individuals who are applying. Each charitable organization shall provide an estimate of the frequency with which it plans to conduct remote caller bingo operations, including the number of locations. The letter of intent may be withdrawn or updated at any time.

(2) (A) The Department of Justice shall conduct background investigations and conduct field enforcement as it relates to remote caller bingo consistent with the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code) and as specified in regulations promulgated by the commission.

(B) Fees to cover background investigation costs shall be paid and accounted for in accordance with Section 19867 of the Business and Professions Code.

(3) (A) Every application for a license or approval shall be accompanied by a nonrefundable fee, the amount of which shall be adopted by the commission by regulation.

(B) Fees and revenue collected pursuant to this paragraph shall be deposited in the California Bingo Fund, which is hereby created in the State Treasury. The funds deposited in the California Bingo Fund shall be available, upon appropriation by the Legislature, for expenditure by the commission and the department exclusively for the support of the commission and department in carrying out their duties and responsibilities under this section and Section 326.5.

(C) A loan is hereby authorized from the Gambling Control Fund to the California Bingo Fund on or after January 1, 2009, in an amount of up to five hundred thousand dollars ($500,000) to fund operating, personnel, and other startup costs incurred by the commission relating to this act. Funds from the California Bingo Fund shall be available to the commission upon appropriation by the Legislature in the annual Budget Act. The loan shall be subject to all of the following conditions:

(i) The loan shall be repaid to the Gambling Control Fund as soon as there is sufficient money in the California Bingo Fund to repay the amount loaned, but no later than five years after the date of the loan.

(ii) Interest on the loan shall be paid from the California Bingo Fund at the rate accruing to moneys in the Pooled Money Investment Account.

(iii) The terms and conditions of the loan are approved, prior to the transfer of funds, by the Department of Finance pursuant to appropriate fiscal standards.

The commission may assess and collect reasonable fees and deposits as necessary to defray the costs of regulation and oversight.

(q) The administrative, managerial, technical, financial, and security personnel employed by an organization that conducts remote caller bingo games shall apply for, obtain, and thereafter maintain valid work permits, as defined in Section 19805 of the Business and Professions Code.

(r) An organization that conducts remote caller bingo games shall retain records in connection with the remote caller bingo game for five years.

(s) (1) All equipment used for remote caller bingo shall be approved in advance by the California Gambling Control Commission pursuant to regulations adopted pursuant to subdivision (r) of Section 19841 of the Business and Professions Code.

(2) The California Gambling Control Commission shall monitor operation of the transmission and other equipment used for remote caller bingo, and monitor the game.

(t) (1) As used in this section, "remote caller bingo game" means a game of bingo, as defined in subdivision (o) of Section 326.5, in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted, and the organization conducting the bingo game uses audio and video technology to link any of its in-state facilities for the purpose of transmitting the remote calling of a live bingo game from a single location to multiple locations owned, leased, or rented by that organization, or as described in subdivision (n). The audio or video technology used to link the facilities may include cable, Internet, satellite, broadband, or telephone technology, or any other means of electronic transmission that ensures the secure, accurate, and simultaneous transmission of the announcement of numbers or symbols in the game from the location at which the game is called by a natural person to the remote location or locations at which players may participate in the game. The drawing of each ball bearing a number or symbol by the natural person calling the game shall be visible to all players as the ball is drawn, including through a simultaneous live video feed at remote locations at which players may participate in the game.

(2) The caller in the live game must be licensed by the California Gambling Control Commission. A game may be called by a nonlicensed caller if the drawing of balls and calling of numbers or symbols by that person is observed and personally supervised by a licensed caller.

(3) Remote caller bingo games shall be played using traditional paper or other tangible bingo cards and daubers, and shall not be played by using electronic devices, except card-minding devices, as described in paragraph (1) of subdivision (p) of Section 326.5.

(4) Prior to conducting a remote caller bingo game, the organization that conducts remote caller bingo shall submit to the commission the controls, methodology, and standards of game play, which shall include, but not be limited to, the equipment used to select bingo numbers and create or originate cards, control or maintenance, distribution to participating locations, and distribution to players. Those controls, methodologies, and standards shall be subject to prior approval by the commission, provided that the controls shall be deemed approved by the commission after 90 days from the date of submission unless disapproved.

(u) A location shall not be eligible to participate in a remote caller bingo game if bingo games are conducted at that location in violation of Section 326.5 or any regulation adopted by the commission pursuant

to Section 19841 of the Business and Professions Code, including, but not limited to, a location at which unlawful electronic devices are used.

(v) (1) The vendor of the equipment used in a remote caller bingo game shall have its books and records audited at least annually by an independent California certified public accountant and shall submit the results of that audit to the California Gambling Control Commission within 120 days after the close of the vendor's fiscal year. In addition, the California Gambling Control Commission shall audit the books and records of the vendor at any time.

(2) An organization that conducts remote caller bingo games shall provide copies of the records pertaining to those games to the California Gambling Control Commission within 30 days after the end of each calendar quarter. In addition, those records shall be audited by an independent California certified public accountant at least annually and copies of the audit reports shall be provided to the California Gambling Control Commission within 120 days after the close of the organization's fiscal year.

(3) The costs of the licensing and audits required by this section shall be borne by the person or entity required to be licensed or audited. The audit shall enumerate the receipts for remote caller bingo, the prizes disbursed, the overhead costs, and the amount retained by the nonprofit organization. The commission may audit the books and records of an organization that conducts remote caller bingo games at any time.

(4) If, during an audit, the commission identifies practices in violation of this section, the license for the audited entity may be suspended pending review and hearing before the commission for a final determination.

(5) No audit required to be conducted by the commission shall commence before January 1, 2010.

(w) (1) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(2) Notwithstanding paragraph (1), if paragraph (1) or (3) of subdivision (t), or the application of either of those provisions, is held invalid, this entire section shall be invalid.

(x) The commission shall submit a report to the Legislature, on or before January 1, 2012, on the fundraising effectiveness and regulation of remote caller bingo, and other matters that are relevant to the public interest regarding remote caller bingo.

(y) The following definitions apply for purposes of this section:

(1) "Commission" means the California Gambling Control Commission.

(2) "Person" includes a natural person, corporation, limited liability company, partnership, trust, joint venture, association, or any other business organization.

SEC. 5. Section 326.4 is added to the Penal Code, to read:

326.4. 326.4. (a) Consistent with the Legislature's finding that card-minding devices, as described in subdivision (p) of Section 326.5, are the only permissible electronic devices to be used by charity bingo players, and in an effort to ease the transition to remote caller bingo on the part of those nonprofit organizations that, as of July 1, 2008, used electronic devices other than card-minding devices to conduct games in reliance on an ordinance of a city, county, or city and county that, as of July 1, 2008, expressly recognized the operation of electronic devices other than card-minding devices by organizations purportedly authorized to conduct bingo in the city, county or city and county, there is hereby created the Charity Bingo Mitigation Fund.

(b) The Charity Bingo Mitigation Fund shall be administered by the Gambling Control Commission.

(c) Mitigation payments to be made by the Charity Bingo Mitigation Fund shall not exceed five million dollars in the aggregate.

(d) (1) To allow the Charity Bingo Mitigation Fund to become immediately operable, five million dollars ($5,000,000) shall be loaned from the accrued interest in the Indian Gaming Special Distribution Fund to the Charity Bingo Mitigation Fund on, or after January 1, 2009, to make mitigation payments to eligible nonprofit organizations. Five million dollars ($5,000,000) of this loan amount is hereby appropriated to the Gambling Control Commission for the purposes of providing mitigation payments to certain charitable organizations, as described in subdivision (e). Pursuant to Section 16304 of the Government Code, after three years the unexpended balance shall revert back to the Charity Bingo Mitigation Fund.

(2) To reimburse the Special Distribution Fund, those nonprofit organizations that conduct a remote caller bingo game pursuant to Section 326.3 shall pay to the Gambling Control Commission an amount equal to 5 percent of the gross revenues of each remote caller bingo game played until that time as the full advanced amount plus interest on the loan at the rate accruing to moneys in the Pooled Money Investment Account is reimbursed.

(e) (1) An organization meeting the requirements in subdivision (a) shall be eligible to receive mitigation payments from the Charity Bingo Mitigation Fund only if the city, county, or city and county in which the organization is located maintained official records of the net revenues generated for the fiscal year ending June 30, 2008, by the organization from the use of electronic devices or the organization maintained audited

financial records for the fiscal year ending June 30, 2008, which show the net revenues generated from the use of electronic devices.

(2) In addition, an organization applying for mitigation payments shall provide proof that its board of directors has adopted a resolution and its chief executive officer has signed a statement executed under penalty of perjury stating that, as of January 1, 2009, the organization has ceased using electronic devices other than card-minding devices, as described in subdivision (p) of Section 326.5, as a fundraising tool.

(3) Each eligible organization may apply to the Gambling Control Commission no later than January 31, 2009, for the mitigation payments in the amount equal to net revenues from the fiscal year ending June 30, 2008, by filing an application, including therewith documents and other proof of eligibility, including any and all financial records documenting the organization's net revenues for the fiscal year ending June 30, 2008, as the Gambling Control Commission may require. The Gambling Control Commission is authorized to access and examine the financial records of charities requesting funding in order to confirm the legitimacy of the request for funding. In the event that the total of those requests exceeds five million dollars ($5,000,000), payments to all eligible applicants shall be reduced in proportion to each requesting organization's reported or audited net revenues from the operation of electronic devices.

SEC. 6. Section 326.5 of the Penal Code is amended to read:

326.5. (a) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any bingo game that is conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the State Constitution, if the ordinance allows games to be conducted only in accordance with this section and only by organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701w, and 23701*l* of the Revenue and Taxation Code and by mobilehome park associations, senior citizens organizations, and school districts; and if the receipts of those games are used only for charitable purposes.

(b) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the State Constitution. Security personnel employed by the organization conducting the bingo game may be paid from the revenues of bingo games, as provided in subdivisions (j) and (k).

(c) A violation of subdivision (b) shall be punishable by a fine not to exceed ten thousand dollars ($10,000), which fine is deposited in the general fund of the city, county, or city and county that enacted the

ordinance authorizing the bingo game. A violation of any provision of this section, other than subdivision (b), is a misdemeanor.

(d) The city, county, or city and county that enacted the ordinance authorizing the bingo game may bring an action to enjoin a violation of this section.

(e) No minors shall be allowed to participate in any bingo game.

(f) An organization authorized to conduct bingo games pursuant to subdivision (a) shall conduct a bingo game only on property owned or leased by it, or property whose use is donated to the organization, and which property is used by that organization for an office or for performance of the purposes for which the organization is organized. Nothing in this subdivision shall be construed to require that the property owned or leased by, or whose use is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.

(g) All bingo games shall be open to the public, not just to the members of the authorized organization.

(h) A bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such a game, or participate in the promotion, supervision, or any other phase of a bingo game. This subdivision does not preclude the employment of security personnel who are not members of the authorized organization at a bingo game by the organization conducting the game.

(i) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct a bingo game, shall hold a financial interest in the conduct of a bingo game.

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Those profits shall be used only for charitable purposes.

(k) With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Proceeds are the receipts of bingo games conducted by organizations not within subdivision (j). Those proceeds shall be used only for charitable purposes, except as follows:

(1) The proceeds may be used for prizes.

(2) (A) Except as provided in subparagraph (B), a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or two thousand dollars ($2,000) per month, whichever is less, may be used for the rental of property and for overhead, including

the purchase of bingo equipment, administrative expenses, security equipment, and security personnel.

(B) For the purposes of bingo games conducted by the Lake Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or three thousand dollars ($3,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel. Any amount of the proceeds that is additional to that permitted under subparagraph (A), up to one thousand dollars ($1,000), shall be used for the purpose of financing the rebuilding of the facility and the replacement of equipment that was destroyed by fire in 2007. The exception to subparagraph (A) that is provided by this subparagraph shall remain in effect only until the cost of rebuilding the facility is repaid, or January 1, 2019, whichever occurs first.

(3) The proceeds may be used to pay license fees.

(4) A city, county, or city and county that enacts an ordinance permitting bingo games may specify in the ordinance that if the monthly gross receipts from bingo games of an organization within this subdivision exceed five thousand dollars ($5,000), a minimum percentage of the proceeds shall be used only for charitable purposes not relating to the conducting of bingo games and that the balance shall be used for prizes, rental of property, overhead, administrative expenses, and payment of license fees. The amount of proceeds used for rental of property, overhead, and administrative expenses is subject to the limitations specified in paragraph (2).

(*l*) (1) A city, county, or city and county may impose a license fee on each organization that it authorizes to conduct bingo games. The fee, whether for the initial license or renewal, shall not exceed fifty dollars ($50) annually, except as provided in paragraph (2). If an application for a license is denied, one-half of any license fee paid shall be refunded to the organization.

(2) In lieu of the license fee permitted under paragraph (1), a city, county, or city and county may impose a license fee of fifty dollars ($50) paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. An additional fee for law enforcement and public safety costs incurred by the city, county, or city and county that are directly related to bingo activities may be imposed and shall be collected monthly by the city, county, or city and county issuing the license; however, the fee shall not exceed the actual costs incurred in providing the service.

(m) No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place where the bingo game is being conducted.

(n) The total value of prizes available to be awarded during the conduct of any bingo games shall not exceed five hundred dollars ($500) in cash or kind, or both, for each separate game which is held.

(o) As used in this section, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols that are marked or covered by the player on a tangible card in the player's possession and that conform to numbers or symbols, selected at random and announced by a live caller. Notwithstanding Section 330c, as used in this section, the game of bingo includes tangible cards having numbers or symbols that are concealed and preprinted in a manner providing for distribution of prizes. Electronics or video displays shall not be used in connection with the game of bingo, except in connection with the caller's drawing of numbers or symbols and the public display of that drawing, and except as provided in subdivision (p). The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All preprinted cards shall bear the legend, "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance." Only a covered or marked tangible card possessed by a player and presented to an attendant may be used to claim a prize. It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law.

(p) (1) Players who are physically present at a bingo game may use hand-held, portable card-minding devices, as described in this subdivision, to assist in monitoring the numbers or symbols announced by a live caller as those numbers or symbols are called in a live game. Card-minding devices may not be used in connection with any game where a bingo card may be sold or distributed after the start of the ball draw for that game. A card-minding device shall do all of the following:

(A) Be capable of storing in the memory of the device bingo faces of tangible cards purchased by a player.

(B) Provide a means for bingo players to input manually each individual number or symbol announced by a live caller.

(C) Compare the numbers or symbols entered by the player to the bingo faces previously stored in the memory of the device.

(D) Identify winning bingo patterns that exist on the stored bingo faces.

(2) A card-minding device shall perform no functions involving the play of the game other than those described in paragraph (1). Card-minding devices shall not do any of the following:

(A) Be capable of accepting or dispensing any coins, currency, or other representative of value or on which value has been encoded.

(B) Be capable of monitoring any bingo card face other than the faces of the tangible bingo card or cards purchased by the player for that game.

(C) Display or represent the game result through any means, including, but not limited to, video or mechanical reels or other slot machine or casino game themes, other than highlighting the winning numbers or symbols marked or covered on the tangible bingo cards or giving an audio alert that the player's card has a prize-winning pattern.

(D) Determine the outcome of any game or be physically or electronically connected to any component that determines the outcome of a game or to any other bingo equipment, including, but not limited to, the ball call station, or to any other card-minding device. No other player-operated or player-activated electronic or electromechanical device or equipment is permitted to be used in connection with a bingo game.

(3) (A) A card-minding device shall be approved in advance by the commission as meeting the requirements of Section 326.5 and any additional requirements stated in regulations adopted by the commission. Any proposed material change to the device, including any change to the software used by the device, shall be submitted to the commission and approved by the commission prior to implementation.

(B) In accordance with Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code, the commission shall establish reasonable criteria for, and require the licensure and registration of, any person that directly or indirectly manufacturers, distributes, supplies, vends, leases, or otherwise provides card-minding devices or other supplies, equipment, or services designed for use in the playing of bingo games by any nonprofit organization registered to conduct bingo games.

(C) A person or entity that supplies or services any card-minding device shall meet all licensing or registration requirements established by the commission in regulations.

(4) The costs of any testing, certification, license, or determination required by this subdivision shall be borne by the person or entity seeking it.

(5) On and after January 1, 2010, the commission and the Department of Justice may inspect all card-minding devices at any time without notice, and may immediately prohibit the use of any device that does not comply with the requirements of subdivision (r) of Section 19841 of the Business and Professions Code. The Department of Justice may at any time, without notice, impound any device the use of which has been prohibited by the commission.

(6) The California Gambling Control Commission shall issue regulations to implement the requirements of this subdivision and may issue regulations regarding the means by which the operator of a bingo game, as required by applicable law, may offer assistance to a player with disabilities in order to enable that player to participate in a bingo game, provided that the means of providing that assistance shall not be through any electronic, electromechanical, or other device or equipment that accepts the insertion of any coin, currency, token, credit card, or other means of transmitting value, and does not constitute or is not a part of a system that constitutes a video lottery terminal, slot machine, or devices prohibited by Chapter 10 (commencing with Section 330).

(7) The following definitions apply for purposes of this subdivision:

(A) "Commission" means the California Gambling Control Commission.

(B) "Person" includes a natural person, corporation, limited liability company, partnership, trust, joint venture, association, or any other business organization.

SEC. 7. Section 337j of the Penal Code is amended to read:

337j. (a) It is unlawful for any person, as owner, lessee, or employee, whether for hire or not, either solely or in conjunction with others, to do any of the following without having first procured and thereafter maintained in effect all federal, state, and local licenses required by law:

(1) To deal, operate, carry on, conduct, maintain, or expose for play in this state any controlled game.

(2) To receive, directly or indirectly, any compensation or reward or any percentage or share of the revenue, for keeping, running, or carrying on any controlled game.

(3) To manufacture, distribute, or repair any gambling equipment within the boundaries of this state, or to receive, directly or indirectly, any compensation or reward for the manufacture, distribution, or repair of any gambling equipment within the boundaries of this state.

(b) It is unlawful for any person to knowingly permit any controlled game to be conducted, operated, dealt, or carried on in any house or building or other premises that he or she owns or leases, in whole or in part, if that activity is undertaken by a person who is not licensed as required by state law, or by an employee of that person.

(c) It is unlawful for any person to knowingly permit any gambling equipment to be manufactured, stored, or repaired in any house or building or other premises that the person owns or leases, in whole or in part, if that activity is undertaken by a person who is not licensed as required by state law, or by an employee of that person.

(d) Any person who violates, attempts to violate, or conspires to violate this section shall be punished by imprisonment in a county jail

for not more than one year or by a fine of not more than ten thousand dollars ($10,000), or by both imprisonment and fine. A second offense of this section is punishable by imprisonment in a county jail for a period of not more than one year or in the state prison or by a fine of not more than ten thousand dollars ($10,000), or by both imprisonment and fine.

(e) (1) As used in this section, "controlled game" means any poker or Pai Gow game, and any other game played with cards or tiles, or both, and approved by the Department of Justice, and any game of chance, including any gambling device, played for currency, check, credit, or any other thing of value that is not prohibited and made unlawful by statute or local ordinance.

(2) As used in this section, "controlled game" does not include any of the following:

(A) The game of bingo conducted pursuant to Section 326.3 or 326.5.

(B) Parimutuel racing on horse races regulated by the California Horse Racing Board.

(C) Any lottery game conducted by the California State Lottery.

(D) Games played with cards in private homes or residences, in which no person makes money for operating the game, except as a player.

(f) This subdivision is intended to be dispositive of the law relating to the collection of player fees in gambling establishments. A fee may not be calculated as a fraction or percentage of wagers made or winnings earned. The amount of fees charged for all wagers shall be determined prior to the start of play of any hand or round. However, the gambling establishment may waive collection of the fee or portion of the fee in any hand or round of play after the hand or round has begun pursuant to the published rules of the game and the notice provided to the public. The actual collection of the fee may occur before or after the start of play. Ample notice shall be provided to the patrons of gambling establishments relating to the assessment of fees. Flat fees on each wager may be assessed at different collection rates, but no more than five collection rates may be established per table. However, if the gambling establishment waives its collection fee, this fee does not constitute one of the five collection rates.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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## CHAPTER 749

An act to amend Section 17539.15 of the Business and Professions Code, relating to business.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 17539.15 of the Business and Professions Code is amended to read:

17539.15. (a) Solicitation materials containing sweepstakes entry materials or solicitation materials selling information regarding sweepstakes shall not represent, taking into account the context in which the representation is made, including, without limitation, emphasis, print, size, color, location, and presentation of the representation and any qualifying language, that a person is a winner or has already won a prize or any particular prize unless that person has in fact won a prize or any particular prize. If the representation is made on or visible through the mailing envelope containing the sweepstakes materials, the context in which the representation is to be considered, including any qualifying language, shall be limited to what appears on, appears from, or is visible through, the mailing envelope.

(b) Solicitation materials containing sweepstakes entry materials or solicitation materials selling information regarding sweepstakes shall include a clear and conspicuous statement of the no-purchase-or-payment-necessary message, in readily understandable terms, in the official rules included in those solicitation materials and, if the official rules do not appear thereon, on the entry-order device included in those solicitation materials. The no-purchase-or-payment-necessary message included in the official rules shall be set out in a separate paragraph in the official rules and be printed in capital letters in contrasting typeface not smaller than the largest typeface used in the text of the official rules.

(c) Sweepstakes entries not accompanied by an order for products or services shall not be subjected to any disability or disadvantage in the winner selection process to which an entry accompanied by an order for products or services would not be subject.

(d) Solicitation materials containing sweepstakes entry materials or solicitation materials selling information regarding sweepstakes shall not represent that an entry in the promotional sweepstakes accompanied by an order for products or services will be eligible to receive additional prizes or be more likely to win than an entry not accompanied by an order for products or services or that an entry not accompanied by an order for products or services will have a reduced chance of winning a prize in the promotional sweepstakes.

(e) Solicitation materials containing sweepstakes entry materials or solicitation materials selling information regarding sweepstakes shall not represent that a person has been specially selected in connection with a sweepstakes unless it is true.

(f) Solicitation materials containing sweepstakes entry materials or solicitation materials selling information regarding sweepstakes shall not represent that the person receiving the solicitation has received any special treatment or personal attention from the sweepstakes sponsor or any officer, employee, or agent of the sweepstakes sponsor unless the representation of special treatment or personal attention is true.

(g) Solicitation materials containing sweepstakes entry materials or solicitation materials selling information regarding sweepstakes shall not represent that a person is being notified a second or final time of the opportunity to receive or compete for a prize, unless that representation is true.

(h) Solicitation materials containing sweepstakes entry materials or solicitation materials selling information regarding sweepstakes shall not represent that a prize notice is urgent or otherwise convey an impression of urgency by use of description, phrasing on a mailing envelope, or similar method, unless there is a limited time period in which the recipient must take some action to claim, or be eligible to receive, a prize, and the date by which that action is required is clearly and conspicuously disclosed in the body of the solicitation materials.

(i) Solicitation materials containing sweepstakes entry materials or solicitation materials selling information regarding sweepstakes shall not do either of the following:

(1) Simulate or falsely represent that it is a document authorized, issued, or approved by any court, official, or agency of the United States or any state, or by any lawyer, law firm, or insurance or brokerage company.

(2) Create a false impression as to its source, authorization, or approval.

(j) The official rules for a sweepstakes shall disclose information about the date or dates the final winner or winners will be determined.

(k) For purposes of this section:

(1) "No-purchase-or-payment-necessary message" means the following statement or a statement substantially similar to the following statement: "No purchase or payment of any kind is necessary to enter or win this sweepstakes."

(2) "Official rules" means the formal printed statement, however designated, of the rules for the promotional sweepstakes appearing in the solicitation materials. The official rules shall be prominently identified and all references thereto in any solicitation materials shall consistently use the designation for the official rules that appears in those materials. Each sweepstakes solicitation shall contain a copy of the official rules.

(3) "Specially selected" means a representation that a person is a winner, a finalist, in first place or tied for first place, or otherwise among a limited group of persons with an enhanced likelihood of receiving a prize.

(*l*) (1) A sweepstakes sponsor may not charge a fee as a condition of receiving a monetary distribution or obtaining information about a prize or sweepstakes.

(2) (A) For the purposes of this section, "sweepstakes sponsor" means either of the following:

(i) A person or entity that operates or administers a sweepstakes as defined in paragraph (12) of subdivision (a) of Section 17539.5.

(ii) A person or entity that offers, by means of a notice, a prize to another person in conjunction with any real or purported sweepstakes that requires or allows, or creates the impression of requiring or allowing, the person to purchase any goods or services, or pay any money, as a condition of receiving, or in conjunction with allowing the person to receive, use, or obtain a prize or information about a prize.

(B) A person or entity that merely furnishes a prize in connection with a sweepstakes that is operated or administered by another person or entity shall not be deemed to be a sweepstakes sponsor.

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 750

An act to amend Sections 18021.7, 18050.5, and 19997 of the Health and Safety Code, relating to manufactured housing.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 18021.7 of the Health and Safety Code is amended to read:

18021.7. (a) (1) In addition to other remedies provided in this part, the Director of Housing and Community Development or his or her designee may issue a citation that assesses a civil penalty payable to the department to any licensee who violates subdivision (d) of Section 18020, Section 18021.5, 18026, 18029.6, or 18030, subdivision (b) of Section 18032, Section 18035, 18035.1, 18035.2, 18035.3, 18036, 18039, 18045, 18045.5, 18045.6, 18046, or 18058, subdivision (a) of Section 18059, subdivision (b) of Section 18059.5, subdivision (c) of Section 18060, subdivision (c) of Section 18060.5, Section 18061, subdivision (d), (i), or (j) of Section 18061.5, subdivision (a) or (b) of Section 18062, subdivision (a), (b), (d), (e), (f), (g), or (h) of Section 18062.2, subdivision (c) of Section 18063, or Section 18080.5.

(2) A violation of subdivision (d) of Section 18060.5 is also cause for citation if both the dealer and the manufacturer receive written notice of a warranty complaint from the complainant, from the department, or another source of information, and, at a minimum, the 90-day period provided for correction of substantial defects pursuant to Section 1797.7 of the Civil Code has expired.

(3) Each citation and related civil penalty assessment shall be issued no later than one year after discovery of the violation.

(b) (1) Except as provided in paragraph (2), the amount of any civil penalty assessed pursuant to subdivision (a) shall be one hundred dollars ($100) for each violation, but shall be increased to two hundred fifty dollars ($250) for each subsequent violation of the same prohibition for which a citation for the subsequent violation is issued within one year of the citation for the previous violation. The violation or violations giving cause for the citation shall be corrected if applicable, and payment of the civil penalty shall be remitted to the department within 45 days of the date of issuance of the citation. Civil penalties received by the department pursuant to this section shall be deposited in the Mobilehome-Manufactured Home Revolving Fund.

(2) (A) For violations of subdivision (d) of Section 18020, or Section 18026, the department shall assess the civil penalties in a range between two hundred fifty dollars ($250) and two thousand dollars ($2,000). When determining the amount of the assessed civil penalty, the department shall take into consideration whether one or more of the following or similar circumstances apply:

(i) The citation includes multiple violations.

(ii) The cited person has a history of violations of the same or similar provisions of this division and the regulations promulgated under this division.

(iii) In the judgment of the department, the person has exhibited bad faith or a conflict of interest.

(iv) In the judgment of the department, the violation is serious or harmful.

(v) The citation involves a violation perpetrated against a senior citizen, veteran, or person with disabilities.

(B) If a citation lists more than one violation and each of the violations relates to the same manufacturing facility or client, the total penalty assessment in each citation shall not exceed ten thousand dollars ($10,000).

(C) If a citation lists more than one violation, the amount of assessed civil penalty shall be stated separately for each section violated.

(c) Any person or entity served a citation pursuant to this section may petition for, and shall be granted, an informal hearing before the director or his or her designee. The petition shall be a written request briefly stating the grounds for the request. Any petition to be considered shall be received by the department within 30 days of the date of issuance of the citation.

(d) Upon receipt of a timely and complying petition, the department shall suspend enforcement of the citation and set a time and place for the informal hearing and shall give the licensee written notice thereof. The hearing shall commence no later than 30 days following receipt of the petition or at another time scheduled by the department pursuant to a request by the licensee or department if good and sufficient cause exists. If the licensee fails to appear at the time and place scheduled for the hearing, the department may notify the licensee in writing that the petition is dismissed and that compliance with terms of the citation shall occur within 10 days after receipt of the notification.

(e) The department shall notify the petitioner in writing of its decision and the reasons therefor within 30 days following conclusion of the informal hearing held pursuant to this section. If the decision upholds the citation, in whole or in part, the licensee shall comply with the citation

in accordance with the decision within 30 days after the decision is mailed by the department.

(f) Nothing in this section shall be construed to preclude remedies available under other provisions of law.

SEC. 2. Section 18050.5 of the Health and Safety Code is amended to read:

18050.5. The department may, for a reasonable cause shown, refuse to issue a license to an applicant when it determines any of the following:

(a) The applicant was previously the holder of a license, which license was revoked for cause and never reissued, or which license was suspended for cause and the terms of suspension have not been fulfilled.

(b) The applicant was previously a limited or general partner, stockholder, director, general manager, or officer of a partnership or corporation whose license was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled.

(c) If the applicant is a partnership or corporation, of which one or more of the limited or general partners, stockholders, directors or officers was previously the holder or a limited or general partner, stockholder, director or officer of a partnership or corporation whose license was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled, or by reason of the facts and circumstances touching the organization, control, and management of the partnership or corporation business the policy of the business will be directed, controlled, or managed by individuals, who, by reason of their conviction of violations of the provisions of this part, would be ineligible for a license and by licensing the corporation or partnership the purposes of this part would likely be defeated.

(d) The applicant, or one of the limited or general partners, if the applicant be a partnership, or one or more of the officers or directors of the corporation, if the corporation be the applicant, or one or more of the stockholders, if the policy of the business will be directed, controlled, or managed by that stockholder or stockholders, has been convicted of a felony or a crime involving moral turpitude, or has been held liable in a civil court action for any act or conduct that involved moral turpitude and is substantially related to the qualifications, functions, or duties of the licensed activity. A conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(e) The information contained in the application is incorrect.

(f) Upon investigation, the business history required by Section 18050 contains incomplete or incorrect information, or reflects substantial business irregularities.

(g) The decision of the department to cancel, suspend, or revoke a license has been entered, and the applicant was the licensee, or a copartner, officer, director, or stockholder of that licensee.

(h) The existence of any of the causes specified in Section 18058 as a cause to suspend or revoke the license issued to a licensee.

(i) An applicant for a dealer's license has failed to effectively endorse an authorization for disclosure of an account or accounts relating to the operation of the dealership, as provided for in Section 7473 of the Government Code.

(j) The applicant has outstanding an unsatisfied final judgment rendered in connection with an activity licensed under this part.

(k) The applicant or licensee has failed to pay over funds or property received in the course of employment to a dealer entitled thereto.

(*l*) The applicant has acted as a manufactured home, mobilehome, or commercial coach salesperson or engaged in this activity for, or on behalf of, more than a single person whose business does not have identical ownership and structure. The activity shall be for a licensed dealer. Nothing contained in this section shall be deemed to restrict the number of dealerships of which a person may be an owner, officer, or director, nor to preclude a manufactured home, mobilehome, or commercial coach salesperson from working at more than one location of a single dealer, if the business of the dealer has identical ownership and structure.

SEC. 3. Section 19997 of the Health and Safety Code is amended to read:

19997. (a) Any person who violates any of the provisions of this part, a building standard published in the State Building Standards Code relating to factory-built housing, or any other rules or regulations adopted pursuant to this part is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment.

(b) (1) For violations of Section 19980, 19991.3, or 19991.4, the department shall assess civil penalties in a range between two hundred fifty dollars ($250) and two thousand dollars ($2,000). When determining the amount of the assessed civil penalty, the department shall take into consideration whether one or more of the following or similar circumstances apply:

(A) The citation includes multiple violations.

(B) The cited person has a history of violations of the same or similar provisions of this part and the regulations promulgated under this part.

(C) In the judgment of the department, the person has exhibited bad faith or a conflict of interest.

(D) In the judgment of the department, the violation is serious or harmful.

(E) The citation involves a violation perpetrated against a senior citizen, veteran, or person with disabilities.

(F) Exculpatory evidence that, in the judgment of the department, is material to the elements of the current violation for which the citation is being issued and is significantly related to the degree of fault.

(2) If a citation lists more than one violation and each of the violations relates to the same manufacturing facility or client, the total penalty assessment in each citation shall not exceed ten thousand dollars ($10,000).

(3) If a citation lists more than one violation, the amount of assessed civil penalty shall be stated separately for each section violated.

(4) Appeals procedures shall be the same as those provided under subdivisions (c) to (e), inclusive, of Section 18021.7.

(c) Nothing in this section is intended to preclude remedies available under other provisions of law.

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## CHAPTER 751

An act to amend Section 23320 of the Business and Professions Code, to amend Sections 22664, 22954, 22954.1, 22955, 22955.5, 24412, 24415, 24416, 24417, and 24600 of, to add Sections 8277.65, 8277.66, and 24415.5 to, to repeal Section 24411 of, and to repeal and add Section 22954.5 of, the Education Code, to amend Section 13001 of the Fish and Game Code, to add Section 4101.4 to the Food and Agricultural Code, to amend Sections 8544.5, 11032, 11033, 11270, 11271, 11272, 11274, 11276, 11277, 13300, 13302, 13332.02, 13332.03, 15849.6, 16142, 16142.1, 16144, 22877, 22883, 30061, 63035, and 76104.6 of, to add Sections 11270.1, 13311, 13312, 15814.28, and 19816.22 to, to add Chapter 7 (commencing with Section 15849.20) to Part 10b of Division 3 of Title 2 of, and to repeal Section 13997.4 of, the Government Code, to amend Sections 33675 and 33680 of, and to add Sections 17928, 33684, 33685, 33686, 33687, 33688, and 33689 to, the Health and Safety Code, to amend Section 1060 of the Insurance Code, to amend Sections 62.5, 62.9, and 139.48 of the Labor Code, to add Section 69.9 to the Military and Veterans Code, to amend Section 25416 of the Public Resources Code, to amend Section 281 of the Public Utilities Code, to amend Sections 18535, 18536, 19280, and 30131.4 of, and to add Sections 19011.5 and 19290.1 to, the Revenue and Taxation Code, to amend Section 5891 of the Welfare and Institutions Code, and to amend Section 6 of Chapter 213 of the Statutes of 2000, relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. Section 23320 of the Business and Professions Code is amended to read:

23320. (a) The following are the types of licenses and the annual fees to be charged therefor:

| Name & License Type Number: | Fee Effective 01/01/02 | Fee Effective 01/01/03 | Fee Effective 01/01/04 |
|---|---|---|---|
| (1) Beer manufacturer: | | | |
| (a) Beer manufacturers that produce 60,000 barrels or less a year (Type 23)..... | $127.00 | $134.00 | $140.00 |
| (b) All other beer manufacturers (Type 1)..... | $1,043.00 | $1,098.00 | $1,153.00 |
| (c) Branch Office —Small Beer Manufacturers (Type 23D)..... | $69.00 | $71.00 | $73.00 |
| —Beer Manufacturers (Type 1D)..... | $69.00 | $71.00 | $73.00 |
| (2) Winegrower or wine blender (to be computed only on the gallonage produced or blended) (Type 2 & Type 22) —5,000 gallons or less..... | $34.00 | $44.00 | $54.00 |
| —Over 5,000 gallons to 20,000 gallons per year..... | $65.00 | $80.00 | $99.00 |
| —Over 20,000 to 100,000 gallons per year..... | $130.00 | $155.00 | $180.00 |
| —Over 100,000 to 200,000 gallons per year..... | $180.00 | $205.00 | $237.00 |
| —Over 200,000 gallons | | | |

| | | | |
|---|---|---|---|
| to 1,000,000 gallons per year..... | $250.00 | $300.00 | $351.00 |
| —For each 1,000,000 gallons or fraction thereof over 1,000,000 gallons an additional | $170.00 | $200.00 | $229.00 |
| Winegrower (Branch Office) - (Type 2D)..... | $69.00 | $71.00 | $73.00 |
| (3) Brandy manufacturer (Type 3)..... | $212.00 | $223.00 | $234.00 |
| Brandy manufacturer (Branch Office) (Type 3D)..... | $204.00 | $210.00 | $215.00 |
| (4) Distilled spirits manufacturer (Type 4)..... | $348.00 | $366.00 | $384.00 |
| (5) Distilled spirits manufacturer's agent (Type 5)..... | $348.00 | $366.00 | $384.00 |
| (5a) California winegrower's agent (Type 27)..... | $348.00 | $366.00 | $384.00 |
| (6) Still (Type 6)..... | $33.00 | $46.00 | $58.00 |
| (7) Rectifier (Type 7)..... | $348.00 | $366.00 | $384.00 |
| (7a) Distilled spirits rectifier's general license (Type 24)..... | $348.00 | $366.00 | $384.00 |
| (8) Wine rectifier (Type 8)..... | $348.00 | $366.00 | $384.00 |
| (9) Beer & wine importer (Type 9)..... | $25.00 | $42.00 | $58.00 |
| (10) Beer & wine importer's general license (Type 10) | $147.00 | $202.00 | $256.00 |
| (11) Brandy importer (Type 11)..... | $25.00 | $42.00 | $58.00 |
| (12) Distilled spirits importer (Type 12)..... | $25.00 | $42.00 | $58.00 |
| (13) Distilled spirits importer's general license (Type 13)..... | $348.00 | $366.00 | $384.00 |
| (14) Public warehouse (Type 14)..... | $33.00 | $46.00 | $58.00 |
| (15) Customs broker (Type 15)..... | $33.00 | $46.00 | $58.00 |

| | | | |
|---|---|---|---|
| (16) Wine broker (Type 16)..... | $71.00 | $75.00 | $78.00 |
| (17) Beer & wine wholesaler (Type 17)..... | $147.00 | $202.00 | $256.00 |
| (18) Distilled spirits wholesaler (Type 18)..... | $348.00 | $366.00 | $384.00 |
| (18a) California brandy wholesaler (Type 25)..... | $348.00 | $366.00 | $384.00 |
| (19) Industrial alcohol dealer (Type 19)..... | $71.00 | $75.00 | $78.00 |
| (20) Retail package off–sale beer & wine (Type 20)..... | $105.00 | $157.00 | $209.00 |
| (21) Retail package off–sale general license (Type 21) and controlled access cabinet permit (Type 66).... | $431.00 | $448.00 | $464.00 |
| (22) On–sale beer (Type 40 & Type 61); On–sale beer & wine (Type 42); Special on–sale beer & wine (Theater) (Type 69); and Special on–sale beer & wine (Symphony) (Type 65)..... | $204.00 | $210.00 | $215.00 |
| (23) On–sale beer & wine eating place (Type 41)..... | $236.00 | $263.00 | $290.00 |
| (24) On–sale beer & wine license for trains (per train) (Type 43)..... | $48.00 | $68.00 | $87.00 |
| (25) On–sale beer license for fishing party boats (per boat) (Type 44)..... | $59.00 | $73.00 | $87.00 |
| (26) On–sale beer & wine license for boats (per boat) (Type 45)..... | $75.00 | $81.00 | $87.00 |
| (27) On–sale beer & wine license for airplanes (per scheduled flight) (Type 46)..... | $48.00 | $68.00 | $87.00 |
| (28) On–sale general license (Types 47, 48, 57, 70, 75, 78, 78D (for 78D see Section 23396.2)) and club caterer's permit | | | |

| | | | |
|---|---|---|---|
| (Type 58): | | | |
| —In cities of 40,000 population or over..... | $698.00 | $715.00 | $731.00 |
| —In cities of less than 40,000 but more than 20,000 population..... | $503.00 | $520.00 | $536.00 |
| —In all other localities..... | $443.00 | $460.00 | $476.00 |
| Duplicate on–sale general license (Types 47D, 48D, 57D) and portable bar license (Type 68): | | | |
| —In cities of 40,000 population or over..... | $499.00 | $513.00 | $526.00 |
| —In cities of less than 40,000 but more than 20,000 population..... | $295.00 | $303.00 | $311.00 |
| —In all other localities..... | $233.00 | $239.00 | $245.00 |
| (29) On–sale general license for seasonal business (Type 49): | | | |
| —In cities of 40,000 population or over (per quarter)..... | $176.00 | $181.00 | $186.00 |
| —In cities of less than 40,000 but more than 20,000 population (per quarter)..... | $126.00 | $129.00 | $132.00 |
| —In all other localities (per quarter)..... | $109.00 | $112.00 | $115.00 |
| Duplicate on–sale general license for seasonal business (Type 49D): | | | |
| —In cities of 40,000 population or over (per quarter)..... | $126.00 | $129.00 | $132.00 |
| —In cities of less than 40,000 but more than 20,000 population (per quarter)..... | $74.00 | $76.00 | $78.00 |

| | | | |
|---|---|---|---|
| —In all other localities (per quarter)..... | $59.00 | $61.00 | $62.00 |
| (30) (a) On–sale general license for bona fide clubs, (b) Club license (issued under Article 4 of this chapter), or (c) Veterans' club license (issued under Article 5 (commencing with Section 23450) of this chapter) (Types 50, 51, 52, & 64): | | | |
| —In cities of 40,000 population or over..... | $400.00 | $411.00 | $422.00 |
| —In cities of less than 40,000 but more than 20,000 population..... | $301.00 | $309.00 | $317.00 |
| —In all other localities..... | $267.00 | $274.00 | $281.00 |
| (31) On–sale general license for trains and sleeping cars (Type 53)..... | $156.00 | $160.00 | $164.00 |
| —Duplicate on–sale general license for trains and sleeping car companies (Type 53D)..... | $46.00 | $52.00 | $58.00 |
| (32) On–sale general license for boats (Type 54)..... | $402.00 | $413.00 | $424.00 |
| (33) On–sale general license for airplanes (Type 55)..... | $402.00 | $413.00 | $424.00 |
| —Duplicate on–sale general license for air common carriers (Type 55D)..... | $32.00 | $45.00 | $58.00 |
| (34) On–sale general license for vessels of more than 1,000 tons burden (Type 56) and for Maritime Museum (Type 76)..... | $156.00 | $160.00 | $164.00 |
| —Duplicate on–sale general license for | | | |

| | | | |
|---|---|---|---|
| vessels of more than 1,000 tons burden (Type 56D) and for Maritime Museum (Type 76D)..... | $46.00 | $52.00 | $58.00 |
| (35) On–sale general bona fide public eating place intermittent dockside license for vessels of more than 7,000 tons displacement (Type 62)..... | $435.00 | $447.00 | $459.00 |
| (36) On–sale special beer & wine license for hospitals, convalescent homes, and rest homes (Type 63)..... | $68.00 | $70.00 | $72.00 |
| (37) On–sale beer & wine seasonal (Type 59) and on–sale beer seasonal (Type 60) —Operating period 3-9 months..... | $161.00 | $171.00 | $180.00 |
| —Operating period 3-6 months..... | $108.00 | $115.00 | $122.00 |

(b) Beginning January 1, 2009, each fee specified in subdivision (a) shall be increased by 11.78 percent, in lieu of any annual fee adjustment that could have been imposed for the previous four years. The increase to each fee shall be rounded to the nearest whole dollar.

(c) Beginning January 1, 2010, and each January 1 thereafter, the department may adjust each of the fees specified in this section by increasing each fee by an amount not to exceed the percentage that the Consumer Price Index (United States Bureau of Labor Statistics, West Region, All Urban Consumers, All Items, Base Period 1982–84 = 100) for the preceding April 2008, and each April annually thereafter, has increased under the same index over the month of April 2007, which shall be the base period. No fee shall be decreased pursuant to this adjustment below the fee currently in effect on each December 31. In the event that this index is discontinued, the department shall consult with the Department of Finance to convert the increase calculations to an index then available. When approved by the Department of Finance, the new index shall replace the discontinued index.

(d) The department shall calculate the percentage increase as specified in subdivision (c) and shall apply this increase to each fee. The increase

to each fee shall be rounded to the nearest whole dollar. The adjusted fee list shall be published by the department and transmitted to the Legislature for approval as part of the department's budget submission for the fiscal year in which the adjusted fees would be implemented. This adjustment of fees and publication of the adjusted fee list is not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 8277.65 is added to the Education Code, immediately following Section 8277.6, to read:

8277.65. The Child Care and Development Facilities Loan Guaranty Fund, the Child Care and Development Facilities Direct Loan Fund, and the Child Care Loan Guaranty Fund Account in the Small Business Expansion Fund are abolished. All moneys remaining in the Child Care and Development Facilities Loan Guaranty Fund, the Child Care and Development Facilities Direct Loan Fund, and the Child Care Loan Guaranty Fund Account in the Small Business Expansion Fund shall revert to the General Fund. The Department of Housing and Community Development shall deposit all subsequent loan repayments to the Treasurer to the credit of the General Fund. The abolishment of the Child Care and Development Facilities Loan Guaranty Fund, the Child Care and Development Facilities Direct Loan Fund, and the Child Care Loan Guaranty Fund Account in the Small Business Expansion Fund does not terminate any of the following rights, obligations, or authorities, or any provision necessary to carry out those rights, obligations, or authorities:

(a) The repayment of loans due and payable to the department or the relevant financial company.

(b) The obligation of the state to pay claims arising from the default of outstanding loans that have been guaranteed.

(c) Payment to lenders for default of any outstanding guaranteed loans secured by those moneys.

(d) The resolution of any cost recovery action.

SEC. 3. Section 8277.66 is added to the Education Code, immediately following Section 8277.65, to read:

8277.66. Notwithstanding any other provision of law, up to one hundred thirty-nine thousand dollars ($139,000) may be transferred from the General Fund to the Small Business Expansion Fund upon the order of the Director of Finance if funds are needed to pay a loan guarantee made from the Small Business Expansion Fund pursuant to Sections 8277.5 and 8277.6. This authority shall expire on the date upon which all loan guarantees outstanding as of July 1, 2008, are retired, or January 1, 2020, whichever occurs first.

SEC. 4. Section 22664 of the Education Code is amended to read:

22664. The nonmember spouse who is awarded a separate account shall have the right to a service retirement allowance and, if applicable, a retirement benefit under this part.

(a) The nonmember spouse shall be eligible to retire for service under this part if the following conditions are satisfied:

(1) The member had at least five years of credited service during the period of marriage, at least one year of which had been performed subsequent to the most recent refund to the member of accumulated retirement contributions. The credited service may include service credited to the account of the member as of the date of the dissolution or legal separation, previously refunded service, out-of-state service, and permissive service credit that the member is eligible to purchase at the time of the dissolution or legal separation.

(2) The nonmember spouse has at least 2 ½ years of credited service in his or her separate account.

(3) The nonmember spouse has attained 55 years of age or more.

(b) A service retirement allowance of a nonmember spouse under this part shall become effective upon a date designated by the nonmember spouse, provided:

(1) The requirements of subdivision (a) are satisfied.

(2) The nonmember spouse has filed an application for service retirement on a properly executed form provided by the system, that is executed no earlier than six months before the effective date of the retirement allowance.

(3) The effective date is no earlier than the first day of the month that the application is received at the system's headquarters office as described in Section 22375, and the effective date is after the date the judgment or court order pursuant to Section 22652 was entered.

(c) (1) Upon service retirement at normal retirement age under this part, the nonmember spouse shall receive a retirement allowance that shall consist of an annual allowance payable in monthly installments equal to 2 percent of final compensation for each year of credited service.

(2) If the nonmember spouse's retirement is effective at less than normal retirement age and between early retirement age under this part and normal retirement age, the retirement allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month, that will elapse until the nonmember spouse would have reached normal retirement age.

(3) If the nonmember spouse's service retirement is effective at an age greater than normal retirement age and is effective on or after January 1, 1999, the percentage of final compensation for each year of credited service shall be determined pursuant to the following table:

| Age at Retirement | Percentage |
|---|---|
| 60 ¼ | 2.033 |
| 60 ½ | 2.067 |
| 60 ¾ | 2.10 |
| 61 | 2.133 |
| 61 ¼ | 2.167 |
| 61 ½ | 2.20 |
| 61 ¾ | 2.233 |
| 62 | 2.267 |
| 62 ¼ | 2.30 |
| 62 ½ | 2.333 |
| 62 ¾ | 2.367 |
| 63 and over | 2.40 |

(4) In computing the retirement allowance of the nonmember spouse, the age of the nonmember spouse on the last day of the month that the retirement allowance begins to accrue shall be used.

(5) Final compensation, for purposes of calculating the service retirement allowance of the nonmember spouse under this subdivision, shall be calculated according to the definition of final compensation in Section 22134, 22134.5, 22135, or 22136, whichever is applicable, and shall be based on the member's compensation earnable up to the date the parties separated, as established in the judgment or court order pursuant to Section 22652. The nonmember spouse shall not be entitled to use any other calculation of final compensation.

(d) Upon service retirement under this part, the nonmember spouse shall receive a retirement benefit based on an amount equal to the balance of credits in the nonmember spouse's Defined Benefit Supplement account on the date the retirement benefit becomes payable.

(1) A retirement benefit shall be a lump-sum payment, or an annuity payable in monthly installments, or a combination of both a lump-sum payment and an annuity, as elected by the nonmember spouse on the application for a retirement benefit. A retirement benefit paid as an annuity under this chapter shall be subject to Sections 22660, 25011, and 25011.1.

(2) Upon distribution of the entire retirement benefit in a lump-sum payment, no other benefit shall be payable to the nonmember spouse or the nonmember spouse's beneficiary under the Defined Benefit Supplement Program.

(e) If the member is or was receiving a disability allowance under this part with an effective date before or on the date the parties separated as established in the judgment or court order pursuant to Section 22652, or at any time applies for and receives a disability allowance with an

effective date that is before or coincides with the date the parties separated as established in the judgment or court order pursuant to Section 22652, the nonmember spouse shall not be eligible to retire until after the disability allowance of the member terminates. If the member who is or was receiving a disability allowance returns to employment to perform creditable service subject to coverage under the Defined Benefit Program or has his or her allowance terminated under Section 24015, the nonmember spouse may not be paid a retirement allowance until at least six months after termination of the disability allowance and the return of the member to employment to perform creditable service subject to coverage under the Defined Benefit Program, or the termination of the disability allowance and the employment or self-employment of the member in any capacity, notwithstanding Section 22132. If at the end of the six-month period, the member has not had a recurrence of the original disability or has not had his or her earnings fall below the amounts described in Section 24015, the nonmember spouse may be paid a retirement allowance if all other eligibility requirements are met.

(1) The retirement allowance of the nonmember spouse under this subdivision shall be calculated as follows: the disability allowance the member was receiving, exclusive of the portion for dependent children, shall be divided between the share of the member and the share of the nonmember spouse. The share of the nonmember spouse shall be the amount obtained by multiplying the disability allowance, exclusive of the portion for dependent children, by the years of service credited to the separate account of the nonmember spouse, including service projected to the date of separation, and dividing by the projected service of the member. The nonmember spouse's retirement allowance shall be the lesser of the share of the nonmember spouse under this subdivision or the retirement allowance under subdivision (c).

(2) The share of the member shall be the total disability allowance reduced by the share of the nonmember spouse. The share of the member shall be considered the disability allowance of the member for purposes of Section 24213.

(f) The nonmember spouse who receives a retirement allowance is not a retired member under this part. However, the allowance of the nonmember spouse shall be increased by application of the improvement factor and shall be eligible for the application of supplemental increases and other benefit maintenance provisions under this part, including, but not limited to, Sections 24412 and 24415 based on the same criteria used for the application of these benefit maintenance increases to the service retirement allowances of members.

SEC. 5. Section 22954 of the Education Code is amended to read:

22954. (a) Notwithstanding Section 13340 of the Government Code, a continuous appropriation is hereby annually made from the General Fund to the Controller, pursuant to this section, for transfer to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund.

(b) Except as reduced pursuant to subdivision (c), the total amount of the appropriation for each year shall be equal to 2.5 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based for purposes of funding the supplemental payments authorized by Section 24415, as reported annually to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst pursuant to Section 22955.5.

(c) Beginning with the 2008–09 fiscal year, the appropriation in subdivision (b) shall be reduced in accordance with the following schedule:

| | |
|---|---|
| 2008–09 | $66,386,000 |
| 2009–10 | $70,000,000 |
| 2010–11 | $71,000,000 |
| 2011–12 and each fiscal year thereafter | $72,000,000 |

(d) Transfers made to the Supplemental Benefit Maintenance Account, pursuant to subdivision (a) shall be made on November 1 and April 1 of each fiscal year.

(e) The board may deduct from the annual appropriation made pursuant to this section an amount necessary for the administrative expenses of Section 24415.

(f) It is the intent of the Legislature in enacting this section to establish the supplemental payments pursuant to Section 24415 as vested benefits pursuant to a contractually enforceable promise to make annual contributions from the General Fund to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund in order to provide a continuous annual source of revenue for the purposes of making the supplemental payments under Section 24415.

SEC. 6. Section 22954.1 of the Education Code is amended to read:

22954.1. (a) Consistent with a process it establishes pursuant to subdivision (e), the board shall periodically adopt an actuarial projection regarding the ability of the system to continue providing, over a term to be established by the board, the purchasing power protection that is, at the time of the projection, being provided from the funds of the Supplemental Benefit Maintenance Account.

(b) If the board, in adopting the actuarial projection described in subdivision (a), determines that the annual transfers to the Supplemental Benefit Maintenance Account described in Section 22954, combined with all other anticipated sources of income to the account, are likely to be more than sufficient over the term established by the board to continue providing the purchasing power protection being provided at the time of the projection, it shall identify the maximum level of purchasing power protection benefits that it expects to be sustainable over that term from these contributions and other sources of income.

(c) If the board, in adopting the actuarial projection described in subdivision (a), determines that the annual transfers to the Supplemental Benefit Maintenance Account described in Section 22954, combined with all other anticipated sources of income to the account, are likely to be less than sufficient over the term established by the board to continue providing the purchasing power protection being provided at the time of the projection, it shall identify the maximum level of purchasing power protection benefits that it expects to be sustainable over that term from these contributions and other sources of income.

(d) It is the intent of the Legislature that the board shall adopt the projections and determinations described in subdivisions (a), (b), and (c) pursuant to its powers and responsibilities under Section 17 of Article XVI of the California Constitution, including, but not limited to, the board's fiduciary responsibility to the system's participants and their beneficiaries and the board's sole and exclusive power to provide for actuarial services of the system. Therefore, in its adoption of the projections and determinations required in subdivisions (a), (b), and (c), the board may utilize any actuarial assumptions, methods, and standards that it deems appropriate to determine the level of purchasing power protection benefits that it expects can be sustained over the term established by the board by funds of the Supplemental Benefit Maintenance Account.

(e) The board shall determine the frequency and timing of its adoption of the actuarial projection described in subdivision (a) in regulations that it adopts pursuant to subdivision (e) of Section 24415.5.

(f) The board shall promptly provide to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the Senate Committee on Public Employment and Retirement and the Assembly Committee on Public Employees, Retirement and Social Security, and the Legislative Analyst a summary of its actuarial projections and other determinations, as adopted pursuant to subdivisions (a), (b), and (c). The report shall include a description of any adjustments of benefits made pursuant to Section 24415.5.

SEC. 7. Section 22954.5 of the Education Code is repealed.

SEC. 8. Section 22954.5 is added to the Education Code, to read:

22954.5. (a) In addition to the amounts appropriated for transfer to the Supplemental Benefit Maintenance Account in Section 22954, there is hereby appropriated from the General Fund to the Controller for transfer to the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund the following amounts in each of the specified fiscal years, as follows:

| | |
|---|---|
| 2009–10 | $56,979,949 |
| 2010–11 | $56,979,949 |
| 2011–12 | $56,979,949 |
| 2012–13 | $56,979,949 |

(b) It is the intent of the Legislature that the annual Budget Act for each of the fiscal years described in subdivision (a) display the amounts listed above in Item 1920-011-0001 as an informational item, along with other estimated amounts required to be transferred from the General Fund to the Teachers' Retirement Fund pursuant to Sections 22954 and 22955. In the reports, calculations, and schedules that the system submits pursuant to Section 22955.5 for the purpose of informing the Department of Finance, the Legislature, and the Controller of the state's appropriations pursuant to Sections 22954 and 22955 in each of the fiscal years listed in subdivision (a), the system shall also include the amounts appropriated for transfer to the Supplemental Benefit Maintenance Account in subdivision (a). Upon appropriation, the amounts listed in subdivision (a) may be transferred on or after July 1 in each of the fiscal years indicated.

(c) The appropriation in subdivision (a) fulfills the intent of the Legislature described in Chapter 59 of the Statutes of 2008 to pay interest on the judgment in the case of Teachers' Retirement Board v. Genest and Chiang, Sacramento County Superior Court Case No. 03CS01503.

SEC. 9. Section 22955 of the Education Code is amended to read:

22955. (a) Notwithstanding Section 13340 of the Government Code, commencing July 1, 2003, a continuous appropriation is hereby annually made from the General Fund to the Controller, pursuant to this section, for transfer to the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 2.017 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based, as reported annually to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst pursuant to Section 22955.5, and shall be divided into four equal quarterly payments.

(b) Notwithstanding Section 13340 of the Government Code, commencing October 1, 2003, a continuous appropriation, in addition to the appropriation made by subdivision (a), is hereby annually made from the General Fund to the Controller for transfer to the Teachers' Retirement Fund. The total amount of the appropriation for each year shall be equal to 0.524 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based, as reported annually to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst pursuant to Section 22955.5, and shall be divided into four equal quarterly payments. The percentage shall be adjusted to reflect the contribution required to fund the normal cost deficit or the unfunded obligation as determined by the board based upon a recommendation from its actuary. If a rate increase is required, the adjustment may be for no more than 0.25 percent per year and in no case may the transfer made pursuant to this subdivision exceed 1.505 percent of the total of the creditable compensation of the fiscal year ending in the immediately preceding calendar year upon which members' contributions are based. At any time when there is neither an unfunded obligation nor a normal cost deficit, the percentage shall be reduced to zero. The funds transferred pursuant to this subdivision shall first be applied to eliminating on or before June 30, 2027, the unfunded actuarial liability of the fund identified in the actuarial valuation as of June 30, 1997.

(c) For the purposes of this section, the term "normal cost deficit" means the difference between the normal cost rate as determined in the actuarial valuation required by Section 22311 and the total of the member contribution rate required under Section 22901 and the employer contribution rate required under Section 22950, and shall exclude (1) the portion for unused sick leave service credit granted pursuant to Section 22717, and (2) the cost of benefit increases that occur after July 1, 1990. The contribution rates prescribed in Section 22901 and Section 22950 on July 1, 1990, shall be utilized to make the calculations. The normal cost deficit shall then be multiplied by the total of the creditable compensation upon which member contributions under this part are based to determine the dollar amount of the normal cost deficit for the year.

(d) Pursuant to Section 22001 and case law, members are entitled to a financially sound retirement system. It is the intent of the Legislature that this section shall provide the retirement fund stable and full funding over the long term.

(e) This section continues in effect but in a somewhat different form, fully performs, and does not in any way unreasonably impair, the

contractual obligations determined by the court in California Teachers' Association v. Cory, 155 Cal.App.3d 494.

(f) Subdivision (b) shall not be construed to be applicable to any unfunded liability resulting from any benefit increase or change in contribution rate under this part that occurs after July 1, 1990.

(g) The provisions of this section shall be construed and implemented to be in conformity with the judicial intent expressed by the court in California Teachers' Association v. Cory, 155 Cal.App.3d 494.

(h) This section shall become operative on July 1, 2003, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become operative on July 1, 2004.

SEC. 10. Section 22955.5 of the Education Code is amended to read:

22955.5. (a) For purposes of Sections 22954 and 22955, "creditable compensation" shall include only creditable compensation for which member contributions are credited under the Defined Benefit Program.

(b) On or after October 1 and on or before October 25 of each year, beginning in 2008, the board shall calculate the total amount of creditable compensation for the fiscal year that ended on the immediately preceding June 30. For the purpose of informing the Department of Finance and the Legislature of the amount of the state's appropriations pursuant to Sections 22954 and 22955 in the next fiscal year, the system shall immediately submit a report that includes this calculation to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst.

(c) After submission of the report described in subdivision (b), on or before the April 15 after submission of the report described in subdivision (b), the system shall notify the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Legislative Analyst of any revisions in its calculation of the total amount of creditable compensation for the fiscal year that ended on the immediately preceding June 30.

(d) The last revised calculation submitted pursuant to subdivision (c) on or before April 15 of each year or, if no such revised calculation is submitted, the calculation in the report submitted pursuant to subdivision (b) shall be the calculation of creditable compensation upon which the state's appropriations pursuant to Sections 22954 and 22955 will be based in the next fiscal year. On or after April 15 and on or before May 1 of each year, the system shall submit to the Controller a copy of this calculation, along with a requested schedule of transfers to be made pursuant to the appropriations in Sections 22954 and 22955 in the next fiscal year beginning on the next July 1. The system shall also provide

a copy of this schedule to the Director of Finance and the Legislative Analyst.

SEC. 11. Section 24411 of the Education Code is repealed.

SEC. 12. Section 24412 of the Education Code is amended to read:

24412. (a) The annual revenues deposited to the Teachers' Retirement Fund pursuant to Section 6217.5 of the Public Resources Code are continuously appropriated without regard to fiscal year for the purposes of this section and shall be distributed annually in quarterly supplemental payments commencing on September 1 of each year to retired members, disabled members, and beneficiaries under the Defined Benefit Program. The amount available for distribution in any year shall be the income for that year from the sale or use of school lands and lieu lands, as estimated by the State Lands Commission prior to the beginning of the fiscal year, adjusted by the difference between the estimated and actual income for the preceding fiscal year. The board shall deduct from the revenues an amount necessary for administrative expenses to implement this section.

(b) The net revenues to be distributed shall be allocated among those retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107, whose allowances under the Defined Benefit Program, after applying the annual improvement factor as defined in Section 22140, if any, are below 80 percent of the original purchasing power. The purchasing power calculation for each individual allowance shall be based on the change in the All Urban California Consumer Price Index between June of the calendar year of retirement and June of the fiscal year preceding the fiscal year of the distribution. The allocation shall provide a pro rata share of the amount needed to restore the allowance payable, after application of the current year annual improvement factor to 80 percent of the original purchasing power.

(c) The allowance increase shall not be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions.

(d) In any year that the net revenues from school lands and lieu lands is greater than that needed to adjust the allowances of all retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107, under the Defined Benefit Program to 80 percent of the original purchasing power, the net revenues in excess of that needed for distribution shall be used by the board to reduce the unfunded actuarial obligation of the fund, if any.

(e) The board shall inform each recipient of supplemental payments under this section that the increases are not cumulative and are not part of the base allowance.

SEC. 13. Section 24415 of the Education Code is amended to read:

24415. (a) The proceeds of the Supplemental Benefit Maintenance Account shall be distributed annually in quarterly supplemental payments commencing on September 1, 1990, to retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107. The amount available for distribution in any fiscal year shall not exceed the amount necessary to restore purchasing power up to 85 percent of the purchasing power of the initial monthly allowance after the application of all allowance increases authorized by this part, including those specified in Section 24412, and excluding those provided pursuant to Sections 24410.5, 24410.6, and 24410.7.

(b) The net revenues to be distributed shall be allocated among those retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107, whose allowances, after sequentially applying the annual improvement factor as defined in Sections 22140 and 22141, and the annual supplemental payment as specified in Section 24412, have the lowest purchasing power percentage. The purchasing power calculation for each individual shall be based on the change in the All Urban California Consumer Price Index between June of the calendar year of retirement and June of the fiscal year preceding the fiscal year of distribution. In any year in which the purchasing power of the allowances of all retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107, equals not less than 85 percent and additional funds remain from the allocation authorized by this section, those funds shall remain in the Supplemental Benefit Maintenance Account for allocation in future years.

(c) The allowance increase shall not be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions.

(d) The increases provided by subdivision (b) are not cumulative, not part of the base allowance, and will be payable only to the extent that funds are available from the Supplemental Benefit Maintenance Account. The board shall inform each recipient of the contents of this subdivision.

(e) The adjustments authorized by this section are vested only up to the amount payable as a result of the annual appropriation made pursuant to Section 22954 and the adjustments made by the board pursuant to Section 24415.5. The adjustments authorized by this section shall not be included in the base allowance for purposes of calculating the annual improvement defined by Sections 22140 and 22141.

(f) Notwithstanding subdivision (b), for purposes of restoring the purchasing power of benefits provided pursuant to Section 24410.5 for members and beneficiaries receiving benefits pursuant to subdivision (b), the purchasing power calculation shall be based on 85 percent of the change in the All Urban California Consumer Price Index between

January 2000 and June of the fiscal year preceding the fiscal year of distribution, after the application of increases authorized by Section 24412 that are made to the allowances provided pursuant to Section 24410.5.

(g) Notwithstanding subdivision (b), for purposes of restoring the purchasing power of benefits provided pursuant to Sections 24410.6 and 24410.7 for members and beneficiaries receiving benefits pursuant to subdivision (b), the purchasing power calculation shall be based on 85 percent of the change in the All Urban California Consumer Price Index between January 2001 and June of the fiscal year preceding the fiscal year of distribution, after the application of increases authorized by Section 24412 that are made to the allowances provided pursuant to Sections 24410.6 and 24410.7.

SEC. 14. Section 24415.5 is added to the Education Code, to read:

24415.5. (a) Notwithstanding any other provision of this chapter, the board shall adjust the purchasing power protection benefits payable pursuant to Sections 24415, 24416, and 24417 in accordance with subdivisions (b) and (c) of this section.

(b) If the board, in adopting the actuarial projection described in subdivision (a) of Section 22954.1, determines that the annual transfers to the Supplemental Benefit Maintenance Account described in Section 22954, combined with all other anticipated sources of income to the account, are likely to be less than sufficient over the term established by the board to continue providing the purchasing power protection being provided at the time of the projection, it shall identify the maximum level of purchasing power protection benefits that it expects to be sustainable over that term, as specified in subdivision (c) of Section 22954.1. The board, upon making the determination specified in subdivision (c) of Section 22954.1, shall reduce the purchasing power protection benefits payable pursuant to Sections 24415, 24416, and 24417 to the maximum sustainable level identified under this subdivision, except that these benefits shall not be adjusted below the 80 percent purchasing power protection level unless the board has made the determination of insufficient funds described in subdivision (a) of Section 24416.

(c) If the board, in adopting the actuarial projection described in subdivision (a) of Section 22954.1, determines that the annual transfers to the Supplemental Benefit Maintenance Account described in Section 22954, combined with all other anticipated sources of income to the account, are likely to be more than sufficient over the term established by the board to continue providing the purchasing power protection being provided at the time of the projection, it shall identify the maximum level of purchasing power protection benefits that it expects to be

sustainable over that term, as specified in subdivision (b) of Section 22954.1. The board, upon making the determination specified in subdivision (b) of Section 22954.1, shall increase the purchasing power protection benefits payable pursuant to Sections 24415, 24416, and 24417 to the maximum sustainable level identified under this subdivision, except that these benefits shall not be adjusted above the 85 percent purchasing power protection level.

(d) If the board identifies, pursuant to subdivision (b) of Section 22954.1, that the maximum level of purchasing power protection benefits it expects to be sustainable over the term established by the board is greater than the 85 percent level, it shall develop one or more proposals for options for the use of the anticipated Supplemental Benefit Maintenance Account moneys in excess of those believed to be necessary to sustain purchasing power protection benefits at the 85 percent level over the term established by the board. The options that the board proposes for use of these moneys shall be for the exclusive benefit of members and beneficiaries, and at least one of these proposed options shall be an increase in benefits for any surviving members who retired prior to January 1, 1999, and any surviving beneficiaries of members who retired prior to January 1, 1999. The board shall either include a summary of these proposed options in the report described in subdivision (f) of Section 22954.1 or, within 60 days after submission of that report, submit a separate letter to the recipients of the report described in subdivision (f) of Section 22954.1 that contains a summary of these proposed options. The board shall also submit a summary of these proposed options to the Governor.

(e) The board shall adopt and, after such adoption, may amend and repeal regulations concerning its powers described in this section, and it shall file these regulations, and amended and repealed regulations, with the Secretary of State. The adoption, amendment, or repeal of a regulation authorized by this section is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 15. Section 24416 of the Education Code is amended to read:

24416. (a) If the board determines by June 30 of the then current fiscal year that the Supplemental Benefit Maintenance Account will not have sufficient funds to provide purchasing power protection benefits, as established in this chapter, of at least 80 percent for the subsequent fiscal year, the board, for that year, may do either, or a combination of the following:

(1) Increase the employer contribution rate commencing in the next fiscal year by an amount that would provide sufficient funds for no more

than the estimated difference between the funds in the Supplemental Benefit Maintenance Account and the amount needed to pay the benefit level specified by the board, provided the benefit level is no more than 85 percent. Notwithstanding any other provision of this part, the increase in the employer contribution rate shall only become operative if the increase is approved or authorized in the Budget Act.

(2) Reduce the supplemental benefit payment for the subsequent fiscal year to the amount that can be funded by the available funds in the Supplemental Benefit Maintenance Account.

(b) If the board finds that there is no unfunded obligation, as determined by the board's professional consulting actuary and affirmed by the Director of Finance, then in addition to the authority pursuant to subdivision (a), the board may transfer to an auxiliary Supplemental Benefit Maintenance Account, from any funds that are in excess of the amount needed to fund fully the benefits for which the Teachers' Retirement Fund is liable, an amount that would provide sufficient funds for no more than the estimated difference between the funds in the Supplemental Benefit Maintenance Account and the amount needed to pay the benefit level specified by the board, provided the benefit level is no more than 85 percent.

(c) If the board increases the employer contribution rate pursuant to paragraph (1) of subdivision (a), the increase between the current fiscal year contribution rate and the contribution rate in the next fiscal year, shall not exceed one-quarter of 1 percent of the creditable compensation upon which contributions are based.

SEC. 16. Section 24417 of the Education Code is amended to read:

24417. (a) The proceeds of an auxiliary Supplemental Benefit Maintenance Account shall be distributed annually in quarterly supplemental payments, commencing when funds in the Supplemental Benefit Maintenance Account are insufficient to support 85 percent, to retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107. The amount available for distribution in any fiscal year shall not exceed the amount necessary to restore purchasing power up to 85 percent of the purchasing power of the initial monthly allowance after the application of all allowance increases authorized by this part, including those specified in Sections 24412 and 24415, and excluding those provided pursuant to Sections 24410.5, 24410.6, and 24410.7.

(b) The net revenues to be distributed shall be allocated among those retired members, disabled members, and beneficiaries, as defined in subdivision (a) of Section 22107, whose allowances, after sequentially applying the annual improvement factor as defined in Sections 22140 and 22141, and the annual supplemental payment as specified in Sections

24412 and 24415, have the lowest purchasing power percentage. The purchasing power calculation for each individual shall be based on the change in the All Urban California Consumer Price Index between June of the calendar year of the benefit effective date and June of the fiscal year preceding the fiscal year of distribution.

(c) The allowance increase shall not be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions.

(d) The increases provided by subdivision (b) are not cumulative, nor part of the base allowance, and will be payable only to the extent that funds are available from the Supplemental Benefit Maintenance Account and the auxiliary Supplemental Benefit Maintenance Account. The board shall inform each recipient of the contents of this subdivision.

(e) The distributions authorized by this section are vested only up to the amount payable as a result of the annual appropriation made pursuant to Section 22954 and the adjustments made by the board pursuant to Section 24415.5. The distributions authorized by this section shall not be included in the base allowance for purposes of calculating the annual improvement defined by Sections 22140 and 22141.

(f) Notwithstanding subdivision (b), for purposes of restoring the purchasing power of benefits provided pursuant to Section 24410.5 for members and beneficiaries receiving benefits pursuant to subdivision (b), the purchasing power calculation shall be based on 85 percent of the change in the All Urban California Consumer Price Index between January 2000 and June of the fiscal year preceding the fiscal year of distribution, after the application of increases authorized by Section 24412 that are made to the allowances provided pursuant to Section 24410.5.

(g) Notwithstanding subdivision (b), for purposes of restoring the purchasing power of benefits provided pursuant to Sections 24410.6 and 24410.7 for members and beneficiaries receiving benefits pursuant to subdivision (b), the purchasing power calculation shall be based on 85 percent of the change in the All Urban California Consumer Price Index between January 2001 and June of the fiscal year preceding the fiscal year of distribution, after the application of increases authorized by Section 24412 that are made to the allowances provided pursuant to Sections 24410.6 and 24410.7.

SEC. 17. Section 24600 of the Education Code is amended to read:

24600. (a) A retirement allowance under this part begins to accrue on the effective date of the member's retirement and ceases on the earlier of the day of the member's death or the day on which the retirement allowance is terminated for a reason other than the member's death.

(b) A retirement allowance payable to an option beneficiary under this part begins to accrue on the day following the day of the retired member's death and ceases on the day of the option beneficiary's death.

(c) A disability allowance under this part begins to accrue on the effective date of the member's disability allowance and ceases on the earlier of the day of the member's death or the day on which the disability allowance is terminated for a reason other than the member's death.

(d) A family allowance under this part begins to accrue on the day following the day of the member's death and ceases on the day of the event that terminates eligibility for the allowance.

(e) A survivor benefit allowance payable to a surviving spouse under this part pursuant to Chapter 23 (commencing with Section 23850) begins to accrue on the day the member would have attained 60 years of age or on the day following the day of the member's death, as elected by the surviving spouse, and ceases on the day of the surviving spouse's death.

(f) A child's portion of an allowance under this part begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance.

(g) Supplemental payments issued under this part pursuant to Sections 24412 and 24415 to retired members, disabled members, and beneficiaries shall begin to accrue pursuant to Sections 24412 and 24415 and shall cease to accrue as of the termination dates specified in subdivisions (a) to (f), inclusive, of this section.

(h) Notwithstanding any other provision of this part or other law, distributions payable under the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be made in accordance with applicable provisions of the Internal Revenue Code of 1986 and related regulations. The required beginning date of benefit payments that represent the entire interest of the member in the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program shall be either:

(1) In the case of a refund of contributions, as described in Chapter 18 (commencing with Section 23100) of this part and distribution of an amount equal to the balance of credits in a member's Defined Benefit Supplement account, as described in Chapter 38 (commencing with Section 25000) of this part, not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i).

(2) In the case of a retirement allowance, as defined in Section 22166, not later than April 1 of the calendar year following the later of (A) the

calendar year in which the member attains the age at which the Internal Revenue Code of 1986 requires a distribution of benefits or (B) the calendar year in which the member terminates employment within the meaning of subdivision (i), to continue over the life of the member or the lives of the member and the member's option beneficiary, or over the life expectancy of the member or the life expectancy of the member and the member's option beneficiary.

(i) For purposes of subdivision (h), the phrase "terminates employment" means the later of:

(1) The date the member ceases to perform creditable service subject to coverage under this plan.

(2) The date the member ceases employment in a position subject to coverage under another public retirement system in this state if the compensation earnable while a member of the other system may be considered in the determination of final compensation pursuant to Section 22134, 22135, or 22136.

SEC. 18. Section 13001 of the Fish and Game Code is amended to read:

13001. (a) Unless otherwise provided, all money collected under the provisions of this code and of any other law relating to the protection and preservation of birds, mammals, fish, reptiles, or amphibia shall be paid into the State Treasury to the credit of the Fish and Game Preservation Fund.

(b) Notwithstanding any other provision of law, the Controller may use the Fish and Game Preservation Fund for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

SEC. 19. Section 4101.4 is added to the Food and Agricultural Code, to read:

4101.4. (a) The Legislature finds and declares that the operation of the California Science Center may require individual skills not generally available in state civil service to support specialized functions, such as exhibit maintenance, and educational and guest services programs, including animal care and horticulture.

(b) Notwithstanding any other provision of law, the California Science Center may enter into a personal services contract or contracts with the California Science Center Foundation without a competitive bidding process. These contracts shall be subject to approval by the State and Consumer Services Agency and the Department of General Services and be subject to all state audit requirements.

SEC. 20. Section 8544.5 of the Government Code is amended to read:

8544.5. (a) There is hereby established in the State Treasury the State Audit Fund. Notwithstanding Section 13340, the State Audit Fund

is continuously appropriated for the expenses of the State Auditor. There shall be appropriated annually in the Budget Act to the State Audit Fund, from the General Fund and the Central Service Cost Recovery Fund, the amount necessary to reimburse the State Audit Fund for the cost of audits to be performed that are not directly reimbursed under subdivision (c). "Cost of audits" means all direct and indirect costs of conducting the audits and any other expenses incurred by the State Auditor in fulfilling his or her statutory responsibilities.

(b) With regard to the funds appropriated pursuant to subdivision (a), upon certification by the State Auditor of estimated costs on a monthly basis, the Controller shall transfer the amount thus certified from the General Fund or the Central Service Cost Recovery Fund, as applicable, to the State Audit Fund. The Controller shall thereafter issue warrants drawn against the State Audit Fund upon receipt of claims certified by the State Auditor.

(c) To ensure appropriate reimbursement from federal and special funds for the costs of the duties performed pursuant to Section 8546.3, the State Auditor may directly bill state agencies for the costs incurred, subject to the approval of the Director of Finance.

(d) To ensure adequate oversight of the operations of the bureau, the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy shall annually obtain the services of an independent public accountant to audit the State Audit Fund and the operation of the bureau to assure compliance with state law, including Section 8546. The results of this audit shall be submitted to the commission and shall be a public record.

(e) To ensure that audits of the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy are conducted in conformity with government auditing standards, any audit of the commission that is required or permitted by law shall be conducted by the independent public accountant selected pursuant to subdivision (d).

SEC. 21. Section 11032 of the Government Code is amended to read:

11032. Any state officer or employee of any state agency may confer with other persons, associations, or organizations outside of the state whenever it may be of assistance in the conduct of state business. Actual and necessary expenses for travel outside of the state as authorized by this section shall be allowed when approved by the Governor. This section shall not apply to employees of any legislative committee or to the Legislative Counsel or his or her employees.

SEC. 22. Section 11033 of the Government Code is amended to read:

11033. No state officer or employee shall absent himself or herself from the state on business of the state without the prior approval of the

Governor, except when the absence is for less than five consecutive working days' duration and involves only travel into states bordering upon this state. This section shall not apply to elective state officers, employees of any legislative committee, or to the Legislative Counsel or his or her employees.

SEC. 23. Section 11270 of the Government Code is amended to read:

11270. As used in this article, "administrative costs" means the amounts expended by the Legislature, the Legislative Counsel Bureau, the office of the Governor, the office of the State Chief Information Officer, the Office of Planning and Research, the Department of Justice, the office of the Controller, the office of the Treasurer, the State Personnel Board, the Department of Finance, the Office of Administrative Law, the Department of Personnel Administration, the Secretary of the State and Consumer Services Agency, the Secretary of the California Health and Human Services Agency, the Bureau of State Audits, and the California State Library, and a proration of any other cost to or expense of the state for services or facilities provided for the Legislature and the above agencies, for supervision or administration of the state government or for services to other state agencies.

SEC. 24. Section 11270.1 is added to the Government Code, to read:

11270.1. (a) The Central Service Cost Recovery Fund is hereby created in the State Treasury. The Central Service Cost Recovery Fund shall consist of those amounts transferred in accordance with Section 11274, and any interest earnings. Money in the Central Service Cost Recovery Fund shall be appropriated for the administration of the state government, as determined or redetermined by the Director of Finance in accordance with this article and Sections 13332.02 and 13332.03.

(b) Unless otherwise authorized by law, moneys in the Central Service Cost Recovery Fund, to the extent not currently required to fund any appropriation, shall not be used, loaned, borrowed, assessed, allocated, or transferred unless approved by the Director of Finance, except for cashflow borrowing by the General Fund pursuant to Section 16310. The Controller shall transfer the unexpended balance of those moneys in the Central Service Cost Recovery Fund to the General Fund as determined or redetermined by the Director of Finance.

SEC. 25. Section 11271 of the Government Code is amended to read:

11271. The Department of Finance shall determine, and may at any time redetermine, which funds, other than the General Fund and the Central Service Cost Recovery Fund, and which functions or activities of the Department of Water Resources supported by the General Fund, shall be charged a share of administrative costs as to the function supported by that fund and the amount that shall be charged against that fund as its fair share of administrative costs. The costs shall be a charge

against any fund or special account in the General Fund, other than the Central Service Cost Recovery Fund, so designated by the Department of Finance.

For purposes of this section, a special account or fund in the General Fund shall not be considered the General Fund.

SEC. 26. Section 11272 of the Government Code is amended to read:

11272. (a) In determining or redetermining the fair share, the Department of Finance may consider the factors of cost distribution and cost estimation as it deems necessary, except that, as to the proceeds of those taxes, the use of which is restricted by Article XIX of the California Constitution, the Department of Finance shall assess only those administrative costs ascertained as being necessarily incurred in connection with highway purposes as set forth in the article. As to funds collected pursuant to Section 221 of the Food and Agricultural Code, the Department of Finance shall assess only those administrative costs incurred in connection with the enforcement of the law under which the funds were derived.

(b) In determining the share of costs to be borne by the California Exposition and State Fair, the Department of Finance shall take into account any reduction in the services provided to the California Exposition and State Fair as a consequence of the assumption of the various functions that the California Exposition and State Fair is authorized to assume by the act that amended this section during the 1997–98 Regular Legislative Session, and shall reduce the fair share of the California Exposition and State Fair accordingly. From its operating funds, the California Exposition and State Fair shall reimburse the Central Service Cost Recovery Fund or the General Fund, in accordance with subdivision (b) of Section 11274, for its share of costs determined pursuant to this subdivision.

SEC. 27. Section 11274 of the Government Code is amended to read:

11274. (a) The Department of Finance shall certify annually to the Controller the amount determined to be the fair share of administrative costs due and payable from each state agency and shall certify forthwith to the Controller any amount redetermined to be the fair share of administrative costs due and payable from any state agency. The Controller shall forthwith transmit to each state agency from which administrative costs have been determined or redetermined to be due, a statement in writing setting forth the amount of the administrative costs due from the state agency, and stating that, unless a written request to defer payment thereof is filed by the state agency with the Controller within 30 days after the mailing of the statement by the Controller to the state agency, the Controller will transfer the amount of the administrative costs from the special fund or funds chargeable therewith to the Central

Service Cost Recovery Fund or the General Fund, in accordance with subdivision (b). The Controller shall specify on the statement the special fund appropriations to be charged at the time transfers are made covering the administrative costs.

(b) The Controller shall transfer one-fourth of the amount determined or redetermined, in accordance with subdivision (a), on August 15, November 15, February 15, and May 15 of each fiscal year, unless revised by the Department of Finance. The transfers made pursuant to this section and Section 13332.03 shall first be made to the Central Service Cost Recovery Fund until the total amount transferred equals the sum of the total amount determined or redetermined in accordance with subdivision (a) and the total amount to be recovered from the federal government pursuant to Section 13332.02 as determined by the Department of Finance. All subsequent transfers for that fiscal year shall then be made to the General Fund.

SEC. 28. Section 11276 of the Government Code is amended to read:

11276. The Department of Finance may certify at any time during the year to the Controller any amount as it determines, based upon experience of the preceding year, to be a reasonable advance for administrative costs to be made from the appropriation of each state agency supported from a fund, designated in accordance with Section 11271. The Controller shall forthwith transmit to each of these state agencies a statement in writing setting forth the amount of the advance and stating that unless a written request to defer payment thereof because of lack of availability of funds is filed by the state agency with the Department of Finance within 30 days after the mailing of the statement by the Controller to the state agency, the Controller will transfer the amount of the advance from the special fund or funds concerned to the Central Service Cost Recovery Fund or the General Fund in accordance with subdivision (b) of Section 11274. The Controller shall specify on the statement the special fund appropriation to be charged.

SEC. 29. Section 11277 of the Government Code is amended to read:

11277. If, upon receipt of the statement provided in Section 11276, the state agency does not have funds available by law for the payment of the advance, the state agency shall, prior to the expiration of the 30-day period referred to in that statement, file with the Controller, in duplicate, a written request to defer payment of the advance. Upon receipt of such a request, the Controller shall forthwith transmit one copy of that request to the Department of Finance and shall defer action to effect the transfer of funds covering the advance referred to in the request until the transfer has been approved by the Director of Finance. Any advance made under this article shall be applied against the state agency's fair share of administrative costs determined or redetermined as provided in Section

11274 and Section 11275. If the amount advanced exceeds the state agency's fair share of administrative costs, the Controller shall transfer from the Central Service Cost Recovery Fund or the General Fund, as applicable, to the special fund appropriation the excess amount advanced as directed by the Department of Finance.

SEC. 30. Section 13300 of the Government Code is amended to read:

13300. (a) The department shall devise, install, supervise, and, at its discretion, revise and modify, a modern and complete accounting system and policies for each agency of the state permitted or charged by law with the handling of public money or its equivalent, to the end that all revenues, expenditures, receipts, disbursements, resources, obligations, and property of the state be properly, accurately, and systematically accounted for and that there shall be obtained accurate and comparable records, reports, and statements of all the financial affairs of the state.

(b) This system shall permit a comparison of budgeted expenditures, actual expenditures, encumbrances and payables, and estimated revenue to actual revenue that is compatible with a budget coding system developed by the department. In addition, the system shall provide for a federal revenue accounting system with cross-references of federal fund sources to state activities.

(c) This system shall include a cost accounting system that accounts for expenditures by line item, governmental unit, and fund source. The system shall also be capable of performing program cost accounting as required. The system and the accounts maintained by all state departments and agencies shall be coordinated with the central accounts maintained by the Controller, and shall provide the Controller with all information necessary to the maintenance by the Controller of a comprehensive system of central accounts for the entire state government.

(d) Beginning with the 2008–09 fiscal year, the Department of Finance, the Controller, the Treasurer, and the Department of General Services shall partner to design, develop, and implement the Financial Information System for California Project to meet the requirements of subdivisions (a), (b), and (c), and the FISCal Project documents, as established in the FISCal Special Project Report dated October 30, 2006, as revised on December 14, 2006, as amended by the FISCal Special Project Report dated November 9, 2007, as revised on December 19, 2007, and as amended, augmented, or changed by any subsequent approved Special Project Report.

SEC. 31. Section 13302 of the Government Code is amended to read:

13302. The accounting system devised as provided in Section 13300 shall provide, with respect to the General Fund and other governmental funds, for:

(a) The accrual of expenditures as of the end of each fiscal year on the basis of payables incurred, excluding accrued interest on general obligation bonded indebtedness.

(b) (1) The accrual of revenues at the end of the fiscal year if the underlying transaction has occurred as of the last day of the fiscal year, the amount is measurable, and the actual collection will occur either during the current period or after the end of the current period but in time to pay current year-end liabilities.

(2) Cash in agency trust accounts within the centralized State Treasury system that is in transit to the State Treasury, accrued interest receivable, and accounts receivable shall be accrued as of the end of each fiscal year.

(c) For the purposes of financial reporting:

(1) A payable exists when goods or services have been delivered and the state is required to pay for those goods or services, and an encumbrance exists when a valid obligation against an appropriation has been created.

(2) All funds appropriated shall be identified as either expended, payable, encumbered (exclusive of payables), or unencumbered, as further defined by the California Fiscal Advisory Board, and the total of these shall equal the total appropriation.

SEC. 32. Section 13311 is added to the Government Code, to read:

13311. (a) Notwithstanding any other provision of law, in order to achieve effective management of state cash resources, the Director of Finance may defer payment of General Fund moneys, in a cumulative amount not to exceed five hundred million dollars ($500,000,000) annually, appropriated to the University of California in the annual Budget Act.

(b) The payment of the amount deferred shall be in May or June, as established by the Director of Finance, of the same fiscal year that the original payment would have been made.

SEC. 33. Section 13312 is added to the Government Code, to read:

13312. (a) (1) Commencing with the 2008–09 fiscal year, and notwithstanding any other provision of law, if after the annual Budget Act is enacted, the Director of Finance determines that General Fund total available resources for the fiscal year will decline substantially below the estimate of General Fund total resources available upon which the Budget Act was based, or that General Fund expenditures will increase substantially above that estimate of General Fund total resources available, the director may make reductions pursuant to subdivision (b).

(2) For purposes of this subdivision, "total resources available" includes prior year balance and revenues and transfers for the fiscal year.

(b) Upon making a determination as described in subdivision (a), the Director of Finance, in consultation with agency secretaries and other cabinet members, may reduce General Fund items of appropriation, subject to both of the following:

(1) The Director of Finance shall not reduce, pursuant to this section, the amounts appropriated for any of the following:

(A) The Legislature.

(B) Constitutional officers.

(C) Transfers pursuant to the Article XIX B of the California Constitution.

(D) Debt service, including, but not limited to, tobacco settlement revenue shortfalls, payment of interest on General Fund loans, and interest payments to the federal government.

(E) Health and dental benefits for annuitants.

(F) Equity claims before the California Victim Compensation and Government Claims Board.

(G) Augmentations for contingencies or emergencies.

(H) Local assistance appropriations.

(2) A General Fund state operations or capital outlay item of appropriation, and a program or category designated in any line of any schedule set forth by that appropriation, may not be reduced by more than 7 percent.

(c) Notwithstanding any provision of law to the contrary, any cost-of-living adjustment or rate increase funded in an annual Budget Act shall be subject to the following conditions:

(1) If the Director of Finance determines that suspension by up to 120 days of the effective date of a cost-of-living adjustment or rate increase funded in an annual Budget Act is necessary to mitigate conditions that would authorize the issuance of a proclamation declaring a fiscal emergency pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution, that cost-of-living adjustment or rate increase shall not take effect during that time.

(2) (A) If the Governor issues a proclamation declaring a fiscal emergency pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution, then no cost-of-living adjustment or rate increase funded in the annual Budget Act for that fiscal year shall take effect until the Legislature passes and sends to the Governor a bill or bills to address the fiscal emergency.

(B) Commencing with the 2009–10 fiscal year, the annual Budget Act shall include a section specifying the cost-of-living adjustments or rate increases included in the Budget Act or authorized by other statutes which may be suspended pursuant to this paragraph.

(d) The Director of Finance shall report to the Chair of the Joint Legislative Budget Committee and the chairs of the committees of each house of the Legislature that consider appropriations not less than 30 days prior to making reductions pursuant to this section. The report shall list the specific reductions, by department, agency, and program, and state the programmatic effects and impacts of each reduction.

(e) Cost-of-living adjustments for purposes of this section shall not include any apportionments made to fund a cost-of-living adjustment to augment appropriations made pursuant to Section 2558 of the Education Code, for county office of education revenue limits, or Section 42238 of the Education Code, for school district revenue limits.

(f) Nothing within this section shall be construed to confer any authority upon the Director of Finance to modify or eliminate any provision of existing law.

SEC. 34. Section 13332.02 of the Government Code is amended to read:

13332.02. All funds recovered from the federal government to offset statewide indirect costs shall be transferred to the Central Service Cost Recovery Fund or to the unappropriated surplus of the General Fund in a manner prescribed by the Department of Finance, unless expenditure of the funds is authorized by the Department of Finance. No authorization may become effective sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine. If in the judgment of the Director of Finance, a state agency has not transferred the funds on a timely basis, the director may certify to the Controller the amount that the agency should have transferred to the Central Service Cost Recovery Fund or the General Fund, and the Controller shall transfer the funds to the Central Service Cost Recovery Fund or the General Fund.

SEC. 35. Section 13332.03 of the Government Code is amended to read:

13332.03. Whenever an appropriation has not been made to provide for recovery of general administrative costs pursuant to Article 2 (commencing with Section 11270) of Chapter 3 of Part 1, a sufficient sum for that purpose shall be transferred from each affected fund by the Controller to the Central Service Cost Recovery Fund or the unappropriated surplus of the General Fund in accordance with subdivision (b) of Section 11274. The Controller shall make transfers pursuant to this section only upon order of the Director of Finance.

SEC. 36. Section 13997.4 of the Government Code is repealed.

SEC. 37. Section 15814.28 is added to the Government Code, to read:

15814.28. The department shall, no later than March 1, 2009, and biennially thereafter, make the recommendations required in Section 15814.22, and report on all of the following for projects under its jurisdiction:

(a) The progress made toward implementing energy efficiency measures in state facilities.

(b) The most common energy efficiency measures being implemented.

(c) The obstacles preventing further implementation of energy efficiency measures.

(d) How current efforts and ideas can be incorporated into the Governor's five-year infrastructure plan described in Section 13102.

SEC. 38. Chapter 7 (commencing with Section 15849.20) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

## Chapter 7. The Financial Information System for California

15849.20. For purposes of this chapter and the issuance of debt pursuant to this part, the following terms shall have the following meanings:

(a) "Acquire" has the same meaning as in Section 15802 and, in addition, includes acquisition by development.

(b) "Approved FISCal Project documents" means the FISCal Special Project Report dated October 30, 2006, as revised on December 14, 2006, as amended by the FISCal Special Project Report dated November 9, 2007, revised on December 19, 2007, and as amended, augmented, or changed by any subsequent approved Special Project Report or legislative action.

(c) "Cost or costs of the FISCal system" means the cost of a public building, including, but not limited to, the acquisition, design, development, installation, and deployment of the system, and the acquisition, development, installation, implementation, and deployment of enterprise resource planning software, other ancillary software, hardware, licenses, upgrades, independent verification and validation, and related training and facilities to acquire, develop, install, implement, and deploy the system. Cost or costs of the system also includes staff and contractor costs and expenses related to the FISCal system. Cost or costs of the FISCal system does not include the cost of the ongoing operation and maintenance of the FISCal system or debt service for the FISCal system.

(d) "Debt service for the FISCal system" means principal of; premium, if any; and interest on, bonds or certificates issued to finance and

refinance the costs of the FISCal system and payments pursuant to agreements providing security or liquidity for those bonds or certificates.

(e) "FISCal" means the Financial Information System for California.

(f) "Interim financing" means any financing issued or obtained in accordance with this chapter and this part to finance the costs of the FISCal system on an interim basis, including any loan from the General Fund, any loan from the Pooled Money Investment Account, and negotiable notes, including commercial paper notes or other forms of negotiable short-term indebtedness and negotiable bond anticipation notes.

(g) "Notes" means negotiable notes, including commercial paper notes or other forms of negotiable short-term indebtedness or negotiable bond anticipation notes and any renewals thereof.

(h) (1) Except as specified in paragraph (2), "office" means the FISCal Project Office in the Department of Finance.

(2) Upon the establishment of an Office of the Financial Information System for California, "office" shall mean the Office of the Financial Information System for California, and shall no longer be construed to mean the FISCal Project Office in the Department of Finance.

(i) "Public building" has the same meaning as set forth in subdivision (c) of Section 15802 and includes the FISCal system.

(j) "State departments and agencies" means all state offices, officers, departments, divisions, bureaus, boards, commissions, organizations, or agencies, claims against which are paid by warrants drawn by the Controller, and whose financial activities are reported in the annual financial statement of the state or are included in the annual Governor's Budget, including, but not limited to, the California State University and the University of California.

(k) "System" or "FISCal system" means a single integrated financial management system for the state that encompasses the management of resources and dollars in the areas of budgeting, accounting, procurement, cash management, financial management, financial reporting, cost accounting, asset management, project accounting, grant management, and human resources management, as included in the approved FISCal Project documents.

15849.22. (a) (1) To serve the best interests of the state by optimizing the financial business management of the state, the Department of Finance, the Controller, the Treasurer, and the Department of General Services shall collaboratively develop, implement, utilize, maintain, and operate the FISCal system. The development of the FISCal system should ensure best business practices, embrace opportunities to reengineer the state's business processes to leverage the inherent efficiencies in enterprise resource planning tools, and encompass the

management of resources and funds in the areas of budgeting, accounting, procurement, cash management, financial management, financial reporting, cost accounting, asset management, project accounting, grant management, and human resources management.

(2) (A) Except as specified in subparagraph (B), the FISCal Project Office in the Department of Finance shall implement the requirements of paragraph (1).

(B) Upon the establishment of an Office of the Financial Information System for California, the Office of the Financial Information System for California shall implement the requirements of paragraph (1), and the FISCal Project Office in the Department of Finance shall no longer implement those requirements.

(b) (1) All state departments and agencies shall use the FISCal system. The FISCal system shall replace any existing central or departmental systems duplicative of the functionality of the FISCal system.

(2) The FISCal system shall first be developed and used in partnership with a select number of departments, including the officers and departments identified in subdivision (a). Once the FISCal system has developed end-to-end processes that will meet the financial management needs of all state departments and agencies and have proven to be effective, operationally efficient, and secure, the FISCal system shall be implemented, in phases, at all remaining state departments and agencies.

(c) The Legislature intends that the FISCal system meet the following objectives:

(1) Replace the state's aging legacy financial management systems while the workforce with knowledge of those systems is still present and able to facilitate the transition to a standardized, modernized, and supportable system that is independent of institutional memory.

(2) Increase transparency to provide a better basis for decisionmaking and the sharing of knowledge with the public, the state's business partners, and the Legislature.

(3) Provide timely, accurate, complete, and integrated financial data.

(4) Streamline government operations by giving managers, end-users, and stakeholders easy access to timely and accurate information.

(5) Eliminate redundant systems and processes by integrating all financial information into a single system.

(6) Increase fiscal accountability and control at all levels of state government.

(7) Automate and standardize reporting mechanisms.

(8) Support project, grant, and activity-based reporting at multiple levels.

(9) Provide timely and comprehensive information to improve cash management.

(10) Permit state departments and agencies to shift their efforts from processing and reconciliation of financial information to analysis.

(11) Provide the ability to timely and efficiently perform management and analysis of system data.

(12) Support the state's succession planning for much of the financial management workforce through system modernization.

(d) (1) The Legislature recognizes that the FISCal system will be developed in the departments listed in paragraph (1) of subdivision (a) and in a series of waves described more fully in the Approved FISCal Project documents. Wave One shall consist of the Department of Social Services, the Board of Equalization, the Department of Justice, and the Department of Parks and Recreation. "Phase One" of the FISCal system shall consist of the Wave One departments listed in this paragraph and the departments and officers listed in paragraph (1) of subdivision (a). "Phase Two" of the FISCal system shall consist of all the subsequent waves described in the Approved FISCal Project documents.

(2) Implementation of the FISCal system shall be limited to Phase One and to the activities described in paragraph (3) until both of the following conditions are met:

(A) The report described in subdivision (e) has been submitted to the Legislature.

(B) The Legislature provides express authorization to proceed with Phase Two implementation in the annual Budget Act or other statute.

(3) Until legislative approval for Phase Two implementation is provided pursuant to paragraph (2), preparation activities for Phase Two implementation shall be limited to existing Phase One project resources and shall not disrupt the mission and operations of Phase Two departments.

(e) By March 1 of the year following the year in which Phase One is implemented the office shall submit a report to the Legislature that includes, but is not limited to, the following matters:

(1) Information about the results of the business process reengineering and software configuration in the Department of Finance, the Department of General Services, the Controller, and the Treasurer.

(2) The results of user acceptance testing and system implementation in the Department of Social Services, the Board of Equalization, the Department of Justice, and the Department of Parks and Recreation.

(3) Lessons learned during Phase One implementation and their impact on subsequent FISCal system activities.

(4) Documentation of any systems or manual processes supplanted by Phase One of FISCal system implementation.

(f) (1) Throughout the development of the FISCal system, the Bureau of State Audits shall independently monitor the FISCal system as deemed

appropriate by the State Auditor. The bureau's independent monitoring of the FISCal system shall include, but not be limited to, the following duties:

(A) Monitoring the contract for independent project oversight (IPO) and independent verification and validation (IV&V) services relating to the FISCal system.

(B) Assessing whether concerns about the FISCal project raised by the IPO and IV&V are being addressed by the office and the steering committee of the office.

(C) Assessing whether the FISCal system is progressing timely and within its budget.

(2) The bureau shall report, at a minimum, annually prior to January 10, on the FISCal system activities that the bureau deems appropriate to monitor pursuant to this subdivision in a manner consistent with Chapter 6.5 (commencing with Section 8543) of Division 1.

(3) Nothing in this subdivision shall supersede or compromise the Chief Information Officer's oversight authority and responsibilities with respect to the FISCal system.

15849.24. The board may issue bonds, notes, or certificates to finance and to refinance the costs of the FISCal system pursuant to this chapter and this part. All of the provisions of this part apply to this chapter except Chapter 3 (commencing with Section 15815), Section 15845 and any requirements of this part regarding the Public Buildings Construction Fund, Section 15848, Section 15849.2, and any other exceptions otherwise set forth in this chapter. Proceeds from the bonds, notes, or certificates may be used to repay any interim financing for the costs of the FISCal system. Proceeds from the bonds, notes, or certificates may be used to pay for the cost of the FISCal system, for all additional costs authorized by Section 15849.6, and for the cost of providing security or liquidity for the bonds, notes, or certificates issued pursuant to this chapter and this part. Proceeds from the bonds, notes, or certificates shall not be used for the ongoing operation and maintenance of the FISCal system.

15849.26. (a) The board may issue bonds, notes, or certificates in accordance with this chapter and this part to finance up to the amount of two hundred seventy-seven million dollars ($277,000,000) of the cost of the FISCal system.

(b) Notwithstanding subdivision (a), if subsequently authorized by the Legislature, the board may issue bonds, notes, or certificates to finance the cost of the FISCal system in excess of the limitation described in subdivision (a). However, in no event shall the total amount of the cost of the FISCal system financed exceed one billion three hundred sixty-two million dollars ($1,362,000,000).

(c) The monetary limitations set forth in subdivisions (a) and (b) shall not limit the amount of any bonds, notes, or certificates issued by the board to refinance the cost of the FISCal system.

(d) It is the intent of the Legislature that, to the extent possible, the cost of the FISCal system be paid for by appropriations made by the Legislature from the General Fund and from special fund moneys and by federal funding rather than by the issuance of bonds, notes, or certificates authorized by this chapter.

(e) Nothing in this chapter shall be construed as a mechanism to fund a year-end state budget deficit as that term is used in Section 1.3 of Article XVI of the California Constitution. None of the proceeds of the bonds, notes, or certificates issued pursuant to this chapter and this part may be used to fund a year-end state budget deficit as defined in Section 1.3 of Article XVI of the California Constitution.

15849.28. (a) Notwithstanding Section 15849.1 and any other provision of law permitting withdrawal of funds from the General Fund to pay for the cost of the FISCal system, the Department of Finance may authorize loans from the General Fund that may, as determined by the Director of Finance, be made without interest. The board may also request a loan from the Pooled Money Investment Account to pay for the cost of the FISCal system.

(b) The Controller shall deposit the loan proceeds in the FISCal Internal Services Fund, created pursuant to Section 15849.35, and those moneys shall be expended for the costs of the FISCal system or to repay other loans obtained for the cost of the FISCal system or for both purposes. The loan amounts shall not exceed the amount of any unsold bonds, notes, or certificates that the board has, by resolution, authorized to be sold for the purposes of this chapter.

15849.30. The board and the office may execute and deliver any lease, contract, agreement, or other document to permit the issuance or securitization of bonds, notes, or certificates to finance or refinance the cost of the FISCal system. Any such lease, contract, and agreement, as well as any bond, note, and certificate, and any disclosure document marketing those bonds, notes, or certificates shall contain language to the effect that the obligation to pay debt service for the FISCal system is subject to, and conditioned upon, the Legislature annually appropriating funds and that the Legislature is not required to appropriate any funds for that purpose.

15849.34. (a) After January 1, 2009, the office shall establish rates and a payment schedule for state departments and agencies to use the FISCal system, and may enter into any necessary agreements with those state departments and agencies for the payment for FISCal system usage and services.

(b) Rates for use of the FISCal system shall include the costs of the FISCal system, the ongoing maintenance and operation of the FISCal system, and debt service for the FISCal system. Debt service for the FISCal system shall be considered an operation cost for accounting purposes. The rates shall be based on an interim cost allocation plan until statistically valid usage data is available to establish a transaction-based cost allocation plan.

(c) The office shall submit the proposed rates, the methodology used to develop the rates, and the payment schedule to the Department of Finance during the regular budget development processes for review and approval. Any changes in rates or methodology shall be submitted by the office concurrently with budget requests it submits to the Department of Finance.

15849.35. (a) The FISCal Internal Services Fund and the FISCal Support Fund are hereby created in the State Treasury.

(b) All funds received pursuant to Section 15849.34 shall be deposited in the FISCal Support Fund. Upon appropriation by the Legislature, funds in the FISCal Support Fund shall be transferred by the Controller into the FISCal Internal Services Fund.

(c) The Controller shall create within the FISCal Internal Services Fund an Operations and Maintenance Subaccount. Funds in this subaccount shall be available for operations and maintenance of the FISCal system including, but not limited to, administrative expenses of the board, the office, or for other purposes authorized by this chapter or in any related indenture or agreement for FISCal services.

(d) The Controller shall create within the FISCal Internal Services Fund a Development Subaccount. Funds in this subaccount shall be available for costs of the FISCal system.

(e) (1) Notwithstanding Section 13340, the funds in the FISCal Internal Services Fund and the Development Subaccount and the Operations and Maintenance Subaccount in that fund are hereby continuously appropriated to the office, without regard to fiscal year for the development, operations, and maintenance of the FISCal System.

(2) Notwithstanding any other provision of law, funds shall be available for payment of the debt service for the FISCal system only upon annual appropriation by the Legislature.

(f) Moneys in the FISCal Support Fund are available for cashflow borrowing by the General Fund pursuant to Section 16310.

15849.36. (a) The Controller shall create the FISCal System Development Fund in the State Treasury.

(b) The Controller shall create within the FISCal System Development Fund separate accounts for the proceeds of each series of bonds, notes, or certificates authorized pursuant to this chapter and this part. The

money deposited in each separate account may be expended for the costs of the FISCal system and for additional costs authorized by Section 15849.24.

(c) Moneys in the FISCal System Development Fund shall be transferred by the Controller to the Development Subaccount in the FISCal Internal Services Fund for the 2008–09 fiscal year for the costs of the FISCal system. Transfers shall be made by the Controller in subsequent fiscal years from the FISCal System Development Fund to the Development Subaccount in the FISCal Internal Services Fund upon annual appropriation by the Legislature.

15849.38. (a) The Controller shall create the FISCal Debt Service Fund within the State Treasury. Moneys in this fund shall be available only upon annual appropriation by the Legislature for the payment of debt service for the FISCal system that is scheduled to be paid in the fiscal year during which the appropriation is made and for the redemption or retirement of bonds, notes, or certificates issued pursuant to this chapter and this part.

(b) Moneys for the payment of debt service for the FISCal System shall be transferred by the Controller from the Operations and Maintenance Subaccount of the FISCal Internal Services Fund to the FISCal Debt Service Fund only upon annual appropriation by the Legislature.

SEC. 39. Section 15849.6 of the Government Code is amended to read:

15849.6. Notwithstanding any provision of this part to the contrary, the board may issue bonds, notes, or other obligations to finance the acquisition or construction of a public building, facility, or equipment as authorized by the Legislature, in the total amount authorized by the Legislature, and any additional amount authorized by the board to pay the cost of financing. This additional amount may include interest during acquisition or interest prior to, during, and for a period of six months after construction of the public building, facility, or equipment, interest payable on any interim loan for the public building, facility, or equipment from the General Fund or from the Pooled Money Investment Account, a reasonably required reserve fund, and the costs of issuance of any interim financing and permanent financing after completion of the construction or acquisition of the public building, facility, or equipment.

This section shall be applicable to, but not limited to, bonds, notes, or obligations of the board that were authorized by appropriations of the Legislature made prior to the effective date of this section.

SEC. 40. Section 16142 of the Government Code is amended to read:

16142. (a) The Secretary of the Resources Agency shall direct the Controller to pay annually out of the funds appropriated by Section

16140, to each eligible county, city, or city and county, the following amounts for each acre of land within its regulatory jurisdiction that is assessed pursuant to Section 423, 423.3, 423.4, or 423.5, or 426 if it was previously assessed under Section 423.4, of the Revenue and Taxation Code:

(1) Five dollars ($5) for prime agricultural land, as defined in Section 51201.

(2) One dollar ($1) for all land, other than prime agricultural land, which is devoted to open-space uses of statewide significance, as defined in Section 16143.

(b) The amount per acre in paragraph (1) of subdivision (a) may be increased by the Secretary of the Resources Agency to a figure which would offset any savings due to a more restrictive determination by the secretary as to what land is devoted to open-space use of statewide significance.

(c) The amount per acre in subdivision (a) shall only be paid for 10 years from the date that the land was first assessed pursuant to Section 426 of the Revenue and Taxation Code, if it was previously assessed under Section 423.4 of that code.

(d) Notwithstanding any other provision of law, for the 2008–09 fiscal year and each fiscal year thereafter, the Controller shall reduce, by 10 percent, any payment made pursuant to this subdivision.

SEC. 41. Section 16142.1 of the Government Code is amended to read:

16142.1. (a) In lieu of the payments made pursuant to Section 16142, in a county that has adopted farmland security zones pursuant to Section 51296, the Secretary of the Resources Agency shall direct the Controller to pay annually out of the funds appropriated by Section 16140, to each eligible county, city, or city and county, the following amount for each acre of land within its regulatory jurisdiction that is assessed pursuant to Section 423.4 or 426 of the Revenue and Taxation Code, if it was previously assessed under Section 423.4 of that code:

Eight dollars ($8) for land that is within, or within three miles of the boundaries of the sphere of influence of, each incorporated city.

(b) The amount per acre in subdivision (a) shall only be paid for 10 years from the date that the land was first assessed pursuant to Section 426 of the Revenue and Taxation Code, if it was previously assessed under Section 423.4 of that code. The appropriation authorized by this subdivision shall not exceed one hundred thousand dollars ($100,000) per year until 2005.

(c) Notwithstanding any other provision of law, for the 2008–09 fiscal year and each fiscal year thereafter, the Controller shall reduce, by 10 percent, any payments made pursuant to this subdivision.

SEC. 42. Section 16144 of the Government Code is amended to read:

16144. On or before October 31 each year, the governing body of each county, city, or city and county shall report to the Secretary of the Resources Agency the number of acres of land under its regulatory jurisdiction which qualify for state payments pursuant to the various categories enumerated in Section 16142, together with supporting documentation as the secretary by regulation may require. The secretary, after reviewing the report and determining the eligibility of the local government to receive payment and the actual amount to which it is entitled, shall certify that amount to the Controller for payment, and the Controller shall make the payment on or before June 30, but no earlier than April 20, of each year.

The secretary may make supplemental reports to the Controller as he or she deems necessary throughout the year to give effect to new or additional information received from local governing bodies, correct errors, and dispose of contested or conditional situations. Upon receiving the reports, the Controller shall pay any amount certified therein, and may withhold and deduct any certified overpayment from the amount that would otherwise be paid to the local government in the next succeeding year, including any cancellation fees that have not been collected and transmitted pursuant to Section 51283.

SEC. 43. Section 19816.22 is added to the Government Code, to read:

19816.22. (a) It is the intent of the Legislature in providing funds for the Human Resources Modernization Project, within the Department of Personnel Administration's budget, to provide every state agency with the tools necessary to recruit and retain its personnel. The Human Resources Modernization Project integrates the competencies, skills, and abilities of each employee across all human resource programs. State agencies will use the services developed by the Human Resources Modernization Project to recruit, assess, select, and develop their personnel, as well as to plan for the future, with performance management and succession applications.

(b) Authority is hereby granted, to the extent otherwise permitted by law, to the Department of Personnel Administration to assess special funds, bond funds, and nongovernmental cost funds in sufficient amounts to support the cost of the Human Resources Modernization Project described in subdivision (a). The Director of Finance shall determine the amount of the total assessment for each fund periodically. Upon order of the Director of the Department of Finance, the moneys authorized pursuant to this act shall be transferred by the Controller, as needed, from each fund for a total amount not to exceed the amounts authorized in the annual Budget Act.

SEC. 44. Section 22877 of the Government Code is amended to read:

22877. (a) As used in this section, the following definitions shall apply:

(1) "Coinsurance" means the provision of a health benefit plan design that requires the health benefit plan and state employee or annuitant to share the cost of hospital or medical expenses at a specified ratio.

(2) "Deductible" means the annual amount of out-of-pocket medical expenses that a state employee or annuitant must pay before the health benefit plan begins paying for expenses.

(3) "Program" means the Rural Health Care Equity Program.

(4) "Rural area" means an area in which there is no board-approved health maintenance organization plan available for enrollment by state employees or annuitants residing in the area.

(b) (1) The Rural Health Care Equity Program is hereby established for the purpose of funding the subsidization and reimbursement of premium costs, deductibles, coinsurance, and other out-of-pocket health care expenses paid by employees living in rural areas that would otherwise be covered if the state employee was enrolled in a board-approved health maintenance organization plan. The program shall be administered by the Department of Personnel Administration or by a third-party administrator approved by the Department of Personnel Administration in a manner consistent with all applicable state and federal laws. The board shall determine the rural area for each subsequent fiscal year, at the same time that premiums for health maintenance organization plans are approved.

(2) Separate accounts shall be maintained within the program for all of the following:

(A) Employees, as defined in subdivision (c) of Section 3513.

(B) Excluded employees, as defined in subdivision (b) of Section 3527.

(c) Moneys in the program shall be allocated to the respective accounts as follows:

(1) The contribution provided by the state with respect to each employee, as defined in subdivision (c) of Section 3513, who lives in a rural area and is otherwise eligible, shall be an amount determined through the collective bargaining process.

(2) The contribution provided by the state with respect to each excluded employee, as defined in subdivision (b) of Section 3527, who lives in a rural area and is otherwise eligible, shall be an amount equal to, but not to exceed, the amount contributed pursuant to paragraph (1).

(3) If an employee enters or leaves service with the state during a fiscal year, contributions for the employee shall be made on a pro rata basis. A similar computation shall be used for anyone entering or leaving

the bargaining unit, including a person who enters the bargaining unit by promotion during a fiscal year.

(d) Each fund of the State Treasury, other than the General Fund, shall reimburse the General Fund for any sums allocated pursuant to subdivision (c) for employees whose compensation is paid from that fund. That reimbursement shall be accomplished using the following methodology:

(1) On or before December 1 of each year, the Department of Personnel Administration shall provide a list of active state employees who participated in the program during the previous fiscal year to each employing department.

(2) On or before January 15 of each year, each department that employed an active state employee identified by the Department of Personnel Administration as a participant in the program shall provide the Department of Personnel Administration with a list of the funds used to pay each employee's salary, along with the proportion of each employee's salary attributable to each fund.

(3) Using the information provided by the employing departments, the Department of Personnel Administration shall compile a list of program payments attributable to each fund. On or before February 15 of each year, the Department of Personnel Administration shall transmit this list to the Department of Finance.

(4) The Department of Finance shall certify to the Controller the amount to be transferred from the unencumbered balance of each fund to the General Fund.

(5) The Controller shall transfer to the General Fund from the unencumbered balance of each impacted fund the amount specified by the Department of Finance.

(6) To ensure the equitable allocation of costs, the Director of the Department of Personnel Administration or the Director of Finance may require an audit of departmental reports.

(e) Notwithstanding any other provision of law and subject to the availability of funds, moneys within the program shall be disbursed for the benefit of eligible employees. The disbursements shall subsidize the preferred provider plan premiums for the employee by an amount equal to the difference between the weighted average of board-approved health maintenance organization premiums and the lowest board-approved preferred provider plan premium available under this part, and reimburse the employee for a portion or all of his or her incurred deductible, coinsurance, and other out-of-pocket health-related expenses that would otherwise be covered if the employee and his or her family members were enrolled in a board-approved health maintenance organization plan. These subsidies and reimbursements shall be provided as determined by

the Department of Personnel Administration, which may include, but is not limited to, a supplemental insurance plan, a medical reimbursement account, or a medical spending account plan.

(f) Subject to subdivision (h), moneys remaining in an account of the program at the end of any fiscal year shall remain in the account for use in subsequent fiscal years, until the account is terminated. Moneys remaining in a program account upon termination, after payment of all expenses and claims incurred prior to the date of termination, shall be deposited in the General Fund.

(g) The Legislature finds and declares that the program is established for the exclusive benefit of employees, annuitants, and family members.

(h) This section shall be operative only to the extent that funding is provided in the annual Budget Act or another statute.

(i) This section shall cease to be operative on January 1, 2012, or on an earlier date if the board makes a formal determination that health maintenance organization plans are no longer the most cost-effective health benefit plans offered by the board.

SEC. 45. Section 22883 of the Government Code is amended to read:

22883. (a) Each fund in the State Treasury, other than the General Fund and the Central Service Cost Recovery Fund, shall be charged a fair share of the employer contribution for annuitants in accordance with Article 2 (commencing with Section 11270) of Chapter 3 of Part 1 of Division 3.

(b) From each fund in the State Treasury, other than the General Fund and the Central Service Cost Recovery Fund, there is hereby appropriated monthly the employer contribution required under Sections 22870, 22871, and 22885 for all employees whose compensation is paid from that fund.

SEC. 46. Section 30061 of the Government Code is amended to read:

30061. (a) There shall be established in each county treasury a Supplemental Law Enforcement Services Fund (SLESF), to receive all amounts allocated to a county for purposes of implementing this chapter.

(b) In any fiscal year for which a county receives moneys to be expended for the implementation of this chapter, the county auditor shall allocate the moneys in the county's SLESF, including any interest or other return earned on the investment of those moneys, within 30 days of the deposit of those moneys into the fund, and shall allocate those moneys in accordance with the requirements set forth in this subdivision. However, the auditor shall not transfer those moneys to a recipient agency until the Supplemental Law Enforcement Oversight Committee certifies receipt of an approved expenditure plan from the governing board of that agency. The moneys shall be allocated as follows:

(1) Five and fifteen-hundredths percent to the county sheriff for county jail construction and operation. In the case of Madera, Napa, and Santa

Clara Counties, this allocation shall be made to the county director or chief of corrections.

(2) Five and fifteen-hundredths percent to the district attorney for criminal prosecution.

(3) Thirty-nine and seven-tenths percent to the county and the cities within the county, and, in the case of San Mateo, Kern, Siskiyou, and Contra Costa Counties, also to the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District, in accordance with the relative population of the cities within the county and the unincorporated area of the county, and the Broadmoor Police Protection District in the County of San Mateo, the Bear Valley Community Services District and the Stallion Springs Community Services District in Kern County, the Lake Shastina Community Services District in Siskiyou County, and the Kensington Police Protection and Community Services District in Contra Costa County, as specified in the most recent January estimate by the population research unit of the Department of Finance, and as adjusted to provide a grant of at least one hundred thousand dollars ($100,000) to each law enforcement jurisdiction. For a newly incorporated city whose population estimate is not published by the Department of Finance, but that was incorporated prior to July 1 of the fiscal year in which an allocation from the SLESF is to be made, the city manager, or an appointee of the legislative body, if a city manager is not available, and the county administrative or executive officer shall prepare a joint notification to the Department of Finance and the county auditor with a population estimate reduction of the unincorporated area of the county equal to the population of the newly incorporated city by July 15, or within 15 days after the Budget Act is enacted, of the fiscal year in which an allocation from the SLESF is to be made. No person residing within the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, or the Kensington Police Protection and Community Services District shall also be counted as residing within the unincorporated area of the County of San Mateo, Kern, Siskiyou, or Contra Costa, or within any city located within those counties. The county auditor shall allocate a grant of at least one hundred thousand dollars ($100,000) to each law enforcement jurisdiction. Moneys allocated to the county pursuant to this subdivision shall be retained in the county SLESF, and moneys allocated to a city pursuant to this subdivision shall be deposited in an SLESF established in the city treasury.

(4) Fifty percent to the county or city and county to implement a comprehensive multiagency juvenile justice plan as provided in this paragraph and to the Board of Corrections for administrative purposes. Funding for the Board of Corrections, as determined by the Department of Finance, shall not exceed two hundred seventy-five thousand dollars ($275,000). For the 2003–04 fiscal year, of the two hundred seventy-five thousand dollars ($275,000), up to one hundred seventy-six thousand dollars ($176,000) may be used for juvenile facility inspections. The juvenile justice plan shall be developed by the local juvenile justice coordinating council in each county and city and county with the membership described in Section 749.22 of the Welfare and Institutions Code. If a plan has been previously approved by the Board of Corrections, the plan shall be reviewed and modified annually by the council. The plan or modified plan shall be approved by the county board of supervisors, and in the case of a city and county, the plan shall also be approved by the mayor. The plan or modified plan shall be submitted to the Board of Corrections by May 1, 2002, and annually thereafter.

(A) Juvenile justice plans shall include, but not be limited to, all of the following components:

(i) An assessment of existing law enforcement, probation, education, mental health, health, social services, drug and alcohol, and youth services resources that specifically target at-risk juveniles, juvenile offenders, and their families.

(ii) An identification and prioritization of the neighborhoods, schools, and other areas in the community that face a significant public safety risk from juvenile crime, such as gang activity, daylight burglary, late-night robbery, vandalism, truancy, controlled substances sales, firearm-related violence, and juvenile substance abuse and alcohol use.

(iii) A local juvenile justice action strategy that provides for a continuum of responses to juvenile crime and delinquency and demonstrates a collaborative and integrated approach for implementing a system of swift, certain, and graduated responses for at-risk youth and juvenile offenders.

(iv) Programs identified in clause (iii) that are proposed to be funded pursuant to this subparagraph, including the projected amount of funding for each program.

(B) Programs proposed to be funded shall satisfy all of the following requirements:

(i) Be based on programs and approaches that have been demonstrated to be effective in reducing delinquency and addressing juvenile crime for any elements of response to juvenile crime and delinquency, including prevention, intervention, suppression, and incapacitation.

(ii) Collaborate and integrate services of all the resources set forth in clause (i) of subparagraph (A), to the extent appropriate.

(iii) Employ information sharing systems to ensure that county actions are fully coordinated, and designed to provide data for measuring the success of juvenile justice programs and strategies.

(iv) Adopt goals related to the outcome measures that shall be used to determine the effectiveness of the local juvenile justice action strategy.

(C) The plan shall also identify the specific objectives of the programs proposed for funding and specified outcome measures to determine the effectiveness of the programs and contain an accounting for all program participants, including those who do not complete the programs. Outcome measures of the programs proposed to be funded shall include, but not be limited to, all of the following:

(i) The rate of juvenile arrests per 100,000 population.

(ii) The rate of successful completion of probation.

(iii) The rate of successful completion of restitution and court-ordered community service responsibilities.

(iv) Arrest, incarceration, and probation violation rates of program participants.

(v) Quantification of the annual per capita costs of the program.

(D) The Board of Corrections shall review plans or modified plans submitted pursuant to this paragraph within 30 days upon receipt of submitted or resubmitted plans or modified plans. The board shall approve only those plans or modified plans that fulfill the requirements of this paragraph, and shall advise a submitting county or city and county immediately upon the approval of its plan or modified plan. The board shall offer, and provide, if requested, technical assistance to any county or city and county that submits a plan or modified plan not in compliance with the requirements of this paragraph. The SLESF shall only allocate funding pursuant to this paragraph upon notification from the board that a plan or modified plan has been approved.

(E) To assess the effectiveness of programs funded pursuant to this paragraph using the program outcome criteria specified in subparagraph (C), the following periodic reports shall be submitted:

(i) Each county or city and county shall report, beginning October 15, 2002, and annually each October 15 thereafter, to the county board of supervisors and the Board of Corrections, in a format specified by the Board of Corrections, on the programs funded pursuant to this chapter and program outcomes as specified in subparagraph (C).

(ii) The Board of Corrections shall compile the local reports and, by March 15, 2003, and annually thereafter, make a report to the Governor and the Legislature on program expenditures within each county and city and county from the appropriation for the purposes of this paragraph,

on the outcomes as specified in subparagraph (C) of the programs funded pursuant to this paragraph and the statewide effectiveness of the comprehensive multiagency juvenile justice plans.

(c) Subject to subdivision (d), for each fiscal year in which the county, each city, the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District receive moneys pursuant to paragraph (3) of subdivision (b), the county, each city, and each district specified in this subdivision shall appropriate those moneys in accordance with the following procedures:

(1) In the case of the county, the county board of supervisors shall appropriate existing and anticipated moneys exclusively to provide frontline law enforcement services, other than those services specified in paragraphs (1) and (2) of subdivision (b), in the unincorporated areas of the county, in response to written requests submitted to the board by the county sheriff and the district attorney. Any request submitted pursuant to this paragraph shall specify the frontline law enforcement needs of the requesting entity, and those personnel, equipment, and programs that are necessary to meet those needs. The board shall, at a public hearing held at a time determined by the board in each year that the Legislature appropriates funds for purposes of this chapter, or within 30 days after a request by a recipient agency for a hearing if the funds have been received by the county from the state prior to that request, consider and determine each submitted request within 60 days of receipt, pursuant to the decision of a majority of a quorum present. The board shall consider these written requests separate and apart from the process applicable to proposed allocations of the county general fund.

(2) In the case of a city, the city council shall appropriate existing and anticipated moneys exclusively to fund frontline municipal police services, in accordance with written requests submitted by the chief of police of that city or the chief administrator of the law enforcement agency that provides police services for that city. These written requests shall be acted upon by the city council in the same manner as specified in paragraph (1) for county appropriations.

(3) In the case of the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County, the legislative body of that special district shall appropriate existing and anticipated moneys exclusively to fund frontline municipal police services, in accordance with written requests

submitted by the chief administrator of the law enforcement agency that provides police services for that special district. These written requests shall be acted upon by the legislative body in the same manner specified in paragraph (1) for county appropriations.

(d) For each fiscal year in which the county, a city, or the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County receives any moneys pursuant to this chapter, in no event shall the governing body of any of those recipient agencies subsequently alter any previous, valid appropriation by that body, for that same fiscal year, of moneys allocated to the county or city pursuant to paragraph (3) of subdivision (b).

(e) The Controller shall allocate funds, upon their appropriation by the Legislature in the annual Budget Act, to local jurisdictions for public safety in accordance with this section as calculated by the Director of Finance. The Controller shall allocate these funds in four equal installments, to be paid in September, December, March, and June of each fiscal year.

(f) Funds received pursuant to subdivision (b) shall be expended or encumbered in accordance with this chapter no later than June 30 of the following fiscal year. A local agency that has not met this requirement shall remit unspent SLESF moneys to the Controller for deposit into the General Fund.

(g) If a county, a city, a city and county, or a qualifying special district does not comply with the requirements of this chapter to receive an SLESF allocation, the Controller shall revert those funds to the General Fund.

SEC. 47. Section 63035 of the Government Code is amended to read:

63035. The bank shall, not later than November 1 of each year, submit to the Governor and the Joint Legislative Budget Committee a report of its activities pursuant to this division for the preceding fiscal year. The report shall include all of the following:

(a) (1) A listing of applications accepted, including a description of the expected employment impact of each project.

(2) A separate summary of applications for the Infrastructure State Revolving Fund Program, including a summary of the number of preliminary applications that did not receive funding and the reason the applicant did not qualify.

(b) A specification of bonds sold and interest rates thereon.

(c) The amount of other public and private funds leveraged by the assistance provided.

(d) A report of revenues and expenditures for the preceding fiscal year, including all of the bank's costs. The information provided pursuant to this subdivision shall include, but need not be limited to, both of the following:

(1) The amount and source of total bank revenues. Revenues shall be shown by main categories of revenues, including interest earnings, fees collected, and bond proceeds, for each bank program.

(2) The amount and type of total bank expenditures. Expenditures shall be shown by major categories of expenditures, including loans provided, debt service payments, and program support costs, for each bank program.

(e) A projection of the bank's needs and requirements for the coming year.

(f) Recommendations for changes in state and federal law necessary to meet the objectives of this division.

SEC. 48. Section 76104.6 of the Government Code is amended to read:

76104.6. (a) (1) Except as otherwise provided in this section, for the purpose of implementing the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, there shall be levied an additional penalty of one dollar for every ten dollars ($10), or part of ten dollars ($10), in each county upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

(2) The penalty imposed by this section shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code. The board of supervisors shall establish in the county treasury a DNA Identification Fund into which shall be deposited the collected moneys pursuant to this section. The moneys of the fund shall be allocated pursuant to subdivision (b).

(3) This additional penalty does not apply to the following:

(A) Any restitution fine.

(B) Any penalty authorized by Section 1464 of the Penal Code or this chapter.

(C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(D) The state surcharge authorized by Section 1465.7 of the Penal Code.

(b) (1) The fund moneys described in subdivision (a), together with any interest earned thereon, shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. Deposits to the fund may continue through and including the 20th year after the initial calendar year in which the surcharge is collected, or longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to finance any of the projects specified herein.

(2) On the last day of each calendar quarter of the year specified in this subdivision, the county treasurer shall transfer fund moneys in the county's DNA Identification Fund to the state Controller for credit to the state's DNA Identification Fund, which is hereby established in the State Treasury, as follows:

(A) In the first two calendar years following the effective date of this section, 70 percent of the amounts collected, including interest earned thereon;

(B) In the third calendar year following the effective date of this section, 50 percent of the amounts collected, including interest earned thereon;

(C) In the fourth calendar year following the effective date of this section and in each calendar year thereafter, 25 percent of the amounts collected, including interest earned thereon.

(3) Funds remaining in the county's DNA Identification Fund shall be used only to reimburse local sheriff or other law enforcement agencies to collect DNA specimens, samples, and print impressions pursuant to this chapter; for expenditures and administrative costs made or incurred to comply with the requirements of paragraph (5) of subdivision (b) of Section 298 of the Penal Code including the procurement of equipment and software integral to confirming that a person qualifies for entry into the Department of Justice DNA Database and Data Bank Program; and to local sheriff, police, district attorney, and regional state crime laboratories for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA crime scene samples from cases in which DNA evidence would be useful in identifying or prosecuting suspects, including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA crime scene samples from unsolved cases.

(4) The state's DNA Identification Fund shall be administered by the Department of Justice. Funds in the state's DNA Identification Fund, upon appropriation by the Legislature, shall be used by the Attorney General only to support DNA testing in the state and to offset the impacts of increased testing and shall be allocated as follows:

(A) Of the amount transferred pursuant to subparagraph (A) of paragraph (2) of subdivision (b), 90 percent to the Department of Justice DNA Laboratory, first, to comply with the requirements of Section 298.3 of the Penal Code and, second, for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and Databank Act, as amended, and 10 percent to the Department of Justice Information Bureau Criminal History Unit for expenditures and administrative costs that have been approved by the Chief of the Department of Justice Bureau of Forensic Services made or incurred to update equipment and software to facilitate compliance with the requirements of subdivision (e) of Section 299.5 of the Penal Code.

(B) Of the amount transferred pursuant to subparagraph (B) of paragraph (2) of subdivision (b), funds shall be allocated by the Department of Justice DNA Laboratory, first, to comply with the requirements of Section 298.3 of the Penal Code and, second, for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and Databank Act, as amended.

(C) Of the amount transferred pursuant to subparagraph (C) of paragraph (2) of subdivision (b), funds shall be allocated by the Department of Justice to the DNA Laboratory to comply with the requirements of Section 298.3 of the Penal Code and for expenditures and administrative costs made or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens and samples including the procurement of equipment and software for the processing, analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and Forensic Identification Database and Databank Act, as amended.

(c) On or before April 1 in the year following adoption of this section, and annually thereafter, the board of supervisors of each county shall submit a report to the Legislature and the Department of Justice. The report shall include the total amount of fines collected and allocated pursuant to this section, and the amounts expended by the county for each program authorized pursuant to paragraph (3) of subdivision (b) of this section. The Department of Justice shall make the reports publicly available on the department's Web site.

(d) All requirements imposed on the Department of Justice pursuant to the DNA Fingerprint, Unsolved Crime and Innocence Protection Act are contingent upon the availability of funding and are limited by revenue, on a fiscal year basis, received by the Department of Justice pursuant to this section and any additional appropriation approved by the Legislature for purposes related to implementing this measure.

(e) Upon approval of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, the Legislature shall loan the Department of Justice General Fund in the amount of $7,000,000 for purposes of implementing that act. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time the loan is made. Principal and interest on the loan shall be repaid in full no later than four years from the date the loan was made and shall be repaid from revenue generated pursuant to this section.

(f) Notwithstanding any other provision of law, the Controller may use the state's DNA Identification Fund, created pursuant to paragraph (2) of subdivision (b), for loans to the General Fund as provided in Sections 16310 and 16381. Any such loan shall be repaid from the General Fund with interest computed at 110 percent of the Pooled Money Investment Account rate, with the interest commencing to accrue on the date the loan is made from the fund. This subdivision does not authorize any transfer that will interfere with the carrying out of the object for which the state's DNA Identification Fund was created.

SEC. 49. Section 17928 is added to the Health and Safety Code, to read:

17928. (a) (1) The Department of Housing and Community Development shall, for building standards submitted to the California Building Standards Commission for adoption in the 2010 California Building Code or later, do all the following:

(A) Review relevant green building guidelines as deemed necessary by the department when preparing proposed building standards for submittal.

(B) Consider proposing as mandatory building standards those green building features determined by the department to be cost effective and feasible to promote greener construction.

(2) Nothing in this subdivision shall be construed to supplant or otherwise change the existing process for approval and adoption of building standards through the California Building Standards Commission.

(b) (1) The department shall also summarize in a report to the Legislature no later than September 1 of each year, both of the following:

(A) Green building features proposed as building standards during the prior fiscal year.

(B) Green building guidelines reviewed pursuant to subdivision (a) during the prior fiscal year.

(2) For those items required by this subdivision already included in other reports provided to the Legislature or generally available, the department may fulfill this requirement by citing where that information can be found.

SEC. 50. Section 33675 of the Health and Safety Code is amended to read:

33675. (a) The portion of taxes required to be allocated pursuant to subdivision (b) of Section 33670 shall be allocated and paid to the agency by the county auditor or officer responsible for the payment of taxes into the funds of the respective taxing entities pursuant to the procedure contained in this section.

(b) Not later than October 1 of each year, for each redevelopment project for which the redevelopment plan provides for the division of taxes pursuant to Section 33670, the agency shall file, with the county auditor or officer described in subdivision (a), a statement of indebtedness and a reconciliation statement certified by the chief financial officer of the agency.

(c) (1) For each redevelopment project for which a statement of indebtedness is required to be filed, the statement of indebtedness shall contain all of the following:

(A) For each loan, advance, or indebtedness incurred or entered into, all of the following information:

(i) The date the loan, advance, or indebtedness was incurred or entered into.

(ii) The principal amount, term, purpose, interest rate, and total interest of each loan, advance, or indebtedness.

(iii) The principal amount and interest due in the fiscal year in which the statement of indebtedness is filed for each loan, advance, or indebtedness.

(iv) The total amount of principal and interest remaining to be paid for each loan, advance, or indebtedness.

(B) The sum of the amounts determined under clause (iii) of subparagraph (A).

(C) The sum of the amounts determined under clause (iv) of subparagraph (A).

(D) The available revenues as of the end of the previous year, as determined pursuant to paragraph (10) of subdivision (d).

(2) The agency may estimate the amount of principal or interest, the interest rate, or term of any loan, advance, or indebtedness if the nature of the loan, advance, or indebtedness is such that the amount of principal or interest, the interest rate or term cannot be precisely determined. The

agency may list on a statement of indebtedness any loan, advance, or indebtedness incurred or entered into on or before the date the statement is filed.

(d) For each redevelopment project for which a reconciliation statement is required to be filed, the reconciliation statement shall contain all of the following:

(1) A list of all loans, advances, and indebtedness listed on the previous year's statement of indebtedness.

(2) (A) A list of all loans, advances, and indebtedness, not listed on the previous year's statement of indebtedness, but incurred or entered into in the previous year and paid in whole or in part from revenue received by the agency pursuant to Section 33670. This listing may aggregate loans, advances, and indebtedness incurred or entered into in the previous year for a particular purpose (such as relocation expenses, administrative expenses, consultant expenses, or property management expenses) into a single item in the listing.

(B) For purposes of this section, any payment made pursuant to Section 33684 shall be considered as payment against existing passthrough payment indebtedness as listed on the agency's statement of indebtedness. If the most recent statement of indebtedness documents failed to include all or a part of the agency's obligation to the passthrough payments, those obligations shall be added to the next statement of indebtedness to be filed and shall include both current payments plus all future passthrough obligations.

(3) For each loan, advance, or indebtedness described in paragraph (1) or (2), all of the following information:

(A) The total amount of principal and interest remaining to be paid as of the later of the beginning of the previous year or the date the loan, advance, or indebtedness was incurred or entered into.

(B) Any increases or additions to the loan, advance, or indebtedness occurring during the previous year.

(C) The amount paid on the loan, advance, or indebtedness in the previous year from revenue received by the agency pursuant to Section 33670.

(D) The amount paid on the loan, advance, or indebtedness in the previous year from revenue other than revenue received by the agency pursuant to Section 33670.

(E) The total amount of principal and interest remaining to be paid as of the end of the previous fiscal year.

(4) The available revenues of the agency as of the beginning of the previous fiscal year.

(5) The amount of revenue received by the agency in the previous fiscal year pursuant to Section 33670.

(6) The amount of available revenue received by the agency in the previous fiscal year other than pursuant to Section 33670.

(7) The sum of the amounts specified in subparagraph (D) of paragraph (3), to the extent that the amounts are not included as available revenues pursuant to paragraph (6).

(8) The sum of the amounts specified in paragraphs (4), (5), (6), and (7).

(9) The sum of the amounts specified in subparagraphs (C) and (D) of paragraph (3).

(10) The amount determined by subtracting the amount determined under paragraph (9) from the amount determined under paragraph (8). The amount determined pursuant to this paragraph shall be the available revenues as of the end of the previous fiscal year.

(e) For the purposes of this section, available revenues shall include all cash or cash equivalents held by the agency that were received by the agency pursuant to Section 33670 and all cash or cash equivalents held by the agency that are irrevocably pledged or restricted to payment of a loan, advance, or indebtedness that the agency has listed on a statement of indebtedness. In no event shall available revenues include funds in the agency's Low and Moderate Income Housing Fund established pursuant to Section 33334.3. For the purposes of determining available revenues as of the end of the 1992–93 fiscal year, an agency shall conduct an examination or audit of its books and records for the 1990–91, 1991–92, and 1992–93 fiscal years to determine the available revenues as of the end of the 1992–93 fiscal year.

(f) For the purposes of this section, the amount an agency will deposit in its Low and Moderate Income Housing Fund established pursuant to Section 33334.3 shall constitute an indebtedness of the agency. For the purposes of this section, no loan, advance, or indebtedness that an agency intends to pay from its Low and Moderate Income Housing Fund established pursuant to Section 33334.3 shall be listed on a statement of indebtedness or reconciliation statement as a loan, advance, or indebtedness of the agency. For the purposes of this section, any statutorily authorized deficit in or borrowing from an agency's Low and Moderate Income Housing Fund established pursuant to Section 33334.3 shall constitute an indebtedness of the agency.

(g) The county auditor or officer shall, at the same time or times as the payment of taxes into the funds of the respective taxing entities of the county, allocate and pay the portion of taxes provided by subdivision (b) of Section 33670 to each agency. The amount allocated and paid shall not exceed the amount determined pursuant to subparagraph (C) of paragraph (1) of subdivision (c) minus the amount determined pursuant to subparagraph (D) of paragraph (1) of subdivision (c).

(h) (1) The statement of indebtedness constitutes prima facie evidence of the loans, advances, or indebtedness of the agency.

(2) (A) If the county auditor or other officer disputes the amount of loans, advances, or indebtedness as shown on the statement of indebtedness, the county auditor or other officer shall, within 30 days after receipt of the statement, give written notice to the agency thereof.

(B) The agency shall, within 30 days after receipt of notice pursuant to subparagraph (A), submit any further information it deems appropriate to substantiate the amount of any loans, advances, or indebtedness which has been disputed. If the county auditor or other officer still disputes the amount of loans, advances, or indebtedness, final written notice of that dispute shall be given to the agency, and the amount disputed may be withheld from allocation and payment to the agency as otherwise required by subdivision (g). In that event, the auditor or other officer shall bring an action in the superior court in declaratory relief to determine the matter not later than 90 days after the date of the final notice.

(3) In any court action brought pursuant to this section, the issue shall involve only the amount of loans, advances, or indebtedness, and not the validity of any contract or debt instrument or any expenditures pursuant thereto. Payments to a trustee under a bond resolution or indenture of any kind or payments to a public agency in connection with payments by that public agency pursuant to a lease or bond issue shall not be disputed in any action under this section. The matter shall be set for trial at the earliest possible date and shall take precedence over all other cases except older matters of the same character. Unless an action is brought within the time provided for herein, the auditor or other officer shall allocate and pay the amount shown on the statement of indebtedness as provided in subdivision (g).

(i) Nothing in this section shall be construed to permit a challenge to or attack on matters precluded from challenge or attack by reason of Sections 33500 and 33501. However, nothing in this section shall be construed to deny a remedy against the agency otherwise provided by law.

(j) The Controller shall prescribe a uniform form of statement of indebtedness and reconciliation statement. These forms shall be consistent with this section. In preparing these forms, the Controller shall obtain the input of county auditors, redevelopment agencies, and organizations of county auditors and redevelopment agencies.

(k) For the purposes of this section, a fiscal year shall be a year that begins on July 1 and ends the following June 30.

SEC. 51. Section 33680 of the Health and Safety Code is amended to read:

33680. (a) The Legislature finds and declares that the effectuation of the primary purposes of the Community Redevelopment Law, including job creation, attracting new private commercial investments, the physical and social improvement of residential neighborhoods, and the provision and maintenance of low- and moderate-income housing, is dependent upon the existence of an adequate and financially solvent school system which is capable of providing for the safety and education of students who live within both redevelopment project areas and housing assisted by redevelopment agencies. The attraction of new businesses to redevelopment project areas depends upon the existence of an adequately trained work force, which can only be accomplished if education at the primary and secondary schools is adequate and general education and job training at community colleges is available. The ability of communities to build residential development and attract residents in redevelopment project areas depends upon the existence of adequately maintained and operating schools serving the redevelopment project area. The development and maintenance of low- and moderate-income housing both within redevelopment project areas and throughout the community can only be successful if adequate schools exist to serve the residents of this housing.

(b) Redevelopment agencies have financially assisted schools which benefit and serve the project area by paying part or all of land and the construction of school facilities and other improvements pursuant to the authority in Section 33445. Redevelopment agencies have financially assisted schools to alleviate the financial burden or detriment caused by the establishment of redevelopment project areas pursuant to the authority in Sections 33401 and 33445.5. Funds also have been allocated to schools and community colleges pursuant to the authority in Section 33676.

(c) The Legislature further finds and declares that, because of the reduced funds available to the state to assist schools and community colleges which benefit and serve redevelopment project areas during the 1992–93, 1993–94, and 1994–95 fiscal years, it is necessary for redevelopment agencies to make additional payments to assist the programs and operations of these schools and colleges in order to ensure that the objectives stated in this section can be met. The Legislature further finds and declares that the payments to schools and community college districts pursuant to Section 33681 are of benefit to redevelopment project areas.

(d) The Legislature further finds and declares all of the following:

(1) Because of the reduced funds available to the state to assist schools that benefit and serve redevelopment project areas during the 2008–09 fiscal year, it is necessary for redevelopment agencies to make additional

payments to assist the programs and operations of these schools to ensure that the objectives stated in this section can be met.

(2) The payments to schools pursuant to Section 33685 are of benefit to redevelopment project areas.

SEC. 52. Section 33684 is added to the Health and Safety Code, to read:

33684. (a) (1) This section shall apply to each redevelopment project area that, pursuant to a redevelopment plan that contains the provisions required by Section 33670, meets any of the following:

(A) Was adopted on or after January 1, 1994, including later amendments to these redevelopment plans.

(B) Was adopted prior to January 1, 1994, but amended after January 1, 1994, to include new territory. For plans amended after January 1, 1994, only the tax increments from territory added by the amendment shall be subject to this section.

(2) This section shall apply to passthrough payments, as required by Sections 33607.5 and 33607.7, for the 2003–04 to 2008–09, inclusive, fiscal years. For purposes of this section, a passthrough payment shall be considered the responsibility of an agency in the fiscal year the agency receives the tax increment revenue for which the passthrough payment is required.

(3) For purposes of this section, "local educational agency" is a school district, a community college district, or a county office of education.

(b) On or before October 1, 2008, each agency shall submit a report to the county auditor and to each affected taxing entity that describes each project area, including its location, purpose, date established, date or dates amended, and statutory and contractual passthrough requirements. The report shall specify, by year, for each project area all of the following:

(1) Gross tax increment received between July 1, 2003, and June 30, 2008, that is subject to a passthrough payment pursuant to Sections 33607.5 and 33607.7, and accumulated gross tax increments through June 30, 2003.

(2) Total passthrough payments to each taxing entity that the agency deferred pursuant to a subordination agreement approved by the taxing agency under subdivision (e) of Section 33607.5 and the dates these deferred payments will be made.

(3) Total passthrough payments to each taxing entity that the agency was responsible to make between July 1, 2003, and June 30, 2008, pursuant to Sections 33607.5 and 33607.7, excluding payments identified in paragraph (2).

(4) Total passthrough payments that the agency disbursed to each taxing entity between July 1, 2003, and June 30, 2008, pursuant to Sections 33607.5 and 33607.7.

(5) Total sums reported in paragraph (4) for each local educational agency that are considered to be property taxes under the provisions of paragraph (4) of subdivision (a) of Sections 33607.5 and 33607.7.

(6) Total outstanding payment obligations to each taxing entity as of June 30, 2008. This amount shall be calculated by subtracting the amounts reported in paragraph (4) from paragraph (3) and reporting any positive sum.

(7) Total outstanding overpayments to each taxing entity as of June 30, 2008. This amount shall be calculated by subtracting the amounts reported in paragraph (3) from paragraph (4) and reporting any positive sum.

(8) The dates on which the agency made payments identified in paragraph (6) or intends to make the payments identified in paragraph (6).

(2) A revised estimate of the agency's total outstanding passthrough payment obligation to each taxing agency pursuant to paragraph (6) of subdivision (b) and paragraph (6) of subdivision (c) and the dates on which the agency intends to make these payments.

(c) On or before October 1, 2009, each agency shall submit a report to the county auditor and to each affected taxing entity that describes each project area, including its location, purpose, date established, date or dates amended, and statutory and contractual passthrough requirements. The report shall specify, by year, for each project area all of the following:

(1) Gross tax increment received between July 1, 2008, and June 30, 2009, that is subject to a passthrough payment pursuant to Sections 33607.5 and 33607.7.

(2) Total passthrough payments to each taxing entity that the agency deferred pursuant to a subordination agreement approved by the taxing entity under subdivision (e) of Section 33607.5 and the dates these deferred payments will be made.

(3) Total passthrough payments to each taxing entity that the agency was responsible to make between July 1, 2008, and June 30, 2009, pursuant to Sections 33607.5 and 33607.7, excluding payments identified in paragraph (2).

(4) Total passthrough payments that the agency disbursed to each taxing entity between July 1, 2008, and June 30, 2009, pursuant to Sections 33607.5 and 33607.7.

(5) Total sums reported in paragraph (4) for each local educational agency that are considered to be property taxes under the provisions of paragraph (4) of subdivision (a) of Sections 33607.5 and 33607.7.

(6) Total outstanding payment obligations to each taxing entity as of June 30, 2009. This amount shall be calculated by subtracting the amounts reported in paragraph (4) from paragraph (3) and reporting any positive sum.

(7) Total outstanding overpayments to each taxing entity as of June 30, 2009. This amount shall be calculated by subtracting the amounts reported in paragraph (3) from paragraph (4) and reporting any positive sum.

(8) The dates on which the agency made payments identified in paragraph (6) or intends to make the payments identified in paragraph (6).

(d) If an agency reports pursuant to paragraph (6) of subdivision (b) or paragraph (6) of subdivision (c ) that it has an outstanding passthrough payment obligation to any taxing entity, the agency shall submit annual updates to the county auditor on October 1 of each year until such time as the county auditor notifies the agency in writing that the agency's outstanding payment obligations have been fully satisfied. The report shall contain both of the following:

(1) A list of payments to each taxing agency and to the Educational Revenue Augmentation Fund pursuant to subdivision (j) that the agency disbursed after the agency's last update filed pursuant to this subdivision or, if no update has been filed, after the agency's submission of the reports required pursuant to subdivisions (b) and (c ). The list of payments shall include only those payments that address obligations identified pursuant to paragraph (6) of subdivision (b) and paragraph (6) of subdivision (c ). The update shall specify the date on which each payment was disbursed.

(2) A revised estimate of the agency's total outstanding passthrough payment obligation to each taxing agency pursuant to paragraph (6) of subdivision (b) and paragraph (6) of subdivision (c ) and the dates on which the agency intends to make these payments.

(e) The county auditor shall review each agency's reports submitted pursuant to subdivisions (b) and (c) and any other relevant information to determine whether the county auditor concurs with the information included in the reports.

(1) If the county auditor concurs with the information included in a report, the county auditor shall issue a finding of concurrence within 45 days.

(2) If the county auditor does not concur with the information included in a report or considers the report to be incomplete, the county auditor

shall return the report to the agency within 45 days with information identifying the elements of the report with which the county auditor does not concur or considers to be incomplete. The county auditor shall provide the agency at least 15 days to respond to concerns raised by the county auditor regarding the information contained in the report. An agency may revise a report that has not received a finding of concurrence and resubmit it to the county auditor.

(3) If an agency and county auditor do not agree regarding the passthrough requirements of Sections 33607.5 and 33607.7, an agency may submit a report pursuant to subdivisions (b) and (c) and a statement of dispute identifying the issue needing resolution.

(4) An agency may amend a report for which the county auditor has issued a finding of concurrence and resubmit the report pursuant to paragraphs (1), (2), and (3) if any of the following apply:

(A) The county auditor and agency agree that an issue identified in the agency's statement of dispute has been resolved and the agency proposes to modify the sections of the report to conform with the resolution of the statement of dispute.

(B) The county auditor and agency agree that the amount of gross tax increment or the amount of a passthrough payment to a taxing entity included in the report is not accurate.

(5) The Controller may revoke a finding of concurrence and direct the agency to resubmit a report to the county auditor pursuant to paragraphs (1), (2), and (3) if the Controller finds significant errors in a report.

(f) On or before December 15, 2008, and annually thereafter through 2014, the county auditor shall submit a report to the Controller that includes all of the following:

(1) The name of each redevelopment project area in the county for which an agency must submit a report pursuant to subdivision (b) or (c) and information as to whether the county auditor has issued a finding of concurrence regarding the report.

(2) A list of the agencies for which the county auditor has issued a finding of concurrence for all project areas identified in paragraph (1).

(3) A list of agencies for which the county auditor has not issued a finding of concurrence for all project areas identified in paragraph (1).

(4) Using information applicable to agencies listed in paragraph (2), the county auditor shall report all of the following:

(A) The total sums reported by each redevelopment agency related to each taxing entity pursuant to paragraphs (1) to (7), inclusive, of subdivision (b) and, on or after December 15, 2009, pursuant to paragraphs (1) to (7), inclusive, of subdivision (c).

(B) The names of agencies that have outstanding passthrough payment obligations to a local educational agency that exceed the amount of outstanding passthrough payments to the local educational agency.

(C) Summary information regarding agencies' stated plans to pay the outstanding amounts identified in paragraph (6) of subdivision (b) and paragraph (6) of subdivision (c) and the actual amounts that have been deposited into the county Educational Revenue Augmentation Fund pursuant to subdivision (j).

(D) All unresolved statements of dispute filed by agencies pursuant to paragraph (3) of subdivision (e) and the county auditor's analyses supporting the county auditor's conclusions regarding the issues under dispute.

(g) (1) On or before February 1, 2009, and annually thereafter through 2015, the Controller shall submit a report to the Legislative Analyst's Office and the Department of Finance and provide a copy to the Board of Governors of the California Community Colleges. The report shall provide information as follows:

(A) Identify agencies for which the county auditor has issued a finding of concurrence for all reports required under subdivisions (b) and (c).

(B) Identify agencies for which the county auditor has not issued a finding of concurrence for all reports required pursuant to subdivision (b) and all reports required pursuant to subdivision (c) or for which a finding of concurrence has been withdrawn by the Controller.

(C) Summarize the information reported in paragraph (4) of subdivision (f). This summary shall identify, by local educational agency and by year, the total amount of passthrough payments that each local educational agency received, was entitled to receive, subordinated, or that has not yet been paid, and the portion of these amounts that are considered to be property taxes for purposes of Sections 2558, 42238, and 84751 of the Education Code. The report shall identify, by agency, the amounts that have been deposited to the county Educational Revenue Augmentation Fund pursuant to subdivision (j).

(D) Summarize the statements of dispute. The Controller shall specify the status of these disputes, including whether the Controller or other state entity has provided instructions as to how these disputes should be resolved.

(E) Identify agencies that have outstanding passthrough payment liabilities to a local educational agency that exceed the amount of outstanding passthrough overpayments to the local educational agency.

(2) On or before February 1, 2009, and annually thereafter through 2015, the Controller shall submit a report to the State Department of Education and the Board of Governors of the California Community Colleges. The report shall identify, by local educational agency and by

year of receipt, the total amount of passthrough payments that the local educational agency received from redevelopment agencies listed in subparagraph (A) of paragraph (1).

(h) (1) On or before April 1, 2009, and annually thereafter until April 1, 2015, the State Department of Education shall do all of the following:

(A) Calculate for each school district for the 2003–04 to 2007–08, inclusive, fiscal years the difference between 43.3 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each school district's apportionment pursuant to paragraph (6) of subdivision (h) of Section 42238 of the Education Code.

(B) Calculate for each county superintendent of schools for the 2003–04 to 2007–08, inclusive, fiscal years the difference between 19 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount received pursuant to Sections 33607.5 and 33607.7 and subtracted from each county superintendent of schools apportionment pursuant to subdivision (c) of Section 2558 of the Education Code.

(C) Notify each school district and county superintendent of schools for which any amount calculated in subparagraph (A) or (B) is nonzero as to the reported change and its resulting impact on apportionments. After April 1, 2009, however, the department shall not notify a school district or county superintendent of schools if the amount calculated in subparagraph (A) or (B) is the same amount as the department calculated in the preceding year.

(2) On or before April 1, 2010, and annually thereafter until April 1, 2015, the State Department of Education shall do all of the following:

(A) Calculate for each school district for the 2008–09 fiscal year the difference between 43.3 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each school district's apportionment pursuant to paragraph (6) of subdivision (h) of Section 42238 of the Education Code.

(B) Calculate for each county superintendent of schools for the 2008–09 fiscal year the difference between 19 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount received pursuant to Sections 33607.5 and 33607.7 and subtracted from each county superintendent of schools apportionment pursuant to subdivision (c) of Section 2558 of the Education Code.

(C) Notify each school district and county superintendent of schools for which any amount calculated in subparagraph (A) or (B) is nonzero as to the reported change and its resulting impact on revenue limit apportionments. After April 1, 2010, however, the department shall not notify a school district or county superintendent of schools if the amount calculated in subparagraph (A) or (B) is the same amount as the department calculated in the preceding year.

(3) For the purposes of Article 3 (commencing with Section 41330) of Chapter 3 of Part 24 of Division 3 of the Education Code, the amounts reported to each school district and county superintendent of schools in the notification required pursuant to subparagraph (C) of paragraph (1) and subparagraph (C) of paragraph (2) shall be deemed to be apportionment significant audit exceptions and the date of receipt of that notification shall be deemed to be the date of receipt of the final audit report that includes those audit exceptions.

(4) On or before March 1, 2009, and annually thereafter until March 1, 2015, the Board of Governors of the California Community Colleges shall do all of the following:

(A) Calculate for each community college district for the 2003–04 to 2007–08, inclusive, fiscal years the difference between 47.5 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each district's total revenue owed pursuant to subdivision (d) of Section 84751 of the Education Code.

(B) Notify each community college district for which any amount calculated in subparagraph (A) is nonzero as to the reported change and its resulting impact on apportionments. After March 1, 2009, however, the board shall not notify a school district or county superintendent of schools if the amount calculated in subparagraph (A) is the same amount as the board calculated in the preceding year.

(5) On or before March 1, 2010, and annually thereafter until March 1, 2015, the Board of Governors of the California Community Colleges shall do all of the following:

(A) Calculate for each community college district for the 2003–04 to 2007–08, inclusive, fiscal years the difference between 47.5 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each district's total revenue owed pursuant to subdivision (d) of Section 84751 of the Education Code.

(B) Notify each community college district for which any amount calculated in subparagraph (A) is nonzero as to the reported change and its resulting impact on revenue apportionments. After March 1, 2010, however, the board shall not notify a community college district if the amount calculated in subparagraph (A) is the same amount as the board calculated in the preceding year.

(6) A community college district may submit documentation to the Board of Governors of the California Community Colleges showing that all or part of the amount reported to the district pursuant to subparagraph (B) of paragraph (4) and subparagraph (B) of paragraph (5) was previously reported to the California Community Colleges for the purpose of the revenue level calculations made pursuant to Section 84751 of the Education Code. Upon acceptance of the documentation, the board of

governors shall adjust the amounts calculated in paragraphs (4) and (5) accordingly.

(7) The Board of Governors of the California Community Colleges shall make corrections in any amounts allocated in any fiscal year to each community college district for which any amount calculated in paragraphs (4) and (5) is nonzero so as to account for the changes reported pursuant to paragraph (4) of subdivision (b) and paragraph (4) of subdivision (c). The board may make the corrections over a period of time, not to exceed five years.

(i) (1) After February 1, 2009, for an agency listed on the most recent Controller's report pursuant to subparagraph (B) or (E) of paragraph (1) of subdivision (g), all of the following shall apply:

(A) The agency shall be prohibited from adding new project areas or expanding existing project areas. For purposes of this paragraph, "project area" has the same meaning as in Sections 33320.1 to 33320.3, inclusive, and Section 33492.3.

(B) The agency shall be prohibited from issuing new bonds, notes, interim certificates, debentures, or other obligations, whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33640).

(C) The agency shall be prohibited from encumbering any funds or expending any moneys derived from any source, except that the agency may encumber funds and expend funds to pay, if any, all of the following:

(i) Bonds, notes, interim certificates, debentures, or other obligations issued by an agency before the imposition of the prohibition in subparagraph (B) whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33460) of this chapter.

(ii) Loans or moneys advanced to the agency, including, but not limited to, loans from federal, state, local agencies, or a private entity.

(iii) Contractual obligations that, if breached, could subject the agency to damages or other liabilities or remedies.

(iv) Obligations incurred pursuant to Section 33445.

(v) Indebtedness incurred pursuant to Section 33334.2 or 33334.6.

(vi) Obligations incurred pursuant to Section 33401.

(vii) An amount, to be expended for the monthly operation and administration of the agency, that may not exceed 75 percent of the average monthly amount spent for those purposes in the fiscal year preceding the fiscal year in which the agency was first listed on the Controller's report pursuant to subparagraph (B) or (E) of paragraph (1) of subdivision (g).

(2) After February 1, 2009, an agency identified in subparagraph (B) or (E) of paragraph (1) of subdivision (g) shall incur interest charges on any passthrough payment that is made to a local educational agency

more than 60 days after the close of the fiscal year in which the passthrough payment was required. Interest shall be charged at a rate equal to 150 percent of the current Pooled Money Investment Account earnings annual yield rate and shall be charged for the period beginning 60 days after the close of the fiscal year in which the passthrough payment was due through the date that the payment is made.

(3) The Controller, with the concurrence of the Director of Finance, may waive the provisions of paragraphs (1) and (2) for a period of up to 12 months if the Controller determines all of the following:

(A) The county auditor has identified the agency in its most recent report issued pursuant to paragraph (2) of subdivision (f) as an agency for which the auditor has issued a finding of concurrence for all reports required pursuant to subdivisions (b) and (c).

(B) The agency has filed a statement of dispute on an issue or issues that, in the opinion of the Controller, are likely to be resolved in a manner consistent with the agency's position.

(C) The agency has made passthrough payments to local educational agencies and the county Educational Revenue Augmentation Fund, or has had funds previously withheld by the auditor, in amounts that would satisfy the agency's passthrough payment requirements to local educational agencies if the issue or issues addressed in the statement of dispute were resolved in a manner consistent with the agency's position.

(D) The agency would sustain a fiscal hardship if it made passthrough payments to local educational agencies and the county Educational Revenue Augmentation Fund in the amounts estimated by the county auditor.

(j) Notwithstanding any other provision of law, if an agency report submitted pursuant to subdivision (b) or (c) indicates outstanding payment obligations to a local educational agency, the agency shall make these outstanding payments as follows:

(1) Of the outstanding payments owed to school districts, including any interest payments pursuant to paragraph (2) of subdivision (i), 43.3 percent shall be deposited in the county Educational Revenue Augmentation Fund and the remainder shall be allocated to the school district or districts.

(2) Of the outstanding payments owed to community college districts, including any interest payments pursuant to paragraph (2) of subdivision (i), 47.5 percent shall be deposited in the county Educational Revenue Augmentation Fund and the remainder shall be allocated to the community college district or districts.

(3) Of the outstanding payments owed to county offices of education, including any interest payments pursuant to paragraph (2) of subdivision (i), 19 percent shall be deposited in the county Educational Revenue

Augmentation Fund and the remainder shall be allocated to the county office of education.

(k) (1) This section shall not be construed to increase any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 of, or Article 4 (commencing with Section 98) of Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation Code had this section not been enacted.

(2) Notwithstanding any other provision of law, no funds deposited in the county Educational Revenue Augmentation Fund pursuant to subdivision (j) shall be distributed to a community college district.

(*l*) A county may require an agency to reimburse the county for any expenses incurred by the county in performing the services required by this section.

SEC. 53. Section 33685 is added to the Health and Safety Code, to read:

33685. (a) (1) For the 2008–09 fiscal year a redevelopment agency shall remit, as determined by the Director of Finance, prior to May 10, an amount equal to the amount determined for that agency pursuant to subparagraph (K) of paragraph (2) to the county auditor for deposit in the county Educational Revenue Augmentation Fund, created pursuant to Article 3 (commencing with Section 97) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code. Notwithstanding any other provision of law, in the 2008–09 fiscal year, no funds deposited in the county Educational Revenue Augmentation Fund pursuant to this section shall be distributed to a community college district.

(2) On or before November 15, 2008, the Director of Finance shall do all of the following:

(A) (i) Determine the value of five percent of the statewide total property tax revenue apportioned to agencies pursuant to Section 33670.

(ii) If the value determined pursuant to clause (i) exceeds three-hundred fifty million dollars ($350,000,000), the value determined in clause (i) shall be allocated to each agency as provided in paragraphs (B) to (J), inclusive.

(iii) If the value determined pursuant to clause (i) does not exceed three-hundred fifty million dollars ($350,000,000), three-hundred fifty million dollars ($350,000,000) shall be allocated to each agency as provided in subparagraphs (B) to (J), inclusive.

(B) Determine the net tax increment apportioned to each agency pursuant to Section 33670, excluding any amounts apportioned to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(C) Determine the net tax increment apportioned to all agencies pursuant to Section 33670, excluding any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(D) Determine a percentage factor by dividing the amount determined pursuant to subparagraph (A) by two and then by the amount determined pursuant to subparagraph (C).

(E) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (B) by the percentage factor determined pursuant to subparagraph (D).

(F) Determine the total amount of property tax revenue apportioned to each agency pursuant to Section 33670, including any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(G) Determine the total amount of property tax revenue apportioned to all agencies pursuant to Section 33670, including any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(H) Determine a percentage factor by dividing the amount determined pursuant to subparagraph (A) by two and then by the amount determined pursuant to subparagraph (G).

(I) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (F) by the percentage factor determined pursuant to subparagraph (H).

(J) Add the amount determined pursuant to subparagraph (E) to the amount determined pursuant to subparagraph (I).

(K) Notify each agency, each legislative body, and each county auditor of each agency's amount. The county auditor shall deposit these amounts in the county Educational Revenue Augmentation Fund pursuant to paragraph (1).

(3) The obligation of any agency to make the payments required pursuant to this subdivision shall be subordinate to the lien of any pledge of collateral securing, directly or indirectly, the payment of the principal, or interest on any bonds of the agency including, without limitation, bonds secured by a pledge of taxes allocated to the agency pursuant to Section 33670. Agencies shall factor in the fiscal obligations created by this subdivision when issuing bonded indebtedness.

(b) (1) Notwithstanding any other provision of law, to make the full allocation required by this section, an agency may borrow up to 50 percent of the amount required to be allocated to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6, unless, in a given fiscal year, executed contracts exist that would be impaired if the agency reduced the amount allocated to the

Low and Moderate Income Housing Fund pursuant to the authority of this subdivision.

(2) As a condition of borrowing pursuant to this subdivision, an agency shall make a finding that there are insufficient other moneys to meet the requirements of subdivision (a). Funds borrowed pursuant to this subdivision shall be repaid in full within 10 years following the date on which moneys are remitted to the county auditor for deposit in the county Educational Revenue Augmentation Fund pursuant to subdivision (a).

(c) To make the allocation required by this section, an agency may use any funds that are legally available and not legally obligated for other uses, including, but not limited to, reserve funds, proceeds of land sales, proceeds of bonds or other indebtedness, lease revenues, interest, and other earned income. No moneys held in a low- and moderate-income fund as of July 1 of the applicable fiscal year may be used for this purpose.

(d) The legislative body shall by March 1 of each year report to the county auditor as to how the agency intends to fund the allocation required by this section, or that the legislative body intends to remit the amount in lieu of the agency pursuant to Section 33687.

(e) The allocation obligations imposed by this section, including amounts owed, if any, created under this section, are hereby declared to be an indebtedness of the redevelopment project to which they relate, payable from taxes allocated to the agency pursuant to Section 33670, and shall constitute an indebtedness of the agency with respect to the redevelopment project until paid in full.

(f) It is the intent of the Legislature, in enacting this section, that these allocations directly or indirectly assist in the financing or refinancing, in whole or in part, of the community's redevelopment project pursuant to Section 16 of Article XVI of the California Constitution.

(g) In making the annual determinations required by subdivision (a), the Director of Finance shall use those amounts reported in "Table 7, Assessed Valuation, Tax Increment Distribution and Statement of Indebtedness" for all agencies and for each agency in the most recent published edition of the Controller's Community Redevelopment Agencies Annual Report made pursuant to Section 12463.3 of the Government Code.

(h) If revised reports have been accepted by the Controller on or before September 1 of the applicable fiscal year, the Director of Finance shall use appropriate data that has been certified by the Controller for the purpose of making the determinations required by subdivision (a).

(i) Nothing in this section shall be construed as extending the time limits on the ability of agencies to do any of the following:

(1) Establish loans, advances, or indebtedness.

(2) Receive tax increment revenues.

(3) Exercise eminent domain powers.

SEC. 54. Section 33686 is added to the Health and Safety Code, to read:

33686. (a) (1) For purposes of this section, "existing indebtedness" means one or more of the following obligations incurred by a redevelopment agency prior to the effective date of this section, the payment of which is to be made in whole or in part, directly or indirectly, out of taxes allocated to the agency pursuant to Section 33670, and that is required by law or provision of the existing indebtedness to be made during the fiscal year of the relevant allocation required by Section 33685:

(A) Bonds, notes, interim certificates, debentures, or other obligations issued by the agency whether funded, refunded, assumed, or otherwise pursuant to Article 5 (commencing with Section 33640).

(B) Loans or moneys advanced to the agency, including, but not limited to, loans from federal, state, or local agencies, or a private entity.

(C) A contractual obligation that, if breached, could subject the agency to damages or other liabilities or remedies.

(D) An obligation incurred pursuant to Section 33445.

(E) Indebtedness incurred pursuant to Section 33334.2.

(F) An amount, to be expended for the operation and administration of the agency, that may not exceed 90 percent of the amount spent for those purposes in the 2005–06 fiscal year.

(G) Obligations imposed by law with respect to activities that occurred prior to the effective date of the act that adds this section.

(2) Existing indebtedness incurred prior to the effective date of this section may be refinanced, refunded, or restructured after that date, and shall remain existing indebtedness for the purposes of this section if the annual debt service during that fiscal year does not increase over the prior fiscal year and the refinancing does not reduce the ability of the agency to make the payment required by subdivision (a) of Section 33685.

(3) For purposes of this section, indebtedness shall be deemed to be incurred prior to the effective date of this section if the agency has entered into a binding contract subject to normal marketing conditions or to deliver the indebtedness, or if the redevelopment agency has received bids for the sale of the indebtedness prior to that date and the indebtedness is issued for value and evidence thereof is delivered to the initial purchaser no later than 30 days after the date of the contract or sale.

(b) For the 2008–09 fiscal year, an agency that has adopted a resolution pursuant to subdivision (c) may allocate, pursuant to

subdivision (a) of Section 33685, to the auditor less than the amount required by subdivision (a) of Section 33685 if the agency finds that any of the following has occurred:

(1) That the difference between the amount allocated to the agency and the amount required by subdivision (a) of Section 33685 is necessary to make payments on existing indebtedness that are due or required to be committed, set aside, or reserved by the agency during the 2008–09 fiscal year and that are used by the agency for that purpose, and the agency has no other funds that can be used to pay this existing indebtedness and no other feasible method to reduce or avoid this indebtedness.

(2) The agency has no other funds to make the allocation required by subdivision (a) of Section 33685.

(c) (1) Any agency that intends to allocate, pursuant to subdivision (b), to the auditor less than the amount required by subdivision (a) of Section 33685 shall adopt, prior to December 31, 2008, after a noticed public hearing, a resolution that lists all of the following:

(A) Each existing indebtedness incurred prior to the effective date of this section.

(B) Each indebtedness on which a payment is required to be made during the applicable fiscal year.

(C) The amount of each payment, the time when it is required to be paid, and the total of the payments required to be made during the applicable fiscal year. For indebtedness that bears interest at a variable rate, or for short-term indebtedness that is maturing during the fiscal year and that is expected to be refinanced, the amount of payments during the fiscal year shall be estimated by the agency.

(2) The information contained in the resolution required by this subdivision shall be reviewed for accuracy by the chief fiscal officer of the agency.

(3) The legislative body shall additionally adopt the resolution required by this section.

(d) (1) Any agency that determines, pursuant to subdivision (b), that it will be unable in the 2008–09 fiscal year to allocate the full amount required by subdivision (a) of Section 33685 may enter into, subject to paragraph (3), an agreement with the legislative body by February 15, 2009, to fund the payment of the difference between the full amount required to be paid pursuant to subdivision (a) of Section 33685 and the amount available for allocation by the agency.

(2) The obligations imposed by paragraph (1) are hereby declared to be indebtedness incurred by the agency to finance a portion of a redevelopment project within the meaning of Section 16 of Article XVI of the California Constitution. This indebtedness shall be payable from

tax revenues apportioned to the agency pursuant to Section 33670, and any other funds received by the agency. The obligations imposed by paragraph (1) shall remain an indebtedness of the agency to the legislative body until paid in full, or until the agency and the legislative body otherwise agree.

(3) The agreement described in paragraph (1) shall be subject to those terms and conditions specified in a written agreement between the legislative body and the agency.

(e) If the agency fails to provide to the county auditor the full payment required under Section 33685, or fails to arrange for full payment to be provided on the agency's behalf pursuant to subdivision (d) or by Section 33687 or 33688, all of the following shall apply:

(1) The agency shall be prohibited from adding new project areas or expanding existing project areas. For purposes of this paragraph, "project area" has the same meaning as in Sections 33320.1 to 33320.3, inclusive, and Section 33492.3.

(2) The agency shall be prohibited from issuing new bonds, notes, interim certificates, debentures, or other obligations, whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33640) of this chapter.

(3) The agency shall be prohibited from encumbering any funds or expending any moneys derived from any source, except that the agency may encumber funds and expend funds to pay, if any, all of the following:

(A) Bonds, notes, interim certificates, debentures, or other obligations issued by an agency before the imposition of the prohibition in paragraph (2), whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33460) of this chapter.

(B) Loans or moneys advanced to the agency, including, but not limited to, loans from federal, state, local agencies, or a private entity.

(C) Contractual obligations that, if breached, could subject the agency to damages or other liabilities or remedies.

(D) Obligations incurred pursuant to Section 33445.

(E) Indebtedness incurred pursuant to Section 33334.2 or 33334.6.

(F) Obligations incurred pursuant to Section 33401.

(G) An amount, to be expended for the monthly operation and administration of the agency, that may not exceed 75 percent of the average monthly amount spent for those purposes in the fiscal year preceding the fiscal year in which the agency failed to make the payment required by subdivision (a) of Section 33685.

(f) The prohibitions identified in subdivision (e) shall be lifted once the county auditor certifies to the Director of Finance that the payment required by Section 33685 has been made by the agency, or that payment

has been made on the agency's behalf pursuant to this section or to Section 33687 or 33688.

SEC. 55. Section 33687 is added to the Health and Safety Code, to read:

33687. (a) In lieu of the remittance required by Section 33685, for the 2008–09 fiscal year, a legislative body may remit, prior to May 10, 2009, an amount equal to the amount determined for the agency pursuant to subparagraph (J) of paragraph (2) of subdivision (a) of Section 33685 to the county auditor for deposit in the county Educational Revenue Augmentation Fund, created pursuant to Article 3 (commencing with Section 97) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code. Notwithstanding any other provision of law, in the 2008–09 fiscal year, no funds deposited in the county Educational Revenue Augmentation Fund pursuant to this section shall be distributed to a community college district.

(b) The legislative body may make the remittance authorized by this section from any funds that are legally available for this purpose. No moneys held in an agency's Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6, shall be used for this purpose.

(c) If the legislative body, pursuant to subdivision (d) of Section 33685, reported to the county auditor that it intended to remit the amount in lieu of the agency and the legislative body fails to transmit the full amount as authorized by this section by May 10, 2009, the county auditor, no later than May 15, 2009, shall transfer an amount necessary to meet the obligation from the legislative body's allocations pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. If the amount of the legislative body's allocations are not sufficient to meet this obligation, the county auditor shall transfer an additional amount necessary to meet this obligation from the property tax increment revenue apportioned to the agency pursuant to Section 33670, provided that no moneys allocated to the agency's Low and Moderate Income Housing Fund shall be used for this purpose.

SEC. 56. Section 33688 is added to the Health and Safety Code, to read:

33688. (a) For purposes of this section, an "authorized issuer" is limited to a joint powers entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code that consists of no less than 100 local agencies issuing bonds pursuant to the Marks-Roos Local Bond Pooling Act of 1984 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code).

(b) An authorized issuer may issue bonds, notes, or other evidence of indebtedness to provide net proceeds to make one or more loans to one or more agencies to be used by the agency to timely make the payment required by Section 33684.

(c) With the prior approval of the legislative body by adoption of a resolution by a majority of that body that recites that a first lien on the property tax revenues allocated to the legislative body will be created in accordance with subdivision (h), an agency may enter into an agreement with an authorized issuer issuing bonds pursuant to subdivision (b) to repay a loan used to make the payment required by Section 33685. For the purpose of calculating the amount that has been divided and allocated to the agency to determine whether the limitation adopted pursuant to Section 33333.2 or 33333.4 or pursuant to an agreement or court order that has been reached, any funds used to repay a loan entered into pursuant to this section shall be deducted from the amount of property tax revenue deemed to have been received by the agency.

(d) A loan made pursuant to this section shall be repayable by the agency from any available funds of the agency not otherwise obligated for other uses and shall be repayable by the agency on a basis subordinate to all existing and future obligations of the agency.

(e) Upon making a loan to an agency pursuant to this section, the trustee for the bonds issued to provide the funds to make the loan shall timely pay, on behalf of the agency, to the county auditor of the county in which the agency is located the net proceeds (after payment of costs of issuance, credit enhancement costs, and reserves, if any) of the loan in payment in full or in part, as directed by the agency, of the amount required to be paid by the agency pursuant to Section 33685 and shall provide the county auditor with the repayment schedule for the loan, together with the name of the trustee.

(f) In the event the agency shall fail to repay timely, at any time and from time to time, the loan in accordance with the schedule provided to the county auditor, the trustee for the bonds shall promptly notify the county auditor of the amount of the payment on the loan that is past due.

(g) The county auditor shall reallocate from the legislative body and shall pay, on behalf of the agency, the past due amount from the first available proceeds of the property tax allocation that would otherwise be transferred to the legislative body pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. This transfer shall be deemed a reallocation of the property tax revenue from the legislative body to the agency for the purpose of payment of the loan, and not as a payment by the legislative body on the loan.

(h) To secure repayment of a loan to an agency made pursuant to this section, the trustee for the bonds issued to provide the funds to make the loan shall have a lien on the property tax revenues allocated to the legislative body pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. This lien shall arise by operation of this section automatically upon the making of the loan without the need for any action on the part of any person. This lien shall be valid, binding, perfected, and enforceable against the legislative body, its successors, creditors, purchasers, and all others asserting rights in those property tax revenues, irrespective of whether those persons have notice of the lien, irrespective of the fact that the property tax revenues subject to the lien may be commingled with other property, and without the need for physical delivery, recordation, public notice, or any other act. This lien shall be a first priority lien on these property tax revenues. This lien shall not apply to any portion of the property taxes allocated to the agency pursuant to Section 33670.

SEC. 57. Section 33689 is added to the Health and Safety Code, to read:

33689. For the purpose of calculating the amount that has been divided and allocated to the agency to determine whether the limitation adopted pursuant to Section 33333.2 or 33333.4 or pursuant to agreement or court order that has been reached, any payments made pursuant to subdivision (a) of Section 33685 with property tax revenues shall be deducted from the amount of property tax dollars deemed to have been received by the agency.

SEC. 58. Section 1060 of the Insurance Code is amended to read:

1060. The commissioner shall transmit all of the following to the Governor, the Legislature, and to the committees of the Senate and Assembly having jurisdiction over insurance in the annual report submitted pursuant to Section 12922:

(a) The names of the persons proceeded against under this article.

(b) Whether such persons have resumed business or have been liquidated or have been mutualized.

(c) Such other facts on the operations of the Conservation & Liquidation Office as will acquaint the Governor, the policyholders, creditors, shareholders and the public with his or her proceedings under this article, including, but not limited to:

(1) An itemization of the number of staff, total salaries of staff, a description of the compensation methodology, and an organizational flowchart.

(2) Annual operating goals and results.

(3) A summary of all Conservation and Liquidation Office costs, including an itemization of internal and external costs, and a description of the methodology used to allocate those costs among insurer estates.

(4) A list of all current insolvencies not closed within ten years of a court ordered liquidation, and a narrative explaining why each insolvency remains open.

(5) An accounting of total claims by estate.

(6) A list of current year and cumulative distributions by class of creditor for each estate.

(7) For each proceeding, the net value of the estate at the time of conservation or liquidation and the net value at the end of the preceding calendar year.

(d) Other facts on the operations of the individual estates as will acquaint the Governor, Legislature, policyholders, creditors, shareholders, and the public with his or her proceedings under this article, including, but not limited to:

(1) The annual operating goals and results.

(2) The status of the conservation and liquidation process.

(3) Financial statements, including current and cumulative distributions, comparing current calendar year to prior year.

SEC. 59. Section 62.5 of the Labor Code is amended to read:

62.5. (a) (1) The Workers' Compensation Administration Revolving Fund is hereby created as a special account in the State Treasury. Money in the fund may be expended by the department, upon appropriation by the Legislature, for all of the following purposes, and may not be used or borrowed for any other purpose:

(A) For the administration of the workers' compensation program set forth in this division and Division 4 (commencing with Section 3200), other than the activities financed pursuant to Section 3702.5.

(B) For the Return-to-Work Program set forth in Section 139.48.

(C) For the enforcement of the insurance coverage program established and maintained by the Labor Commissioner pursuant to Section 90.3.

(2) The fund shall consist of surcharges made pursuant to subdivision (e).

(b) (1) The Uninsured Employers Benefits Trust Fund is hereby created as a special trust fund account in the State Treasury, of which the director is trustee, and its sources of funds are as provided in subdivision (e). Notwithstanding Section 13340 of the Government Code, the fund is continuously appropriated for the payment of nonadministrative expenses of the workers' compensation program for workers injured while employed by uninsured employers in accordance with Article 2 (commencing with Section 3710) of Chapter 4 of Part 1 of Division 4, and shall not be used for any other purpose. All moneys

collected shall be retained in the trust fund until paid as benefits to workers injured while employed by uninsured employers. Nonadministrative expenses include audits and reports of services prepared pursuant to subdivision (b) of Section 3716.1. The surcharge amount for this fund shall be stated separately.

(2) Notwithstanding any other provision of law, all references to the Uninsured Employers Fund shall mean the Uninsured Employers Benefits Trust Fund.

(3) Notwithstanding paragraph (1), in the event that budgetary restrictions or impasse prevent the timely payment of administrative expenses from the Workers' Compensation Administration Revolving Fund, those expenses shall be advanced from the Uninsured Employers Benefits Trust Fund. Expense advances made pursuant to this paragraph shall be reimbursed in full to the Uninsured Employers Benefits Trust Fund upon enactment of the annual Budget Act.

(4) Any moneys from penalties collected pursuant to Section 3722 as a result of the insurance coverage program established under Section 90.3 shall be deposited in the State Treasury to the credit of the Workers' Compensation Administration Revolving Fund created under Section 62.5, to cover expenses incurred by the director under the insurance coverage program. The amount of any penalties in excess of payment of administrative expenses incurred by the director for the insurance coverage program established under Section 90.3 shall be deposited in the State Treasury to the credit of the Uninsured Employers Benefits Trust Fund for nonadministrative expenses, as prescribed in paragraph (1), and notwithstanding paragraph (1), shall only be available upon appropriation by the Legislature.

(c) (1) The Subsequent Injuries Benefits Trust Fund is hereby created as a special trust fund account in the State Treasury, of which the director is trustee, and its sources of funds are as provided in subdivision (e). Notwithstanding Section 13340 of the Government Code, the fund is continuously appropriated for the nonadministrative expenses of the workers' compensation program for workers who have suffered serious injury and who are suffering from previous and serious permanent disabilities or physical impairments, in accordance with Article 5 (commencing with Section 4751) of Chapter 2 of Part 2 of Division 4, and Section 4 of Article XIV of the California Constitution, and shall not be used for any other purpose. All moneys collected shall be retained in the trust fund until paid as benefits to workers who have suffered serious injury and who are suffering from previous and serious permanent disabilities or physical impairments. Nonadministrative expenses include audits and reports of services pursuant to subdivision (c) of Section 4755. The surcharge amount for this fund shall be stated separately.

(2) Notwithstanding any other provision of law, all references to the Subsequent Injuries Fund shall mean the Subsequent Injuries Benefits Trust Fund.

(3) Notwithstanding paragraph (1), in the event that budgetary restrictions or impasse prevent the timely payment of administrative expenses from the Workers' Compensation Administration Revolving Fund, those expenses shall be advanced from the Subsequent Injuries Benefits Trust Fund. Expense advances made pursuant to this paragraph shall be reimbursed in full to the Subsequent Injuries Benefits Trust Fund upon enactment of the annual Budget Act.

(d) The Occupational Safety and Health Fund is hereby created as a special account in the State Treasury. Moneys in the account may be expended by the department, upon appropriation by the Legislature, for support of the Division of Occupational Safety and Health, the Occupational Safety and Health Standards Board, and the Occupational Safety and Health Appeals Board, and the activities these entities perform as set forth in this division, and Division 5 (commencing with Section 6300).

(e) (1) Separate surcharges shall be levied by the director upon all employers, as defined in Section 3300, for purposes of deposit in the Workers' Compensation Administration Revolving Fund, the Uninsured Employers Benefits Trust Fund, the Subsequent Injuries Benefits Trust Fund, and the Occupational Safety and Health Fund. The total amount of the surcharges shall be allocated between self-insured employers and insured employers in proportion to payroll respectively paid in the most recent year for which payroll information is available. The director shall adopt reasonable regulations governing the manner of collection of the surcharges. The regulations shall require the surcharges to be paid by self-insurers to be expressed as a percentage of indemnity paid during the most recent year for which information is available, and the surcharges to be paid by insured employers to be expressed as a percentage of premium. In no event shall the surcharges paid by insured employers be considered a premium for computation of a gross premium tax or agents' commission. In no event shall the total amount of the surcharges paid by insured and self-insured employers exceed the amounts reasonably necessary to carry out the purposes of this section.

(2) The regulations adopted pursuant to paragraph (1) shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 60. Section 62.9 of the Labor Code is amended to read:

62.9. (a) (1) The director shall levy and collect assessments from employers in accordance with this section. The total amount of the

assessment collected shall be the amount determined by the director to be necessary to produce the revenue sufficient to fund the programs specified by Section 62.7, except that the amount assessed in any year for those purposes shall not exceed 50 percent of the amounts appropriated from the General Fund for the support of the occupational safety and health program for the 1993–94 fiscal year, adjusted for inflation. The director also shall include in the total assessment amount the department's costs for administering the assessment, including the collections process and the cost of reimbursing the Franchise Tax Board for its cost of collection activities pursuant to subdivision (c).

(2) The insured employers and private sector self-insured employers that, pursuant to subdivision (b), are subject to assessment shall be assessed, respectively, on the basis of their annual payroll subject to premium charges or their annual payroll that would be subject to premium charges if the employer were insured, as follows:

(A) An employer with a payroll of less than two hundred fifty thousand dollars ($250,000) shall be assessed one hundred dollars ($100).

(B) An employer with a payroll of two hundred fifty thousand dollars ($250,000) or more, but not more than five hundred thousand dollars ($500,000), shall be assessed two hundred dollars ($200).

(C) An employer with a payroll of more than five hundred thousand dollars ($500,000), but not more than seven hundred fifty thousand dollars ($750,000), shall be assessed four hundred dollars ($400).

(D) An employer with a payroll of more than seven hundred fifty thousand dollars ($750,000), but not more than one million dollars ($1,000,000), shall be assessed six hundred dollars ($600).

(E) An employer with a payroll of more than one million dollars ($1,000,000), but not more than one million five hundred thousand dollars ($1,500,000), shall be assessed eight hundred dollars ($800).

(F) An employer with a payroll of more than one million five hundred thousand dollars ($1,500,000), but not more than two million dollars ($2,000,000), shall be assessed one thousand dollars ($1,000).

(G) An employer with a payroll of more than two million dollars ($2,000,000), but not more than two million five hundred thousand dollars ($2,500,000), shall be assessed one thousand five hundred dollars ($1,500).

(H) An employer with a payroll of more than two million five hundred thousand dollars ($2,500,000), but not more than three million five hundred thousand dollars ($3,500,000), shall be assessed two thousand dollars ($2,000).

(I) An employer with a payroll of more than three million five hundred thousand dollars ($3,500,000), but not more than four million five

hundred thousand dollars ($4,500,000), shall be assessed two thousand five hundred dollars ($2,500).

(J) An employer with a payroll of more than four million five hundred thousand dollars ($4,500,000), but not more than five million five hundred thousand dollars ($5,500,000), shall be assessed three thousand dollars ($3,000).

(K) An employer with a payroll of more than five million five hundred thousand dollars ($5,500,000), but not more than seven million dollars ($7,000,000), shall be assessed three thousand five hundred dollars ($3,500).

(L) An employer with a payroll of more than seven million dollars ($7,000,000), but not more than twenty million dollars ($20,000,000), shall be assessed six thousand seven hundred dollars ($6,700).

(M) An employer with a payroll of more than twenty million dollars ($20,000,000) shall be assessed ten thousand dollars ($10,000).

(b) (1) In the manner as specified by this section, the director shall identify those insured employers having a workers' compensation experience modification rating of 1.25 or more, and private sector self-insured employers having an equivalent experience modification rating of 1.25 or more as determined pursuant to subdivision (e).

(2) The assessment required by this section shall be levied annually, on a calendar year basis, on those insured employers and private sector self-insured employers, as identified pursuant to paragraph (1), having the highest workers' compensation experience modification ratings or equivalent experience modification ratings, that the director determines to be required numerically to produce the total amount of the assessment to be collected pursuant to subdivision (a).

(c) The director shall collect the assessment from insured employers as follows:

(1) Upon the request of the director, the Department of Insurance shall direct the licensed rating organization designated as the department's statistical agent to provide to the director, for purposes of subdivision (b), a list of all insured employers having a workers' compensation experience rating modification of 1.25 or more, according to the organization's records at the time the list is requested, for policies commencing the year preceding the year in which the assessment is to be collected.

(2) The director shall determine the annual payroll of each insured employer subject to assessment from the payroll that was reported to the licensed rating organization identified in paragraph (1) for the most recent period for which one full year of payroll information is available for all insured employers.

(3) On or before September 1 of each year, the director shall determine each of the current insured employers subject to assessment, and the amount of the total assessment for which each insured employer is liable. The director immediately shall notify each insured employer, in a format chosen by the insurer, of the insured's obligation to submit payment of the assessment to the director within 30 days after the date the billing was mailed, and warn the insured of the penalties for failure to make timely and full payment as provided by this subdivision.

(4) The director shall identify any insured employers that, within 30 days after the mailing of the billing notice, fail to pay, or object to, their assessments. The director shall mail to each of these employers a notice of delinquency and a notice of the intention to assess penalties, advising that, if the assessment is not paid in full within 15 days after the mailing of the notices, the director will levy against the employer a penalty equal to 25 percent of the employer's assessment, and will refer the assessment and penalty to the Franchise Tax Board or another agency for collection. The notices required by this paragraph shall be sent by United States first-class mail.

(5) If an assessment is not paid by an insured employer within 15 days after the mailing of the notices required by paragraph (4), the director shall refer the delinquent assessment and the penalty to the Franchise Tax Board, or another agency, as deemed appropriate by the director, for collection pursuant to Section 19290.1 of the Revenue and Taxation Code.

(d) The director shall collect the assessment directly from private sector self-insured employers. The failure of any private sector self-insured employer to pay the assessment as billed constitutes grounds for the suspension or termination of the employer's certificate to self-insure.

(e) The director shall adopt regulations implementing this section that include provision for a method of determining experience modification ratings for private sector self-insured employers that is generally equivalent to the modification ratings that apply to insured employers and is weighted by both severity and frequency.

(f) The director shall determine whether the amount collected pursuant to any assessment exceeds expenditures, as described in subdivision (a), for the current year and shall credit the amount of any excess to any deficiency in the prior year's assessment or, if there is no deficiency, against the assessment for the subsequent year.

SEC. 61. Section 139.48 of the Labor Code is amended to read:

139.48. (a) (1) The administrative director shall establish the Return-to-Work Program in order to promote the early and sustained return to work of the employee following a work-related injury or illness.

(2) This section shall be implemented to the extent funds are available.

(b) Upon submission by eligible employers of documentation in accordance with regulations adopted pursuant to subdivision (h), the administrative director shall pay the workplace modification expense reimbursement allowed under this section.

(c) The administrative director shall reimburse an eligible employer for expenses incurred to make workplace modifications to accommodate the employee's return to modified or alternative work, as follows:

(1) The maximum reimbursement to an eligible employer for expenses to accommodate each temporarily disabled injured worker is one thousand two hundred fifty dollars ($1,250).

(2) The maximum reimbursement to an eligible employer for expenses to accommodate each permanently disabled worker who is a qualified injured worker is two thousand five hundred dollars ($2,500). If the employer received reimbursement under paragraph (1), the amount of the reimbursement under paragraph (1) and this paragraph shall not exceed two thousand five hundred dollars ($2,500).

(3) The modification expenses shall be incurred in order to allow a temporarily disabled worker to perform modified or alternative work within physician-imposed temporary work restrictions, or to allow a permanently disabled worker who is an injured worker to return to sustained modified or alternative employment with the employer within physician-imposed permanent work restrictions.

(4) Allowable expenses may include physical modifications to the worksite, equipment, devices, furniture, tools, or other necessary costs for accommodation of the employee's restrictions.

(d) This section shall not create a preference in employment for injured employees over noninjured employees. It shall be unlawful for an employer to discriminatorily terminate, lay off, demote, or otherwise displace an employee in order to return an industrially injured employee to employment for the purpose of obtaining the reimbursement set forth in subdivision (c).

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

(1) "Eligible employer" means any employer, except the state or an employer eligible to secure the payment of compensation pursuant to subdivision (c) of Section 3700, who employs 50 or fewer full-time employees on the date of injury.

(2) "Employee" means a worker who has suffered a work-related injury or illness on or after July 1, 2004.

(f) The administrative director shall adopt regulations to carry out this section. Regulations allocating budget funds that are insufficient to implement the workplace modification expense reimbursement provided for in this section shall include a prioritization schema.

(g) The Workers' Compensation Return-to-Work Fund is hereby created as a special fund in the State Treasury. The fund shall consist of all penalties collected pursuant to Section 5814.6 and transfers made by the administrative director from the Workers' Compensation Administration Revolving Fund established pursuant to Section 62.5. The fund shall be administered by the administrative director. Moneys in the fund may be expended by the administrative director, upon appropriation by the Legislature, only for purposes of implementing this section.

(h) This section shall be operative on July 1, 2004.

(i) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 62. Section 69.9 is added to the Military and Veterans Code, to read:

69.9. (a) On or before January 10, 2009, and on or before January 10 of each year thereafter, the department shall provide the fiscal committees of both houses of the Legislature with a fiscal estimate package containing the anticipated budget year costs of carrying out the current year's level of service as authorized by the Legislature for the state veterans homes.

(b) (1) The fiscal estimate package shall include, but not be limited to, the following information, which shall be provided for each veterans home:

(A) An annual resident census by level of care.

(B) An annual position summary by level of care and nonlevel of care.

(C) Operating and equipment expenses, including, but not limited to, the following:

(i) Cost adjustments specific to the adjustment in the number of residents by level of care.

(ii) Any staff adjustments, whether level of care or nonlevel of care.

(D) A fiscal display of any moneys budgeted by the department as revenues or recoveries to the General Fund.

(2) Each fiscal estimate package shall include, in addition to the information provided pursuant to paragraph (1), a description of the assumptions and methodologies used for calculating the resident level of care factors, all staffing costs, and operating and equipment expenses. Fiscal bridge charts shall be included that display the year-to-year changes in funding levels by funding source.

(3) The department may provide any additional information as deemed appropriate to provide a comprehensive fiscal perspective to the

Legislature for the analysis and deliberations for purposes of appropriation.

(c) On or before May 15, 2009, and on or before May 15 of each year thereafter, the department shall provide the fiscal committees of both houses of the Legislature with an updated fiscal estimate package that shall include, but is not limited to, an updated fiscal display of any moneys budgeted by the department as revenues or recoveries to the General Fund and updated fiscal bridge charts that display the year-to-year changes in funding levels by funding source.

SEC. 63. Section 25416 of the Public Resources Code is amended to read:

25416. (a) The State Energy Conservation Assistance Account is hereby created in the General Fund. Notwithstanding Section 13340 of the Government Code, the account is continuously appropriated to the commission without regard to fiscal year.

(b) The money in the account shall consist of all money authorized or required to be deposited in the account by the Legislature and all money received by the commission pursuant to Sections 25414 and 25415.

(c) The money in the account shall be disbursed by the Controller for the purposes of this chapter as authorized by the commission.

(d) The commission may contract and provide grants for services to be performed for eligible institutions. Services may include, but are not limited to, feasibility analysis, project design, field assistance, and operation and training. The amount expended for those services may not exceed 10 percent of the balance of the account as determined by the commission on July 1 of each year.

(e) The commission may make grants for innovative projects and programs. The amount expended for grants may not exceed 5 percent of the annual appropriation from the account.

(f) The commission may charge a fee for the services provided under subdivision (d).

(g) Notwithstanding any other provision of law, the Controller may use the State Energy Conservation Assistance Account for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

SEC. 64. Section 281 of the Public Utilities Code is amended to read:

281. Any revenues that are deposited in funds created pursuant to this chapter shall not be used by the state for any purpose other than as specified in this chapter. Notwithstanding any other provision of law, the Controller may use the funds created pursuant to this chapter for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

SEC. 65. Section 18535 of the Revenue and Taxation Code is amended to read:

18535. (a) In lieu of electing nonresident partners filing a return pursuant to Section 18501, the Franchise Tax Board may, pursuant to requirements and conditions set forth in forms and instructions, provide for the filing of a group return for one or more electing nonresident partners by a partnership doing business in, or deriving income from, sources in California. The tax rate or rates applicable to each electing partner's distributive share shall consist of the highest marginal rate or rates provided by Part 10 (commencing with Section 17001) plus, in the case of any electing nonresident partner included on the group return who would be subject to Section 17043 when filing individually, an additional tax rate of 1 percent. Except as provided in subdivision (b), no deductions shall be allowed except those necessary to determine each partner's distributive share, and no credits shall be allowed except those directly attributable to the partnership. As required by the Franchise Tax Board, the partnership as agent for the electing partners shall make the payments of tax, additions to tax, interest, and penalties otherwise required to be paid by the electing partners.

(b) Deductions provided by Chapter 5 (commencing with Section 17501) of Part 10, attributable to earned income of a partner derived from a partnership filing a group return on behalf of electing nonresident partners under subdivision (a), shall be allowed if the partner certifies, in the form and manner as the Franchise Tax Board may prescribe, that he or she has no earned income from any other source.

(c) This section shall also be applicable to a nonresident shareholder of a corporation which is treated as an "S" corporation under Chapter 4.5 (commencing with Section 23800) of Part 11. In that case, the provisions of subdivisions (a) and (b) are modified to refer to"shareholder or shareholders" in lieu of "partners" and to "S" corporation in lieu of "partnership."

(d) This section shall also be applicable to a nonresident individual with a membership or economic interest in a limited liability company, registered limited liability partnership, or foreign limited liability partnership, which is classified as a partnership for California tax purposes. In that case, the provisions of subdivisions (a) and (b) are modified to refer to "holders of a membership or economic interest" in lieu of "partners" and to "limited liability companies" in lieu of "partnerships," and "partnerships" shall include registered limited liability partnerships and foreign limited liability partnerships.

(e) The Franchise Tax Board may adjust the income of an electing nonresident taxpayer included in a group return filed under this section to properly reflect income under Part 10 (commencing with Section

17001), including Chapter 11 thereof (commencing with Section 17951), this part (commencing with Section 18401), and Part 11 (commencing with Section 23001), including Chapter 17 thereof (commencing with Section 25101).

SEC. 66. Section 18536 of the Revenue and Taxation Code is amended to read:

18536. (a) In lieu of electing nonresident directors filing a return pursuant to Section 18501, the Franchise Tax Board may, pursuant to requirements and conditions set forth in applicable forms and instructions, provide for the filing of a group return by a corporation for one or more electing nonresident individuals who receive wages, salaries, fees, or other compensation from that corporation for director services, including attendance of board of directors' meetings that take place in this state. The tax rate or rates applicable to each director's compensation for services performed in this state shall consist of highest marginal rate or rates provided for by Part 10 (commencing with Section 17001) of Division 2 plus, in the case of any electing nonresident director included on the group return who would be subject to Section 17043 when filing individually, an additional tax rate of 1 percent and no deductions or credits shall be allowed. As required by the Franchise Tax Board, the corporation, as the agent for the electing nonresident directors, shall make the payments of tax, additions to tax, interest, and penalties otherwise required to be paid by, or imposed on, the electing directors.

(b) The Franchise Tax Board may adjust the income of an electing nonresident taxpayer included in a group return filed under this section to properly reflect the income under Part 10 (commencing with Section 17001) of Division 2.

SEC. 67. Section 19011.5 is added to the Revenue and Taxation Code, to read:

19011.5. (a) All payments required by an individual under this part, regardless of the taxable year to which the payments apply, made on or after January 1, 2009, shall be electronically remitted to the Franchise Tax Board in the form and manner prescribed by the Franchise Tax Board, once any of the following conditions are met by an individual:

(1) Any installment payment of estimated tax made pursuant to this part in excess of twenty thousand dollars ($20,000), or any payment made pursuant to Section 18567 with regard to an extension of time to file that exceeds twenty thousand dollars ($20,000), for any taxable year beginning on or after January 1, 2009.

(2) The total tax liability exceeds eighty thousand dollars ($80,000) in any taxable year beginning on or after January 1, 2009. For purposes of this section, total tax liability shall be the total tax liability as shown

on the original return, after any adjustment made pursuant to Section 19051.

(b) A taxpayer required to electronically remit payment to the Franchise Tax Board pursuant to this section may elect to discontinue making payments electronically where the threshold requirements set forth in paragraphs (1) and (2) of subdivision (a) were not met for the preceding taxable year. The election shall be made in a form and manner prescribed by the Franchise Tax Board.

(c) Any taxpayer required to electronically remit payment pursuant to this section who makes payment by other means shall pay a penalty of 1 percent of the amount paid, unless it is shown that the failure to make payment as required was for reasonable cause and was not the result of willful neglect.

(d) Any taxpayer required to electronically remit payments pursuant to this section may request a waiver of those requirements from the Franchise Tax Board. The Franchise Tax Board may grant a waiver only if it determines that the particular amounts paid in excess of the threshold amounts established in this section were not representative of the taxpayer's tax liability. If the Franchise Tax Board grants a waiver to a taxpayer, the waiver shall be in writing, and subsequent electronic remittances shall be required only on those terms set forth in the written waiver.

(e) For purposes of this section, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to subdivision (a).

(f) For purposes of this section, both of the following shall apply:

(1) "Electronically remit" means to send payment through use of any of the electronic payment applications provided by the Franchise Tax Board, including, but not limited to, a pay by phone option, when made available by the Franchise Tax Board.

(2) "Pay by phone" means a method that allows a taxpayer to authorize a transfer of funds from a financial institution using telephonic technology.

SEC. 68. Section 19280 of the Revenue and Taxation Code is amended to read:

19280. (a) (1) Fines, state or local penalties, bail, 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).

SEC. 69. Section 19290.1 is added to the Revenue and Taxation Code, to read:

19290.1. (a) Except as otherwise provided by this section, Section 19290 shall apply to assessments and penalties that are referred to the Franchise Tax Board for collection pursuant to Section 62.9 of the Labor Code. These assessments and penalties shall be deemed for this purpose to be delinquent debts. The collection agreement described in Section 19290 may be amended to include these assessments and penalties, or a separate agreement may be entered into under that section to collect the assessments and penalties. All payments collected by the Franchise Tax Board pursuant to this section shall be deposited in the Cal-OSHA Targeted Inspection and Consultation Fund.

(b) In the event that an employer, against whom assessments and penalties as described in subdivision (a) have been levied, notifies the Franchise Tax Board that there is a disagreement as to the amount that is due and subject to collection, the Franchise Tax Board may refer the employer to the Department of Industrial Relations, return the account to the department, or rescind any collection action that may have been taken by the board.

(c) The Franchise Tax Board shall provide the Department of Industrial Relations with activity reports, no less frequently than on a quarterly basis, identifying the total amount referred for collection pursuant to Section 62.9 of the Labor Code, the amount collected from each employer, and the board's actual costs of collection. Upon appropriation by the Legislature, the board shall be reimbursed from the Cal-OSHA Targeted Inspection and Consultation Fund for its actual costs of collection.

(d) Notwithstanding any other provision of law, no interest shall be charged on any assessment or penalty as described in subdivision (a).

SEC. 72. Section 30131.4 of the Revenue and Taxation Code is amended to read:

30131.4. (a) All moneys raised pursuant to taxes imposed by Section 30131.2 shall be appropriated and expended only for the purposes expressed in the California Children and Families Act, and shall be used only to supplement existing levels of service and not to fund existing levels of service. No moneys in the California Children and Families Trust Fund shall be used to supplant state or local General Fund money for any purpose.

(b) Notwithstanding any other provision of law and the designation of the California Children and Families Trust Fund as a trust fund, the Controller may use the money raised pursuant to Section 30131.2 for the California Children and Families Trust Fund and all accounts created pursuant to subdivision (d) of Section 130105 of the Health and Safety Code for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. Any such loan shall be repaid from the General Fund with interest computed at 110 percent of the Pooled Money Investment Account rate, with the interest commencing to accrue on the date the loan is made from the fund or account. This subdivision does not authorize any transfer that will interfere with the carrying out of the object for which this fund or those accounts were created.

SEC. 73. Section 5891 of the Welfare and Institutions Code is amended to read:

5891. (a) The funding established pursuant to this act shall be utilized to expand mental health services. These funds shall not be used to supplant existing state or county funds utilized to provide mental health services. The state shall continue to provide financial support for mental health programs with not less than the same entitlements, amounts of allocations from the General Fund and formula distributions of dedicated funds as provided in the last fiscal year which ended prior to the effective date of this act. The state shall not make any change to the structure of financing mental health services, which increases a county's share of costs or financial risk for mental health services unless the state includes

adequate funding to fully compensate for such increased costs or financial risk. These funds shall only be used to pay for the programs authorized in Section 5892. These funds may not be used to pay for any other program. These funds may not be loaned to the state General Fund or any other fund of the state, or a county general fund or any other county fund for any purpose other than those authorized by Section 5892.

(b) Notwithstanding subdivision (a), the Controller may use the funds created pursuant to this part for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. Any such loan shall be repaid from the General Fund with interest computed at 110 percent of the Pooled Money Investment Account rate, with interest commencing to accrue on the date the loan is made from the fund. This subdivision does not authorize any transfer that would interfere with the carrying out of the object for which these funds were created.

SEC. 74. Section 6 of Chapter 213 of the Statutes of 2000, as amended by Section 52 of Chapter 228 of the Statutes of 2003, is amended to read:

Sec. 6. The following sums are hereby appropriated from the General Fund to be allocated according to the following schedule:

(a) (1) Five million dollars ($5,000,000) to CaliforniaVolunteers, on an annual basis, for the purpose of funding grants to local and state operated Americorps and Conservation Corps programs, up to 5 percent of which may be used for state level administration costs.

(2) This subdivision shall be inoperative from July 1, 2008, to June 30, 2010, inclusive.

(b) (1) Two million five hundred thousand dollars ($2,500,000) to CaliforniaVolunteers, on an annual basis, for the purpose of funding grants to local and state operated Americorps and Conservation Corps programs, up to 5 percent of which may be used for state level administration costs.

(2) This subdivision shall be inoperative after June 30, 2010.

(c) One million dollars ($1,000,000) to the Superintendent of Public Instruction for the purpose of developing or revising, as needed, a model curriculum on the life and work of Cesar Chavez and distributing that curriculum to each school.

SEC. 75. Notwithstanding any other provision of law, the Commission on State Mandates, upon final resolution of any pending litigation challenging the constitutionality of subdivision (f) of Section 17556 of the Government Code, shall reconsider its test claim statement of decision in CSM-4509 on the Sexually Violent Predator Program to determine whether Chapters 762 and 763 of the Statutes of 1995 and Chapter 4 of the Statutes of 1996 constitute a reimbursable mandate under Section 6 of Article XIII B of the California Constitution in light

of ballot measures approved by the state's voters, federal and state statutes enacted, and federal and state court decisions rendered since these statutes were enacted. The commission shall, if necessary, issue a statewide cost estimate and revise its parameters and guidelines in CSM-4509 to be consistent with this reconsideration and shall, if practicable, include a reasonable reimbursement methodology as defined in Section 17518.5 of the Government Code. If the parameters and guidelines are revised, the Controller shall revise the appropriate claiming instructions to be consistent with the revised parameters and guidelines. Any changes by the commission to the original statement of decision in CSM-4509 shall be deemed effective on July 1, 2009.

SEC. 76. Section 33 of this act, adding Section 13312 to the Government Code, shall only become operative if either a Senate Constitutional Amendment or an Assembly Constitutional Amendment of the 2007–08 Regular Session that amends Section 12 of Article IV and Section 20 of Article XVI of, and adds Section 21 to Article XVI of, the California Constitution, is submitted to, and approved by, the voters at a statewide election.

SEC. 77. The Legislature hereby finds and declares that the amendments made by this act to Section 76104.6 of the Government Code furthers the DNA Fingerprint, Unresolved Crime and Innocence Protection Act enacted by the approval of Proposition 69 at the November 3, 2004, general election, and is consistent with its purposes.

SEC. 78. The Legislature hereby finds and declares that the amendments made by Section 72 of this act to Section 30131.4 of the Revenue and Taxation Code furthers the California Children and Families First Act of 1998 enacted by the approval of Proposition 10 at the November 3, 1998, general election, and is consistent with its purposes.

SEC. 79. The Legislature hereby finds and declares that the amendments made by Section 73 of this act to Section 5891 of the Welfare and Institutions Code furthers the Mental Health Services Act enacted by the approval of Proposition 63 at the November 2, 2004, general election, and is consistent with its purposes.

SEC. 80. In addition to the appropriations described in Sections 22954, 22954.5, and 22955 of the Education Code, it is the intent of the Legislature to appropriate in the Budget Act of 2009 a total of up to three million dollars ($3,000,000) to augment state appropriations that were transferred to the Teachers' Retirement Fund pursuant to Sections 22954 and 22955 in prior fiscal years. It is the intent of the Legislature that an appropriation in the 2009–10 fiscal year will provide contributions to the system related to creditable compensation in the 2005–06 and 2006–07 fiscal years that was reported by the system to the Department of Finance prior to passage of this act, but which was not reported by

the system to the Department of Finance in a timely fashion after the end of those fiscal years, and that, accordingly, will not have resulted in a transfer from the General Fund to the Teachers' Retirement Fund prior to July 1, 2009.

SEC. 81. It is the intent of the Legislature that Sections 4 to 17, inclusive, and Section 80 of this act constitute a comprehensive package of modifications to appropriations for, and benefits of, the State Teachers' Retirement System. It is the intent of the Legislature that this comprehensive package of modifications provides members of the State Teachers' Retirement System with comparable new advantages for members of the system in accordance with the standard articulated in Allen v. Long Beach (1955) 45 Cal. 2d 128. Accordingly, the Legislature finds and declares that Sections 5, 6, 9, 10, 13, 14, 15, 16, and 80 of this act would not have been enacted except for their inclusion as part of this comprehensive package, and, therefore, it is the intent of the Legislature that these sections of the act not be interpreted as separable from one another.

SEC. 82. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 83. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 84. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make necessary statutory changes to implement the Budget Act of 2008 at the earliest possible time, it is necessary that this bill go into effect immediately.

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## CHAPTER 752

An act to amend Section 19280 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. 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. Unless the victim of the crime notifies the Department of Corrections and Rehabilitation to the contrary, the Department of Corrections and Rehabilitation may refer a restitution order to the Franchise Tax Board, in accordance with subparagraph (B) of paragraph (2), for any person subject to the restitution order who is or has been under the jurisdiction of the Department of Corrections and Rehabilitation.

(2) For purposes of this subdivision:

(A) The amounts referred by the superior court, the county, or state under this section may include an administrative fee and 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).

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## CHAPTER 753

An act to amend Section 515.5 of the Labor Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 515.5 of the Labor Code is amended to read:

515.5. (a) Except as provided in subdivision (b), an employee in the computer software field shall be exempt from the requirement that an overtime rate of compensation be paid pursuant to Section 510 if all of the following apply:

(1) The employee is primarily engaged in work that is intellectual or creative and that requires the exercise of discretion and independent judgment.

(2) The employee is primarily engaged in duties that consist of one or more of the following:

(A) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications.

(B) The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications.

(C) The documentation, testing, creation, or modification of computer programs related to the design of software or hardware for computer operating systems.

(3) The employee is highly skilled and is proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, or software engineering. A job title shall not be determinative of the applicability of this exemption.

(4) The employee's hourly rate of pay is not less than thirty-six dollars ($36.00) or, if the employee is paid on a salaried basis, the employee earns an annual salary of not less than seventy-five thousand dollars ($75,000) for full-time employment, which is paid at least once a month

and in a monthly amount of not less than six thousand two hundred fifty dollars ($6,250). The Division of Labor Statistics and Research shall adjust both the hourly pay rate and the salary level described in this paragraph on October 1 of each year to be effective on January 1 of the following year by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers.

(b) The exemption provided in subdivision (a) does not apply to an employee if any of the following apply:

(1) The employee is a trainee or employee in an entry-level position who is learning to become proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering.

(2) The employee is in a computer-related occupation but has not attained the level of skill and expertise necessary to work independently and without close supervision.

(3) The employee is engaged in the operation of computers or in the manufacture, repair, or maintenance of computer hardware and related equipment.

(4) The employee is an engineer, drafter, machinist, or other professional whose work is highly dependent upon or facilitated by the use of computers and computer software programs and who is skilled in computer-aided design software, including CAD/CAM, but who is not engaged in computer systems analysis, programming, or any other similarly skilled computer-related occupation.

(5) The employee is a writer engaged in writing material, including box labels, product descriptions, documentation, promotional material, setup and installation instructions, and other similar written information, either for print or for onscreen media or who writes or provides content material intended to be read by customers, subscribers, or visitors to computer-related media such as the World Wide Web or CD-ROMs.

(6) The employee is engaged in any of the activities set forth in subdivision (a) for the purpose of creating imagery for effects used in the motion picture, television, or theatrical industry.

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 meet the October 1, 2008, deadline for review and adjustment of salaries and pay rates by the Division of Labor Statistics

and Research for employees in the computer industry exempted from overtime compensation, it is necessary that this act take immediate effect.

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## CHAPTER 754

An act to amend Sections 12712, 12715, 12716, and 12718 of the Government Code, relating to gaming, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 12712 of the Government Code is amended to read:

12712. As used in this chapter:

(a) "County Tribal Casino Account" means an account consisting of all moneys paid by tribes of that county into the Indian Gaming Special Distribution Fund after deduction of the amounts appropriated pursuant to the priorities specified in Section 12012.85.

(b) "Individual Tribal Casino Accounts" means an account for each individual tribe that has paid money into the Indian Gaming Special Distribution Fund. The individual tribal casino account shall be funded in proportion to the amount that the individual tribe has paid into the Indian Gaming Special Distribution Fund.

(c) "Local government jurisdiction" or "local jurisdiction" means any city, county, or special district.

(d) "Special district" means any agency of the state that performs governmental or proprietary functions within limited boundaries. "Special district" includes a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone, district, or area that meets the requirements of this subdivision. "Special district" does not include a city, county, school district, or community college district.

SEC. 2. Section 12715 of the Government Code is amended to read:

12715. (a) The Controller, acting in consultation with the California Gambling Control Commission, shall divide the County Tribal Casino Account for each county that has gaming devices that are subject to an obligation to make contributions to the Indian Gaming Special Distribution Fund into a separate account for each tribe that operates a casino within the county. These accounts shall be known as Individual

Tribal Casino Accounts, and funds may be released from these accounts to make grants selected by an Indian Gaming Local Community Benefit Committee pursuant to the method established by this section to local jurisdictions impacted by tribal casinos. Each Individual Tribal Casino Account shall be funded in proportion to the amount that each individual tribe paid in the prior fiscal year to the Indian Gaming Special Distribution Fund.

(b) (1) There is hereby created in each county in which Indian gaming is conducted an Indian Gaming Local Community Benefit Committee. The selection of all grants from each Individual Tribal Casino Account or County Tribal Casino Account shall be made by each county's Indian Gaming Local Community Benefit Committee. In selecting grants, the Indian Gaming Local Community Benefit Committee shall follow the priorities established in subdivision (g) and the requirements specified in subdivision (h). This committee has the following additional responsibilities:

(A) Establishing all application policies and procedures for grants from the Individual Tribal Casino Account or County Tribal Casino Account.

(B) Assessing the eligibility of applications for grants from local jurisdictions impacted by tribal gaming operations.

(C) Determining the appropriate amount for reimbursement from the aggregate county tribal account of the demonstrated costs incurred by the county for administering the grant programs. The reimbursement for county administrative costs may not exceed 2 percent of the aggregate county tribal account in any given fiscal year.

(2) Except as provided in Section 12715.5, the Indian Gaming Local Community Benefit Committee shall be composed of seven representatives, consisting of the following:

(A) Two representatives from the county, selected by the county board of supervisors.

(B) Three elected representatives from cities located within four miles of a tribal casino in the county, selected by the county board of supervisors. In the event that there are no cities located within four miles of a tribal casino in the county, other local representatives may be selected upon mutual agreement by the county board of supervisors and a majority of the tribes paying into the Indian Gaming Special Distribution Fund in the county. When there are no cities within four miles of a tribal casino in the county, and when the Indian Gaming Local Community Benefit Committee acts on behalf of a county where no tribes pay into the Indian Gaming Special Distribution Fund, other local representatives may be selected upon mutual agreement by the county board of supervisors and a majority of the tribes operating casinos in the

county. However, if only one city is within four miles of a tribal casino and that same casino is located entirely within the unincorporated area of that particular county, only one elected representative from that city shall be included on the Indian Gaming Local Community Benefit Committee.

(C) Two representatives selected upon the recommendation of a majority of the tribes paying into the Indian Gaming Special Distribution Fund in each county. When an Indian Gaming Local Community Benefit Committee acts on behalf of a county where no tribes pay into the Indian Gaming Special Distribution Fund, the two representatives may be selected upon the recommendation of the tribes operating casinos in the county.

(c) Sixty percent of each individual tribal casino account shall be available for nexus grants on a yearly basis to cities and counties impacted by tribes that are paying into the Indian Gaming Special Distribution Fund, according to the four-part nexus test described in paragraph (1). Grant awards shall be selected by each county's Indian Gaming Local Community Benefit Committee and shall be administered by the county. Grants may be awarded on a multiyear basis, and these multiyear grants shall be accounted for in the grant process for each year.

(1) A nexus test based on the geographical proximity of a local government jurisdiction to an individual Indian land upon which a tribal casino is located shall be used by each county's Indian Gaming Local Community Benefit Committee to determine the relative priority for grants, using the following criteria:

(A) Whether the local government jurisdiction borders the Indian lands on all sides.

(B) Whether the local government jurisdiction partially borders Indian lands.

(C) Whether the local government jurisdiction maintains a highway, road, or other thoroughfare that is the predominant access route to a casino that is located within four miles.

(D) Whether all or a portion of the local government jurisdiction is located within four miles of a casino.

(2) Fifty percent of the amount specified in subdivision (c) shall be awarded in equal proportions to local government jurisdictions that meet all four of the nexus test criteria in paragraph (1). If no eligible local government jurisdiction satisfies this requirement, the amount specified in this paragraph shall be made available for nexus grants in equal proportions to local government jurisdictions meeting the requirements of paragraph (3) or (4).

(3) Thirty percent of the amount specified in subdivision (c) shall be awarded in equal proportions to local government jurisdictions that meet three of the nexus test criteria in paragraph (1). If no eligible local government jurisdiction satisfies this requirement, the amount specified in this paragraph shall be made available for nexus grants in equal proportions to local government jurisdictions meeting the requirements of paragraph (2) or (4).

(4) Twenty percent of the amount specified in subdivision (c) shall be awarded in equal proportions to local government jurisdictions that meet two of the nexus test criteria in paragraph (1). If no eligible local government jurisdiction satisfies this requirement, the amount specified in this paragraph shall be made available for nexus grants in equal proportions to local government jurisdictions meeting the requirements of paragraph (2) or (3).

(d) Twenty percent of each Individual Tribal Casino Account shall be available for discretionary grants to local jurisdictions impacted by tribes that are paying into the Indian Gaming Special Distribution Fund. These discretionary grants shall be made available to all local jurisdictions in the county irrespective of any nexus to impacts from any particular tribal casino, as described in paragraph (1) of subdivision (c). Grant awards shall be selected by each county's Indian Gaming Local Community Benefit Committee and shall be administered by the county. Grants may be awarded on a multiyear basis, and these multiyear grants shall be accounted for in the grant process for each year.

(e) (1) Twenty percent of each Individual Tribal Casino Account shall be available for discretionary grants to local jurisdictions impacted by tribes that are not paying into the Indian Gaming Special Distribution Fund. These grants shall be made available to local jurisdictions in the county irrespective of any nexus to impacts from any particular tribal casino, as described in paragraph (1) of subdivision (c), and irrespective of whether the impacts presented are from a tribal casino that is not paying into the Indian Gaming Special Distribution Fund. Grant awards shall be selected by each county's Indian Gaming Local Community Benefit Committee and shall be administered by the county. Grants may be awarded on a multiyear basis, and these multiyear grants shall be accounted for in the grant process for each year.

(A) Grants awarded pursuant to this subdivision are limited to addressing service-oriented impacts and providing assistance with one-time large capital projects related to Indian gaming impacts.

(B) Grants shall be subject to the sole sponsorship of the tribe that pays into the Indian Gaming Special Distribution Fund and the recommendations of the Indian Gaming Local Community Benefit Committee for that county.

(2) If an eligible county does not have a tribal casino operated by a tribe that does not pay into the Indian Gaming Special Distribution Fund, the money available for discretionary grants under this subdivision shall be available for distribution pursuant to subdivision (d).

(f) (1) For each county that does not have gaming devices subject to an obligation to make payments to the Indian Gaming Special Distribution Fund, funds may be released from the county's County Tribal Casino Account to make grants selected by the county's Indian Gaming Local Community Benefit Committee pursuant to the method established by this section to local jurisdictions impacted by tribal casinos. These grants shall be made available to local jurisdictions in the county irrespective of any nexus to any particular tribal casino. These grants shall follow the priorities specified in subdivision (g) and the requirements specified in subdivision (h).

(2) Funds not allocated from a county tribal casino account by the end of each fiscal year shall revert back to the Indian Gaming Special Distribution Fund. Moneys allocated for the 2003–04 fiscal year shall be eligible for expenditure through December 31, 2004.

(g) The following uses shall be the priorities for the receipt of grant money from Individual Tribal Casino Accounts: law enforcement, fire services, emergency medical services, environmental impacts, water supplies, waste disposal, behavioral, health, planning and adjacent land uses, public health, roads, recreation and youth programs, and child care programs.

(h) In selecting grants pursuant to subdivision (b), an Indian Gaming Local Community Benefit Committee shall select only grant applications that mitigate impacts from casinos on local jurisdictions. If a local jurisdiction uses a grant selected pursuant to subdivision (b) for any unrelated purpose, the grant shall terminate immediately and any moneys not yet spent shall revert to the Indian Gaming Special Distribution Fund. If a local jurisdiction approves an expenditure that mitigates an impact from a casino on a local jurisdiction and that also provides other benefits to the local jurisdiction, the grant selected pursuant to subdivision (b) shall be used to finance only the proportionate share of the expenditure that mitigates the impact from the casino.

(i) All grants from Individual Tribal Casino Accounts shall be made only upon the affirmative sponsorship of the tribe paying into the Indian Gaming Special Distribution Fund from whose Individual Tribal Casino Account the grant moneys are available for distribution. Tribal sponsorship shall confirm that the grant application has a reasonable relationship to a casino impact and satisfies at least one of the priorities listed in subdivision (g). A grant may not be made for any purpose that would support or fund, directly or indirectly, any effort related to the

opposition or challenge to Indian gaming in the state, and, to the extent any awarded grant is utilized for any prohibited purpose by any local government, upon notice given to the county by any tribe from whose Individual Tribal Casino Account the awarded grant went toward that prohibited use, the grant shall terminate immediately and any moneys not yet used shall again be made available for qualified nexus grants.

(j) A local government jurisdiction that is a recipient of a grant from an Individual County Tribal Casino Account or a County Tribal Casino Account shall provide notice to the public, either through a slogan, signage, or other mechanism, stating that the local government project has received funding from the Indian Gaming Special Distribution Fund and further identifying the particular Individual Tribal Casino Account from which the grant derives.

(k) (1) Each county's Indian Gaming Local Community Benefit Committee shall submit to the Controller a list of approved projects for funding from Individual Tribal Casino Accounts. Upon receipt of this list, the Controller shall release the funds directly to the local government entities for which a grant has been approved by the committee.

(2) Funds not allocated from an Individual Tribal Casino Account by the end of each fiscal year shall revert back to the Indian Gaming Special Distribution Fund. Moneys allocated for the 2003–04 fiscal year shall be eligible for expenditure through December 31, 2004.

(*l*) Notwithstanding any other law, a local government jurisdiction that receives a grant from an Individual Tribal Casino Account shall deposit all funds received in an interest-bearing account and use the interest from those funds only for the purpose of mitigating an impact from a casino. If any portion of the funds in the account are used for any other purpose, the remaining portion shall revert to the Indian Gaming Special Distribution Fund. As a condition of receiving further funds under this section, a local government jurisdiction, upon request of the county, shall demonstrate to the county that all expenditures made from the account have been in compliance with the requirements of this section.

SEC. 3. Section 12716 of the Government Code is amended to read:

12716. (a) Each county that administers grants from the Indian Gaming Special Distribution Fund shall provide an annual report to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the Senate and Assembly committees on governmental organization, and the California Gambling Control Commission by October 1 of each year detailing the specific projects funded by all grants in the county's jurisdiction in the previous fiscal year, including amounts expended in that fiscal year, but funded from appropriations in prior fiscal years. The report shall provide detailed information on the following:

(1) The amount of grant funds received by the county.

(2) A description of each project that is funded.

(3) A description of how each project mitigates the impact of tribal gaming.

(4) The total expenditures for each project.

(5) All administrative costs related to each project, excluding the county's administrative fee.

(6) The funds remaining at the end of the fiscal year for each project.

(7) An explanation regarding how any remaining funds will be spent for each project, including the estimated time for expenditure.

(8) A description of whether each project is funded once or on a continuing basis.

(b) A county that does not provide an annual report pursuant to subdivision (a) shall not be eligible for funding from the Indian Gaming Special Distribution Fund for the following year.

SEC. 4. Section 12718 of the Government Code is amended to read:

12718. This chapter shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2010, deletes or extends that date.

SEC. 5. There is hereby appropriated the sum of thirty million dollars ($30,000,000) from the Indian Gaming Special Distribution Fund to the California Gambling Control Commission to provide grants to local agencies pursuant to Section 12715 of the Government Code.

SEC. 6. Notwithstanding any other law, the moneys appropriated pursuant to Section 5 may be utilized by the counties for expenditures made in the 2007–08 and 2008–09 fiscal years.

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 reimburse local agencies for expenditures already made in the 2007–08 and 2008–09 fiscal years, it is necessary that this act take effect immediately.

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## CHAPTER 755

An act to amend Section 14175 of the Penal Code, relating to crime prevention, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 14175 of the Penal Code is amended to read:

14175. This title shall become inoperative on July 1, 2012, and is repealed as of January 1, 2013, unless a later enacted statute, which is enacted before January 1, 2013, deletes or extends that date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid a lapse in the Central Valley Rural Crime Prevention Program, it is necessary that this act take effect immediately.

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## CHAPTER 756

An act to amend Sections 8879.55, 8879.56, 14556.7, 14556.75, 14556.8, and 16965 of, to add Articles 2.5 (commencing with Section 8879.52) and 11 (commencing with Section 8879.66) to Chapter 12.491 of Division 1 of Title 2 of, and to add and repeal Section 14556.85 of, the Government Code, to amend Section 99312 of the Public Utilities Code, to amend Sections 7102, 7103, 7104, and 7104.2 of the Revenue and Taxation Code, to amend Sections 182.6 and 182.7 of, and to add Article 3.7 (commencing with Section 157) to Chapter 1 of Division 1 of, the Streets and Highways Code, and to amend Sections 1678, 9250.13, and 9553.5 of, to amend, repeal, and add Sections 9554 and 9554.5 of, and to add Section 9553.7 to, the Vehicle Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Article 2.5 (commencing with Section 8879.52) is added to Chapter 12.491 of Division 1 of Title 2 of the Government Code, to read:

### Article 2.5. Trade Corridors Improvement Fund

8879.52. (a) The commission shall evaluate, consistent with the commission's Trade Corridors Improvement Fund (TCIF) Guidelines,

adopted November 27, 2007, as part of the 2010 TCIF review, the total potential costs and total potential economic and noneconomic benefits of the program to California's economy, environment, and public health. The commission shall consult with the State Air Resources Board in order to utilize the appropriate models, techniques, and methods to develop the evaluation required by this subdivision.

(b) With respect to the two billion dollars ($2,000,000,000) appropriated from the TCIF, as described in paragraph (1) of subdivision (c) of Section 8879.23, and the five hundred million dollars ($500,000,000) to be made available from the State Highway Account, the following programming schedule shall apply:

(1) The Los Angeles/Inland Empire Corridor shall receive a minimum of one billion five hundred million dollars ($1,500,000,000).

(2) The San Diego/International Border Corridor shall receive a minimum of two hundred fifty million dollars ($250,000,000).

(3) The San Francisco Bay/Central Valley Corridor shall receive a minimum of six hundred forty million dollars ($640,000,000).

(4) Other corridors, as determined by the commission, shall receive a minimum of sixty million dollars ($60,000,000).

(c) The corridors referenced in subdivision (b) shall receive the minimum amount of funding programmed for that corridor notwithstanding the deprogramming of any project or projects in that corridor by the commission. If a project is or projects are deprogrammed, the commission shall collaborate with the local transportation agencies in that corridor to select another project or projects for programming of those funds within the minimum amount provided to each corridor pursuant to subdivision (b).

(d) If the Colton Crossing project programmed in the commission's TCIF Program as of April 10, 2008, does not meet the requirements or delivery schedule contained in its project baseline agreement when reviewed by the commission no later than March 2010, the project shall be ineligible to receive an allocation from the TCIF. The ninety-seven million dollars ($97,000,000) associated with the project shall then be available for programming in the Los Angeles/Inland Empire Corridor. In that event, the commission shall collaborate with the local transportation agencies in that corridor to select another project or projects for programming of those funds, and, in making that selection, shall take into consideration the Los Angeles/Inland Empire Corridor Tier One or Tier Two Project Lists and any other project identified by the local agencies. Projects currently receiving TCIF funding shall not be considered for selection.

(e) On or before February 18, 2009, the department shall report to the policy committees of each house of the Legislature with jurisdiction

over transportation matters, a summary of any memorandum of understanding or any other agreement executed between a railroad company and any state or local transportation agency as it relates to any project funded with moneys allocated from the TCIF.

SEC. 2. Section 8879.55 of the Government Code is amended to read:

8879.55. For funds appropriated for fiscal year 2008–09 in the Budget Act of 2008 from the Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) established pursuant to paragraph (1) of subdivision (f) of Section 8879.23, the following shall apply:

(a) (1) Upon appropriation of funds from PTMISEA, the Controller shall identify and develop a list of eligible project sponsors, as defined in paragraph (2) of subdivision (h), and the amount each is eligible to receive pursuant to the formula in paragraph (3) of subdivision (f) of Section 8879.23. It is the intent of the Legislature that funds allocated to project sponsors pursuant to this section provide each project sponsor with the same proportional share of funds as the proportional share each received from the allocation of State Transit Assistance funds, pursuant to Sections 99313 and 99314 of the Public Utilities Code, over fiscal years 2004–05, 2005–06, and 2006–07.

(2) In establishing the amount of funding each project sponsor is eligible to receive from funds to be allocated based on Section 99313 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each project sponsor, compute the amounts of State Transit Assistance funds allocated to that entity pursuant to Section 99313 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99313 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each project sponsor, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount appropriated for allocation from PTMISEA.

(3) In establishing the amount of funding each project sponsor is eligible to receive from funds to be allocated based on Section 99314 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each project sponsor, compute the amounts of State Transit Assistance funds allocated to that entity pursuant to Section 99314 of

the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99314 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each project sponsor, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount appropriated for allocation from PTMISEA.

(4) The Controller shall notify project sponsors of the amount of funding each is eligible to receive from PTMISEA for the 2008–09 fiscal year based on the computations pursuant to subparagraph (D) of paragraph (2) and subparagraph (D) of paragraph (3).

(b) Prior to seeking a disbursement of funds for an eligible PTMISEA capital project, a project sponsor on the list developed pursuant to paragraph (1) of subdivision (a) shall submit to the department a description of the proposed capital project or projects it intends to fund with PTMISEA funds for fiscal year 2008–09. The description shall include all of the following:

(1) A summary of the proposed project, which shall describe the benefit the project intends to achieve.

(2) The useful life of the project, which shall not be less than the required useful life for capital assets pursuant to the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2), specifically subdivision (a) of Section 16727.

(3) The estimated schedule for the completion of the project.

(4) The total cost of the proposed project, including the identification of all funding sources necessary for the project to be completed.

(c) After receiving the information required to be submitted under subdivision (b), the department shall review the information solely to determine all of the following:

(1) The project is consistent with the requirements for funding under paragraph (1) of subdivision (f) of Section 8879.23.

(2) The project is a capital improvement that meets the requirements of the state's general obligation bond law and has a useful life consistent with paragraph (2) of subdivision (b).

(3) The project, or a minimum operable segment of the project, is, or will become, fully funded with an allocation of funds from the PTMISEA, and the funds can be encumbered within three years of the allocation based on the department's review of the project's phase or schedule for completion, as submitted by the project sponsor.

(d) (1) Upon conducting the review required in subdivision (c) and determining the proposed projects to be in compliance with the requirements of that subdivision, the department shall biannually adopt a list of projects eligible for an allocation from the funds appropriated to the account in fiscal year 2008–09.

(2) Upon adoption of the list by the department, the department shall provide the list of projects eligible for funding to the Controller.

(e) Upon receipt of the information required in subdivision (d), the Controller's office shall commence any necessary actions to allocate funds to the project sponsors on the list of projects, including, but not limited to, seeking the issuance of bonds for that purpose. The total allocations to any one project sponsor shall not exceed that project sponsor's share of funds from the PTMISEA pursuant to the formula contained in subdivision (a).

(f) The audit of public transportation operator finances already required under the Transportation Development Act pursuant to Section 99245 of the Public Utilities Code shall be expanded to include verification of receipt and appropriate expenditure of bond funds pursuant to this section. Each sponsoring entity receiving bond funds from this account in a fiscal year for which an audit is conducted shall transmit a copy of the audit to the department, and the department shall make the audits available to the Legislature and the Controller for review on request.

(g) The commission shall include in its annual report to the Legislature, required by Section 14535, a summary of the state agencies' activities related to the administration of funds from the account, including the administration of funds made available to the department for intercity rail improvements pursuant to paragraph (2) of subdivision (f) of Section 8879.23. The summary, at a minimum, shall include a description and the location of the projects funded from the account, the amount of funds allocated to each project, the status of each project, a description of the public benefit expected from each project, and a designation of any projects that have been subject to an audit under subdivision (f). The department and project sponsors shall provide the commission with necessary information for the preparation of the summary required under this subdivision.

(h) For purposes of this section, the following terms shall have the following meanings:

(1) "Project" means a capital improvement authorized under paragraph (1) of subdivision (f) of Section 8879.23 or a transit capital project, including a bus, rail or waterborne transit capital project, or minimum operable segment thereof, that is consistent with the project sponsor's most recently adopted short-range transit plan, or other publicly-adopted

plan that programs or prioritizes the expenditure of funds for transit capital improvements.

(2) "Project sponsor" means a transit operator, including a rail transit, commuter rail, bus, or waterborne transit operator, eligible to receive an allocation of funds under the State Transit Assistance program pursuant to Sections 99314 and 99314.3 of the Public Utilities Code, or a local agency, including a transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, eligible to receive an allocation of funds under the State Transit Assistance program pursuant to Section 99313 of the Public Utilities Code.

(i) A project sponsor that is identified to receive an allocation of funds under this section, but that does not submit a project for funding in the 2008–09 fiscal year, may utilize its funding share in a subsequent fiscal year.

SEC. 3. Section 8879.56 of the Government Code is amended to read:

8879.56. This article shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Article 11 (commencing with Section 8879.66) is added to Chapter 12.491 of Division 1 of Title 2 of the Government Code, to read:

Article 11. State-Local Partnership Program

8879.66. (a) It is the intent of the Legislature, pursuant to subdivision (g) of Section 8879.23, to establish criteria and conditions for use of the funds in the State-Local Partnership Program Account in the Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006. These criteria and conditions shall include, but need not be limited to, eligibility of applicants, eligibility of projects, timely use of funds, and relationship of funds in the account to other funds for transportation purposes.

(b) The purpose of the State-Local Partnership Program is to do both of the following:

(1) Reward "self-help" counties, cities, districts, and regional transportation agencies in which voters have approved fees or taxes solely dedicated to transportation improvements.

(2) Provide funds for a wide variety of capital projects that are typically funded in local or regional voter-approved expenditure plans and that provide mobility, accessibility, system connectivity, safety, or air quality benefits.

(c) It is further the intent of the Legislature that all funds available in the account, pursuant to subdivision (g) of Section 8879.23, shall be made available for allocation by the commission over a period of five years.

8879.67. For purposes of this article, the following definitions shall apply:

(a) "Program" means the State-Local Partnership Program established in this article and funded pursuant to subdivision (g) of Section 8879.23.

(b) "Uniform developer fees" means developer fees imposed pursuant to existing statutory authority, including, but not limited to, Chapter 5 (commencing with Section 66000) of Division 1 of Title 7 and Article 5 (commencing with Section 66483) of Chapter 4 of Division 2 of Title 7. The developer fees must be imposed by a local ordinance or resolution adopted by a city, county, or city and county and must be dedicated to transportation purposes to address cumulative transportation impacts. The developer fees must be uniformly applied to new development within a defined area or jurisdiction, except in cases in which fees are waived, such as for affordable housing development. Developer fees imposed to mitigate onsite impacts related to a specific development project do not qualify as uniform developer fees under this subdivision.

8879.68. An eligible applicant under the program shall be a local or regional transportation agency that has responsibility for funding, procuring, or constructing transportation improvements within its jurisdiction, and that does either of the following:

(a) Has sought and received voter approval for the imposition of taxes or fees solely dedicated to transportation improvements and administers those taxes or fees.

(b) Has imposed uniform developer fees.

8879.69. Eligible local matching funds required to obtain funding under the program shall be obtained from revenues from any voter-approved local or regional tax or fee solely dedicated to transportation improvements, or from uniform developer fees. Tax or fee, for purposes of this section, means a countywide or citywide sales tax, a property or parcel tax in a county or counties or district, and voter-approved bridge tolls or voter-approved fees dedicated to specific transportation improvements.

8879.70. (a) Eligible projects shall include all of the following:

(1) Improvements to the state highway system, including, but not limited to, all of the following:

(A) Major rehabilitation of an existing segment that extends the useful life of the segment by at least 15 years.

(B) New construction to increase capacity of a highway segment that improves mobility or reduces congestion on that segment.

(C) Safety or operational improvements on a highway segment that are intended to reduce accidents and fatalities or improve traffic flow on that segment.

(2) Improvements to transit facilities, including guideways, that expand transit services, increase transit ridership, improve transit safety, enhance access or convenience of the traveling public, or otherwise provide or facilitate a viable alternative to driving.

(3) The acquisition, retrofit, or rehabilitation of rolling stock, buses, or other transit equipment, including, but not limited to, maintenance facilities, transit stations, transit guideways, passenger shelters, and fare collection equipment with a useful life of at least 10 years. The acquisition of vans, buses, and other equipment necessary for the provision of transit services for seniors and people with disabilities by transit and other local agencies is an eligible project under this paragraph.

(4) Improvements to the local road system, including, but not limited to, both of the following:

(A) Major roadway rehabilitation, resurfacing, or reconstruction that extends its useful life by at least 15 years.

(B) New construction and facilities to increase capacity, improve mobility, or enhance safety.

(5) Improvements to bicycle or pedestrian safety or mobility with a useful life of at least 15 years.

(6) Improvements to mitigate the environmental impacts of new transportation infrastructure on a locality's or region's air quality or water quality, commonly known as "urban runoff," including, but not limited to, the installation of catch basin screens, filters, and inserts, or other best management practices for capturing or treating urban runoff.

(b) For purposes of the program, a separate phase or stage of construction for an eligible project may include mitigation of the project's environmental impacts, including, but not limited to, soundwalls, landscaping, wetlands or habitat restoration or creation, replacement plantings, and drainage facilities.

8879.71. (a) For purposes of distributing funds annually appropriated by the Legislature to the State-Local Partnership Program Account, the commission shall segregate the funds into two separate subaccounts, which are hereby created in the account, as follows:

(1) Ninety-five percent of the funds shall be deposited into the Voter-Approved Taxes and Fees Subaccount and shall be made available to eligible applicants as defined in subdivision (a) of Section 8879.68 for expenditure on eligible projects, as approved by the commission. Funds in this subaccount shall be distributed by formula, pursuant to Section 8879.72.

(2) Five percent of the funds shall be deposited into the Uniform Developer Fees Subaccount and shall be made available to eligible applicants as defined in subdivision (b) of Section 8879.68 for expenditure on eligible projects, as approved by the commission. Funds in this subaccount shall be distributed through a competitive grant application process to be administered by the commission pursuant to Section 8879.73.

(b) Notwithstanding Section 13340, the money in the subaccounts described in subdivision (a) are hereby appropriated, without regard to fiscal year, to the commission for the purposes described in subdivision (a).

8879.72. (a) To establish the funding shares for each eligible applicant described in paragraph (1) of subdivision (a) of Section 8879.71, the commission shall do the following prior to the commencement of a funding cycle:

(1) Determine the total amount of annual revenue generated from voter-approved sales taxes, voter-approved parcel or property taxes, and voter-approved bridge tolls dedicated to transportation improvements according to the most recent available data reported to the State Board of Equalization, the Controller, or the Bay Area Toll Authority.

(2) Establish a northern California and southern California share by attributing the proportional share of revenues from voter-approved sales taxes, voter-approved parcel or property taxes, and voter-approved bridge tolls dedicated to transportation improvements and imposed in counties in northern California to the northern share, and by attributing the proportional share of revenues from voter-approved sales taxes imposed in counties located in southern California to the southern share. The determination of whether a county is located in northern or southern California shall be based on the definitions set forth in Section 187 of the Streets and Highways Code.

(3) Program funds made available to the southern share, based on the determination in paragraph (2), shall be distributed to the entity responsible for programming and allocating revenues from the sales tax in proportion to the population of the county in which the entity is located compared to the total population of southern California counties with voter-approved sales taxes dedicated to transportation improvements. For the purpose of calculating population, the commission shall use the most recent information available from the Department of Finance.

(4) Program funds made available to the northern share, based on the determination in paragraph (2), shall be distributed as follows:

(A) Program funds generated by voter-approved bridge tolls and voter-approved parcel or property taxes dedicated to transportation improvements shall be distributed to the entity responsible for

programming and allocating revenues from the toll or tax based on the proportional share of revenues generated by the toll or tax by that entity in comparison to the total revenues generated by voter-approved sales taxes, voter-approved parcel or property taxes, and voter-approved bridge tolls dedicated to transportation improvements in northern California.

(B) Program funds generated by voter-approved sales taxes dedicated to transportation improvements shall be distributed to the entity responsible for programming and allocating revenues from the sales tax in proportion to the population of the county in which the entity is located compared to the total population of the northern California counties with voter-approved sales taxes dedicated to transportation improvements. For the purposes of calculating population, the commission shall use the most recent information available for the Department of Finance

(b) Under this section, each fiscal year in which funds are appropriated for the program shall constitute a funding cycle.

(c) Each eligible applicant desiring to participate in the program in any funding cycle under this section shall submit to the commission all of the following:

(1) A description of the eligible project nominated for funding, including a description of the project's cost, scope, and specific improvements and benefits it is anticipated to achieve.

(2) A description of the project's current status, including the phase of delivery the project is in at the time it is nominated for funding and a schedule for the project's completion.

(3) A description of how the project would support transportation and land use planning goals within the region.

(4) The amount of eligible local matching funds the applicant is committing to the project.

(5) The amount of program funds the applicant seeks from the program for the project.

(d) The commission shall review nominated projects under this section and their accompanying documentation to ensure that each nominated project meets the requirements of this article and to confirm that each project has a commitment of the requisite amount of eligible local matching funds as required in this article. Upon conducting the review of the requirements and determining the proposed projects to be in compliance with this article, the projects shall be deemed eligible.

(e) An eligible applicant that is identified to receive an allocation of funds under this section, but that does not submit a project for funding in a funding cycle, may utilize its funding share in a subsequent funding cycle.

8879.73. (a) To distribute funds from the Uniform Developer Fees Subaccount to eligible applicants, as defined in paragraph (2) of

subdivision (a) of Section 8879.71, the commission shall administer a competitive grant application program pursuant to this section.

(b) Under this section, each fiscal year in which funds are appropriated for the program shall constitute a funding cycle. To ensure that as many eligible applicants as possible may benefit from the competitive portion of the program, no single project shall receive more than one million dollars ($1,000,000) in a single funding cycle in which program funds are allocated by the commission.

(c) Each eligible applicant desiring to participate in the program in any funding cycle under this section shall submit to the commission all of the following:

(1) A description of the eligible project nominated for funding, including a description of the project's cost, scope, and specific improvements and benefits it is anticipated to achieve.

(2) A description of the project's current status, including the phase of delivery the project is in at the time it is nominated for funding and a schedule for the project's completion.

(3) A description of how the project would support transportation and land use planning goals within the region.

(4) The amount of eligible local matching funds the applicant is committing to the project.

(5) The amount of program funds the applicant seeks from the program for the project.

(d) The commission shall review nominated projects under this section and their accompanying documentation to ensure that each nominated project meets the requirements of this article and to confirm that each project has a commitment of the requisite amount of eligible local matching funds as required in this article. Upon conducting the review of the requirements and determining the proposed projects to be in compliance with this article, the projects shall be deemed eligible.

(e) The commission shall adopt a program of projects under this section that is geographically balanced and provides cost-effective and multimodal, safety, reliability, and environmental benefits. In allocating funds to specific projects, the commission shall give priority to projects that do any of the following:

(1) Can commence construction or implementation of the project in a manner to provide the public benefit at the earliest possible date.

(2) Can enhance the leveragability of bond funds, by utilizing a higher proportion of nonbond funds toward a project's total cost than is otherwise required by this article.

(3) Can demonstrate quantifiable air quality improvements, including, but not limited to, a demonstration that the project can result in a significant reduction in vehicle-miles traveled.

8879.74. (a) The commission shall adopt a program of projects to receive allocations under this article for each funding cycle, with allocations to projects to be initially made at the commission's meeting in April 2009, and to be made no later than the commission's October meeting for subsequent years.

(b) Projects receiving an allocation under the program shall encumber funds no later than two years after the end of the fiscal year in which an allocation is made by the commission. The commission shall rescind an allocation to a project that fails to comply with these requirements. Rescinded allocations of funds shall, in the case of the program established pursuant to Section 8879.72, be made available for another eligible project proposed by the agency that nominated the original project for funding, and, in the case of the program established in Section 8879.73, be reallocated to other projects during the fiscal year following the year in which the applicable timely use of funds requirement was not met.

(c) The commission shall develop and adopt guidelines to implement this article, and to establish the process for allocating funds to eligible projects under the program, consistent with this article. Prior to adopting the guidelines, the commission shall hold one public hearing in northern California and one public hearing in southern California to review and provide an opportunity for public comment on the proposed guidelines. The commission may incorporate the hearings into its regular meeting schedule.

8879.75. Pursuant to subdivision (g) of Section 8879.23, an eligible project funded pursuant to this article shall require a match of one dollar ($1) of eligible local matching funds for each dollar of program funds applied for under this article. An applicant may propose to use other funds for the same project, including local, federal, or other state funds, however, those other funds shall not be counted toward the match required by this article.

8879.76. The commission shall include in its annual report to the Legislature, required pursuant to Section 14535, a summary of its activities related to the administration of the program. The summary, at a minimum, shall include the description, location, and total cost of each project contained in the program, the amount of bond funds allocated to each project, the status of each project, and a description of the system improvements each project is achieving.

SEC. 5. Section 14556.7 of the Government Code is amended to read:

14556.7. (a) To provide adequate cash for projects, including, but not limited to, projects in the State Transportation Improvement Program, the State Highway Operation and Protection Program, and the Traffic

Congestion Relief Program, and for the support of the department, the department may transfer funds as short-term loans among and between the State Highway Account in the State Transportation Fund, the Transportation Investment Fund in the State Treasury, the Transportation Deferred Investment Fund, the Public Transportation Account in the State Transportation Fund and the Traffic Congestion Relief Fund (TCRF), subject to those terms and conditions that the Director of Finance may impose upon those transfers. When loan balances authorized in this subdivision are outstanding, the Director of Transportation shall report the amounts of loans outstanding with respect to each fund or account as of the last business day of each quarter to the commission. The commission shall monitor the cash-flow loan program authorized in this section and shall provide guidance to the department to ensure that sufficient resources will be available for all projects and all other authorized expenditures from each fund or account so as to not delay any authorized expenditure.

(b) For the purposes of this section, a "short-term loan" is a transfer that is made subject to the following conditions:

(1) That any amount loaned is to be repaid in full to the fund or account from which it was loaned 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 annual Budget Act for the subsequent fiscal year.

(2) That loans shall be repaid whenever the funds are needed to meet cash expenditure needs in the loaning fund or account.

(c)This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 14556.75 of the Government Code is amended to read:

14556.75. (a) The Director of Finance may authorize short-term cash flow loans from the General Fund to the State Highway Account to provide adequate cash for costs funded from that account. The total outstanding loan shall not exceed two hundred million dollars ($200,000,000) at any point in time. Repayment of these loans shall be made no later than 30 days after the date of enactment of the subsequent annual Budget Act after any loan is made pursuant to this section.

(b) No budgetary impact shall result from these loans.

(c) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 14556.8 of the Government Code is amended to read:

14556.8. (a) (1) To the extent necessary to provide adequate cash to fund projected expenditures under this chapter, the Director of Finance may authorize, by executive order, the transfer of not more than one hundred million dollars ($100,000,000), as an interest free loan, from the Motor Vehicle Account in the State Transportation Fund to the TCRF, and the transfer of any available funds, as an interest free loan, from the General Fund to the TCRF. Loans from the Motor Vehicle Account may be made no sooner than July 1, 2004, and shall be repaid no later than July 1, 2007. The Director of Finance shall not authorize a loan from the Motor Vehicle Account, and shall promptly require the repayment of any outstanding balance owed to that account, if the funds are needed in the account to make expenditures authorized in the annual Budget Act and by any other appropriations made by the Legislature.

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

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

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

(2) Upon making a determination that funds in the TCRF are not adequate to support expected cash expenditures for the listed projects, the Director of Finance, by executive order, shall require that funds

loaned to the General Fund under paragraph (1) be repaid to the TCRF. All these loans shall be repaid upon the sale of bonds authorized by Article 6.5 (commencing with Section 63048.6) of Chapter 2 of Division 1 of Title 6.7. If the proceeds from those bonds are insufficient to repay the funds loaned to the General Fund under paragraph (1), the remaining amount of those loans shall be repaid from future tribal gaming revenues, additional securitizations against those revenues, or from the General Fund.

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

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

(e) As long as loan balances authorized by this section are outstanding, the Director of Transportation shall report to the commission the amounts of loans outstanding with respect to each fund or account as of the last business day of each quarter.

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

SEC. 8. Section 14556.85 is added to the Government Code, to read:

14556.85. (a) To the extent necessary to provide adequate cash to fund projected expenditures, the Director of Finance may authorize, by executive order, the transfer of not more than sixty million dollars ($60,000,000), as an interest free loan, from the TCRF to the Public Transportation Account. The loan shall be repaid no later than July 1, 2011. The Director of Finance shall not authorize a loan from the TCRF, and shall promptly require the repayment of any outstanding balance,

or portion thereof, owed to that account, to the extent funds are needed in the TCRF to make expenditures authorized in the annual Budget Act or by any other appropriations made by the Legislature.

(b) As long as loan balances authorized by this section are outstanding, the Director of Transportation shall report the amounts of loans outstanding as of the last business day of each quarter to the commission.

(c) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 9. Section 16965 of the Government Code is amended to read:

16965. (a) The Transportation Debt Service Fund is hereby created in the State Treasury. Moneys in the fund shall, among other things, as provided in this section, be dedicated to payment of debt service on bonds including bonds issued pursuant to the Clean Air and Transportation Improvement Act of 1990 (Part 11.5 (commencing with Section 99600) of Division 10 of the Public Utilities Code), the Passenger Rail and Clean Air Bond Act of 1990 (Chapter 17 (commencing with Section 2700) of Division 3 of the Streets and Highways Code), and the Seismic Retrofit Bond Act of 1996 (Chapter 12.48 (commencing with Section 8879) of Division 1 of Title 2). If the moneys in the fund are insufficient to pay the balance of the debt consistent with existing obligations, the General Fund will be used to pay the balance of any debt service.

(b) (1) From moneys transferred to the fund pursuant to subdivision (b) of Section 7103 of the Revenue and Taxation Code, the Director of Finance is hereby authorized to reimburse the General Fund for up to three hundred thirty-nine million two hundred eighty-nine thousand three hundred forty-five dollars ($339,289,345) for the purpose of offsetting the cost of debt service payments made from the General Fund during the 2007–08 fiscal year for public transportation-related general obligation bond expenditures in the following amounts:

(A) Clean Air and Transportation Improvement Act of 1990, one hundred twenty-three million nine hundred seventy-three thousand four hundred ninety-three dollars ($123,973,493).

(B) Passenger Rail and Clean Air Bond Act of 1990, seventy million nine hundred eighty-three thousand three hundred sixty-three dollars ($70,983,363).

(C) Seismic Retrofit Bond Act of 1996, one hundred forty-four million three hundred thirty-two thousand four hundred eighty-nine dollars ($144,332,489).

(2) From moneys transferred to the fund pursuant to subdivision (b) of Section 7103 of the Revenue and Taxation Code, the Director of

Finance is hereby authorized to reimburse the General Fund in the 2007–08 fiscal year for two hundred million dollars ($200,000,000) for the purpose of offsetting the cost of debt service payments made in prior fiscal years from the General Fund for public transportation-related general obligation bond expenditures.

(c) From moneys transferred to the fund pursuant to subdivision (c) of Section 7103 of the Revenue and Taxation Code, the Director of Finance is hereby authorized to reimburse the General Fund any amount necessary to offset the cost of debt service payments made from the General Fund during any fiscal year for transportation-related general obligation bond expenditures.

SEC. 10. Section 99312 of the Public Utilities Code is amended to read:

99312. The funds transferred to the account pursuant to Section 7102 of the Revenue and Taxation Code shall be made available for the following purposes:

(a) To the department, 50 percent for purposes of Section 99315.

(b) To the Controller, 25 percent for allocation to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board pursuant to Section 99314.

(c) To the Controller, 25 percent for allocation to transportation agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board for purposes of Section 99313.

(d) For the 2007–08 fiscal year, notwithstanding any other provision of this section, or any other provision of law, the allocations made pursuant to this section shall be adjusted as follows:

(1) From the funds transferred to the account pursuant to paragraph (1) of subdivision (a) of Section 7102 of the Revenue and Taxation Code, fifty million dollars ($50,000,000) is hereby appropriated to the Controller and shall be allocated pursuant to subdivision (b); fifty million dollars ($50,000,000) is hereby appropriated to the Controller and shall be allocated pursuant to subdivision (c); and the remainder of revenue shall remain in the Public Transportation Account to fund other state public transportation priorities. The Controller shall make these allocations in four equal quarterly amounts of twelve and one-half million dollars ($12,500,000), as achievable by the receipt of the specified revenue.

(2) The amount appropriated in Item 2640-101-0046 of the Budget Act of 2006 for state transit assistance pursuant to subdivision (b) and (c) was greater than the amount of revenues received to support state transit assistance pursuant to Section 7102 of the Revenue and Taxation Code. Therefore, notwithstanding any other provision of law, the amount that would have otherwise been available for appropriation to state transit

assistance in the 2007–08 fiscal year pursuant to paragraphs (2) and (3) of subdivision (a) of Section 7102 of the Revenue and Taxation Code, shall be reduced by the excess amount that was appropriated to state transit assistance in the Budget Act of 2006, and that excess amount, as determined by the Department of Finance, shall instead remain in the Public Transportation Account to fund other state public transportation priorities. The funding for state transit assistance as described in this paragraph is hereby appropriated to the Controller for allocation. The Controller shall attempt to spread this adjustment equally over four quarterly payments, as achievable by revenue estimates.

(e) For the 2008–09 fiscal year and thereafter, notwithstanding any other provision of this section, or any other provision of law, the funds transferred to the account pursuant to paragraph (1) of subdivision (a) of Section 7102 of the Revenue and Taxation Code shall be made available for the following purposes:

(1) To the department, 33.34 percent for purposes of Section 99315, subject to appropriation by the Legislature.

(2) To the Controller, 33.33 percent for allocation to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board pursuant to Section 99314. These funds are hereby continuously appropriated for purposes of this paragraph.

(3) To the Controller, 33.33 percent for the allocation to transportation agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board for purposes of Section 99313. These funds are hereby continuously appropriated for purposes of this paragraph.

SEC. 11. Section 7102 of the Revenue and Taxation Code is amended to read:

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

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

Public Transportation Account, a trust fund in the State Transportation Fund, except as modified as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

(G) For the 2007–08 fiscal year, the first one hundred fifty-five million four hundred ninety-one thousand eight hundred thirty-seven dollars ($155,491,837) in revenue estimated pursuant to this paragraph each quarter shall, notwithstanding any other provision of this paragraph or any other provision of law, be transferred quarterly to the Mass Transportation Fund. If revenue in any quarter is less than that amount, the transfer in the subsequent quarter or quarters shall be increased so that the total transferred for the fiscal year is six hundred twenty-one million nine hundred sixty-seven thousand three hundred forty-eight dollars ($621,967,348).

(H) For the 2008–09 fiscal year and every fiscal year thereafter, 50 percent of the revenue estimated pursuant to this paragraph each quarter shall, notwithstanding any other provision of this paragraph or any other provision of law, be transferred to the Mass Transportation Fund. Notwithstanding this requirement, for the 2008–09 fiscal year, the amount of two hundred thirty-four million eight hundred fifty-two thousand dollars ($234,852,000) each quarter shall be transferred to the Mass Transportation Fund. If revenue for any quarter is less than that amount, the transfer in the subsequent quarter or quarters shall be increased so that the total transfer for the fiscal year is nine hundred thirty-nine million four hundred eight thousand dollars ($939,408,000).

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

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

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

(5) All revenues, less refunds, derived from the taxes imposed pursuant to Section 35 of Article XIII of the California Constitution shall be

transferred to the Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

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

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

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

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

SEC. 12. Section 7103 of the Revenue and Taxation Code is amended to read:

7103. (a) The Mass Transportation Fund is hereby created in the State Treasury. Upon appropriation by the Legislature, moneys in the Mass Transportation Fund may be used for, but shall not necessarily be limited to, the following transportation purposes:

(1) Payment of debt service on transportation bonds, or reimbursement to the General Fund for past debt service payments on transportation bonds.

(2) Funding of the Department of Developmental Services for regional center transportation.

(3) Reimbursement to the General Fund for payments made by the General Fund pursuant to subdivision (f) of Section 1 of Article XIX B of the California Constitution.

(4) Funding of home-to-school transportation, pursuant to Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of the Education Code, and Small School District Transportation, pursuant to Article 4.5 (commencing with Section 42290) of Chapter 7 of Part 24 of the Education Code.

(b) From moneys transferred to the fund pursuant to subparagraph (G) of paragraph (1) of subdivision (a) of Section 7102 in the 2007–08 fiscal year, the sum of five hundred thirty-nine million two hundred

eighty-nine thousand three hundred forty-eight dollars ($539,289,348) shall be transferred to the Transportation Debt Service Fund, and the sum of eighty-two million six hundred seventy-eight thousand dollars ($82,678,000) may be reimbursed by the Director of Finance in the 2007–08 fiscal year for the purpose of offsetting payments made by the General Fund pursuant to subdivision (f) of Section 1 of Article XIX B of the California Constitution.

(c) From moneys transferred to the fund pursuant to subparagraph (H) of paragraph (1) of subdivision (a) of Section 7102 in the 2008–09 fiscal year, the sum of eighty-two million six hundred seventy-eight thousand dollars ($82,678,000) may be reimbursed by the Director of Finance for the purpose of offsetting payments made by the General Fund pursuant to subdivision (f) of Section 1 of Article XIX B of the California Constitution, and the Director of Finance may transfer any funds remaining in the fund after this reimbursement of the General Fund to the Transportation Debt Service Fund.

SEC. 13. Section 7104 of the Revenue and Taxation Code is amended to read:

7104. (a) The Transportation Investment Fund (hereafter the fund) is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated without regard to fiscal years for disbursement in the manner and for the purposes set forth in this section.

(b) All of the following shall occur on a quarterly basis:

(1) The State Board of Equalization, in consultation with the Department of Finance, shall estimate the amount that is transferred to the General Fund under subdivision (b) of Section 7102 that is attributable to revenue collected for the sale, storage, use, or other consumption in this state of motor vehicle fuel, as defined in Section 7304.

(2) The State Board of Equalization shall inform the Controller, in writing, of the amount estimated under paragraph (1).

(3) Commencing with the 2003–04 fiscal year, the Controller shall transfer the amount estimated under paragraph (1) from the General Fund to the fund.

(c) For each quarter during the period commencing on July 1, 2003, and ending on June 30, 2008, the Controller shall make all of the following transfers and apportionments from the funds identified for transfer under paragraph (2) of subdivision (b) in the following order:

(1) To the Traffic Congestion Relief Fund created in the State Treasury by Section 14556.5 of the Government Code, the sum of one hundred sixty-nine million five hundred thousand dollars ($169,500,000), except that the transfer for the final quarter shall be ninety-three million four

hundred thousand dollars ($93,400,000), for a total transfer of three billion three hundred thirteen million nine hundred thousand dollars ($3,313,900,000).

(2) To the Public Transportation Account, a trust fund in the State Transportation Fund, 20 percent of the amount remaining after the transfer required under paragraph (1). Funds transferred under this paragraph shall be made available as follows:

(A) To the Department of Transportation, 50 percent for purposes of subdivision (a) or (b) of Section 99315 of the Public Utilities Code, subject to appropriation by the Legislature.

(B) To the Controller, 25 percent for allocation pursuant to Section 99314 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99314 of the Public Utilities Code. For the 2007–08 fiscal year, these funds are continuously appropriated to the Controller for purposes of this subparagraph.

(C) To the Controller, 25 percent for allocation pursuant to Section 99313 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99313 of the Public Utilities Code. For the 2007–08 fiscal year, these funds are continuously appropriated to the Controller for purposes of this subparagraph.

(3) To the Department of Transportation for expenditure for programming for transportation capital improvement projects subject to all of the provisions governing the State Transportation Improvement Program, 40 percent of the amount remaining after the transfer required under paragraph (1), except that in the 2006–07 and 2007–08 fiscal years, the transfer shall be 80 percent of the amount remaining after the transfer required under paragraph (1).

(4) To the Controller for apportionment to the counties, including a city and county, 20 percent of the amount remaining after the transfer required under paragraph (1), except that in the 2006–07 and 2007–08 fiscal years, no transfer may be made under this paragraph. Funds transferred under this paragraph shall be allocated in accordance with the following formulas:

(A) Seventy-five percent of the funds payable under this paragraph shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(B) Twenty-five percent of the funds payable under this paragraph shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bears to the total number of miles of maintained county roads in the state. For the purposes

of apportioning funds under this subparagraph, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(5) To the Controller for apportionment to cities, including a city and county, 20 percent of the amount remaining after the transfer required under paragraph (1), except that in the 2006–07 and 2007–08 fiscal years, no transfer may be made under this paragraph. Funds transferred under this paragraph shall be apportioned among the cities in the proportion that the total population of the city bears to the total population of all the cities in the state.

(d) Funds received under paragraph (4) or (5) of subdivision (c) shall be deposited as follows in order to avoid the commingling of those funds with other local funds:

(1) In the case of a city, into the city account that is designated for the receipt of state funds allocated for transportation purposes.

(2) In the case of a county, into the county road fund.

(3) In the case of a city and county, into a local account that is designated for the receipt of state funds allocated for transportation purposes.

(e) Funds allocated to a city, county, or city and county under paragraph (4) or (5) of subdivision (c) shall be used only for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair. For purposes of this section, the following terms have the following meanings:

(1) "Maintenance" means either or both of the following:

(A) Patching.

(B) Overlay and sealing.

(2) "Reconstruction" includes any overlay, sealing, or widening of the roadway, if the widening is necessary to bring the roadway width to the desirable minimum width consistent with the geometric design criteria of the department for 3R (reconstruction, resurfacing, and rehabilitation) projects that are not on a freeway, but does not include widening for the purpose of increasing the traffic capacity of a street or highway.

(3) "Storm damage repair" is repair or reconstruction of local streets and highways and related drainage improvements that have been damaged due to winter storms and flooding, and construction of drainage improvements to mitigate future roadway flooding and damage problems, in those jurisdictions that have been declared disaster areas by the President of the United States, where the costs of those repairs are ineligible for emergency funding with Federal Emergency Relief (ER) funds or Federal Emergency Management Administration (FEMA) funds.

(f) (1) Cities and counties shall maintain their existing commitment of local funds for street and highway maintenance, rehabilitation,

reconstruction, and storm damage repair in order to remain eligible for the allocation of funds pursuant to paragraph (4) or (5) of subdivision (c).

(2) In order to receive any allocation pursuant to paragraph (4) or (5) of subdivision (c), the city or county shall annually expend from its general fund for street, road, and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 1996–97, 1997–98, and 1998–99 fiscal years, as reported to the Controller pursuant to Section 2151 of the Streets and Highways Code. For purposes of this paragraph, in calculating a city's or county's annual general fund expenditures and its average general fund expenditures for the 1996–97, 1997–98, and 1998–99 fiscal years, any unrestricted funds that the city or county may expend at its discretion, including vehicle in-lieu tax revenues and revenues from fines and forfeitures, expended for street and highway purposes shall be considered expenditures from the general fund. One-time allocations that have been expended for street and highway purposes, but which may not be available on an ongoing basis, including revenue provided under the Teeter Plan Bond Law of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code, may not be considered when calculating a city's or county's annual general fund expenditures.

(3) For any city incorporated after July 1, 1996, the Controller shall calculate an annual average of expenditure for the period between July 1, 1996, and December 31, 2000, that the city was incorporated.

(4) For purposes of paragraph (2), the Controller may request fiscal data from cities and counties in addition to data provided pursuant to Section 2151, for the 1996–97, 1997–98, and 1998–99 fiscal years. Each city and county shall furnish the data to the Controller not later than 120 days after receiving the request. The Controller may withhold payment to cities and counties that do not comply with the request for information or that provide incomplete data.

(5) The Controller may perform audits to ensure compliance with paragraph (2) when deemed necessary. Any city or county that has not complied with paragraph (2) shall reimburse the state for the funds it received during that fiscal year. Any funds withheld or returned as a result of a failure to comply with paragraph (2) shall be reallocated to the other counties and cities whose expenditures are in compliance.

(6) If a city or county fails to comply with the requirements of paragraph (2) in a particular fiscal year, the city or county may expend during that fiscal year and the following fiscal year a total amount that is not less than the total amount required to be expended for those fiscal years for purposes of complying with paragraph (2).

(7) The allocation made under paragraph (4) or (5) of subdivision (c) shall be expended not later than the end of the fiscal year following the fiscal year in which the allocation was made, and any funds not expended within that period shall be returned to the Controller and shall be reallocated to the other cities and counties pursuant to the allocation formulas set forth in paragraph (4) or (5) of subdivision (c).

(g) The Los Angeles County Metropolitan Transportation Authority shall give first priority for using its share of the funds made available under subparagraphs (B) and (C) of paragraph (2) of subdivision (c) to providing the levels of bus service mandated under the consent decree entered into by the authority on October 29, 1996, in the case of Labor/Community Strategy Center, et al. v. Los Angeles County Metropolitan Transportation Authority.

(h) (1) For the purpose of allocating funds under paragraph (4) or (5) of subdivision (c) to counties, cities, and a city and county, the Controller shall use the most recent population estimates prepared by the Demographic Research Unit of the Department of Finance. For a city that incorporated after January 1, 1998, that does not appear on the most recent population estimates prepared by the Demographic Research Unit, the Controller shall use the population determined for that city under Section 11005.3 of the Revenue and Taxation Code.

(2) The amendments made to Section 11005.3 by the act adding this paragraph shall not apply to a population determination under paragraph (1).

(i) This section shall become inoperative on the date that all encumbrances incurred for the projects funded under paragraph (3) of subdivision (c) have been liquidated or on June 30, 2008, whichever date is later, and as of the January 1 immediately following that date is repealed.

SEC. 14. Section 7104.2 of the Revenue and Taxation Code is amended to read:

7104.2. (a) The Transportation Investment Fund (hereafter the fund) in the State Treasury is hereby continued in existence. All revenues transferred to the fund pursuant to Article XIX B of the California Constitution beginning with the 2008–09 fiscal year shall be available for expenditure as provided in this section. Notwithstanding Section 13340 of the Government Code or any other provision of law, moneys in the fund are continuously appropriated without regard to fiscal years for disbursement in the manner and for the purposes set forth in this section.

(b) All of the following shall occur on a quarterly basis:

(1) The State Board of Equalization, in consultation with the Department of Finance, shall estimate the amount that is transferred to

the General Fund under subdivision (b) of Section 7102 that is attributable to revenue collected for the sale, storage, use, or other consumption in this state of motor vehicle fuel, as defined in Section 7304.

(2) The State Board of Equalization shall inform the Controller, in writing, of the amount estimated under paragraph (1).

(3) Commencing with the 2008–09 fiscal year, the Controller shall transfer the amount estimated under paragraph (1) from the General Fund to the fund.

(c) For each quarter, commencing with the 2008–09 fiscal year, the Controller shall make all of the following transfers and apportionments from the fund:

(1) To the Public Transportation Account, a trust fund in the State Transportation Fund, 20 percent of the revenues deposited in the fund. Funds transferred under this paragraph shall be made available as follows:

(A) Twenty-five percent to the Department of Transportation for purposes of subdivision (a) and (b) of Section 99315 of the Public Utilities Code, subject to appropriation by the Legislature.

(B) Thirty-seven and one-half percent to the Controller, for allocation pursuant to Section 99314 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99314 of the Public Utilities Code. These funds are continuously appropriated to the Controller for purposes of this subparagraph.

(C) Thirty-seven and one-half percent to the Controller, for allocation pursuant to Section 99313 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99313 of the Public Utilities Code. These funds are continuously appropriated to the Controller for purposes of this subparagraph.

(2) To the Department of Transportation for expenditure for transportation capital improvement projects subject to all of the rules governing the State Transportation Improvement Program, 40 percent of the revenues deposited in the fund.

(3) To the Controller for apportionment pursuant to paragraphs (A) and (B), 40 percent of the revenues deposited in the fund.

(A) Of the amount available under this paragraph, 50 percent shall be apportioned by the Controller to the counties, including a city and county, in accordance with the following formulas:

(i) Seventy-five percent of the funds payable under this subparagraph shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(ii) Twenty-five percent of the funds payable under this subparagraph shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bears to the total number of miles of maintained county roads in the state. For the purposes of apportioning funds under this subparagraph, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(B) Of the amount available under this paragraph, 50 percent shall be apportioned by the Controller to cities, including a city and county, in the proportion that the total population of the city bears to the total population of all the cities in the state.

(d) Funds received under subparagraph (A) or (B) of paragraph (3) of subdivision (c) shall be deposited as follows in order to avoid the commingling of those funds with other local funds:

(1) In the case of a city, into the city account that is designated for the receipt of state funds allocated for transportation purposes.

(2) In the case of a county, into the county road fund.

(3) In the case of a city and county, into a local account that is designated for the receipt of state funds allocated for transportation purposes.

(e) Funds allocated to a city, county, or city and county under subparagraph (A) or (B) of paragraph (3) of subdivision (c) shall be used only for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair. For purposes of this section, the following terms have the following meanings:

(1) "Maintenance" means either or both of the following:

(A) Patching.

(B) Overlay and sealing.

(2) "Reconstruction" includes any overlay, sealing, or widening of the roadway, if the widening is necessary to bring the roadway width to the desirable minimum width consistent with the geometric design criteria of the department for 3R (reconstruction, resurfacing, and rehabilitation) projects that are not on a freeway, but does not include widening for the purpose of increasing the traffic capacity of a street or highway.

(3) "Storm damage repair" is repair or reconstruction of local streets and highways and related drainage improvements that have been damaged due to winter storms and flooding, and construction of drainage improvements to mitigate future roadway flooding and damage problems, in those jurisdictions that have been declared disaster areas by the President of the United States, where the costs of those repairs are ineligible for emergency funding with Federal Emergency Relief (ER) funds or Federal Emergency Management Administration (FEMA) funds.

(f) (1) Cities and counties shall maintain their existing commitment of local funds for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair in order to remain eligible for the allocation of funds pursuant to subparagraph (A) or (B) of paragraph (3) of subdivision (c).

(2) In order to receive any allocation pursuant to subparagraph (A) or (B) of paragraph (3) of subdivision (c), the city or county shall annually expend from its general fund for street, road, and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 1996–97, 1997–98, and 1998–99 fiscal years, as reported to the Controller pursuant to Section 2151 of the Streets and Highways Code. For purposes of this paragraph, in calculating a city's or county's annual general fund expenditures and its average general fund expenditures for the 1996–97, 1997–98, and 1998–99 fiscal years, any unrestricted funds that the city or county may expend at its discretion, including vehicle in-lieu tax revenues and revenues from fines and forfeitures, expended for street and highway purposes shall be considered expenditures from the general fund. One-time allocations that have been expended for street and highway purposes, but which may not be available on an ongoing basis, including revenue provided under the Teeter Plan Bond Law of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code, may not be considered when calculating a city's or county's annual general fund expenditures.

(3) For any city incorporated after July 1, 1996, the Controller shall calculate an annual average of expenditure for the period between July 1, 1996, and December 31, 2000, that the city was incorporated.

(4) For purposes of paragraph (2), the Controller may request fiscal data from cities and counties in addition to data provided pursuant to Section 2151, for the 1996–97, 1997–98, and 1998–99 fiscal years. Each city and county shall furnish the data to the Controller not later than 120 days after receiving the request. The Controller may withhold payment to cities and counties that do not comply with the request for information or that provide incomplete data.

(5) The Controller may perform audits to ensure compliance with paragraph (2) when deemed necessary. Any city or county that has not complied with paragraph (2) shall reimburse the state for the funds it received during that fiscal year. Any funds withheld or returned as a result of a failure to comply with paragraph (2) shall be reallocated to the other counties and cities whose expenditures are in compliance.

(6) If a city or county fails to comply with the requirements of paragraph (2) in a particular fiscal year, the city or county may expend during that fiscal year and the following fiscal year a total amount that

is not less than the total amount required to be expended for those fiscal years for purposes of complying with paragraph (2).

(7) The allocation made under subparagraph (A) or (B) of paragraph (3) of subdivision (c) shall be expended not later than the end of the fiscal year following the fiscal year in which the allocation was made, and any funds not expended within that period shall be returned to the Controller and shall be reallocated to the other cities and counties pursuant to the allocation formulas set forth in subparagraph (A) or (B) of paragraph (3) of subdivision (c).

(g) For the purpose of allocating funds under subparagraph (A) or (B) of paragraph (3) of subdivision (c) to counties, cities, and a city and county, the Controller shall use the most recent population estimates prepared by the Demographic Research Unit of the Department of Finance. For a city that incorporated after January 1, 2008, that does not appear on the most recent population estimates prepared by the Demographic Research Unit, the Controller shall use the population determined for that city under Section 11005.3.

SEC. 15. Article 3.7 (commencing with Section 157) is added to Chapter 1 of Division 1 of the Streets and Highways Code, to read:

## Article 3.7. Clean Renewable Energy Bonds for the Department of Transportation

157. It is the intent of the Legislature that the authority granted to the Department of Transportation under this act is restricted to the specific program for which funds are appropriated in Item 2660-306-0942 of the Budget Act of 2008, and that the amount of State Highway Account funds committed to this program shall be limited to the amount appropriated in Item 2660-306-0942 of the Budget Act of 2008.

157.1. The department, through the Treasurer and the California Alternative Energy and Advanced Transportation Financing Authority, may issue Clean Renewable Energy Bonds for purposes of financing the acquisition and installation of solar energy systems, and related appurtenances thereto, at department facilities. For purposes of this article, Clean Renewable Energy Bonds are bonds issued subject to the conditions and terms of Section 1303 of the federal Energy Tax Incentives Act of 2005 (P.L. 109-58; I.R.C. Sec. 54).

157.2. The net proceeds of bonds issued under this article shall be deposited in the Clean Renewable Energy Bonds Subaccount, which is hereby established as a special trust fund in the Special Deposit Fund created pursuant to Section 16370 of the Government Code.

157.4. (a) In conjunction with the issuance of bonds pursuant to Section 157.1, the department may, until January 1, 2014, enter into

lease-purchase agreements, lease agreements, or similar agreements with the California Alternative Energy and Advanced Transportation Financing Authority to secure financial assistance for the acquisition and installation of solar energy systems, and to arrange for the payment of debt service on the Clean Renewable Energy Bonds.

(b) The department may pledge the solar energy system property, or any interest therein, that is acquired or installed pursuant to this article as security for any payment in connection with the acquisition, leasing, or financing of that property or interest, subject to the purposes described in subdivision (a).

157.6. The solar energy systems funded pursuant to this article may utilize, and shall comply with, either the net energy metering program allowable under Section 2827 of the Public Utilities Code or the feed-in-tariff program allowable under Section 399.20 of the Public Utilities Code.

157.8. On or before March 1 of each fiscal year, and until maturity of the bonds issued pursuant to this article, the department shall report to the budget committees of each house of the Legislature with regard to the issuance of bonds and the acquisition and installation of solar energy systems under this article. The report shall include, but not be limited to, the status of each facility on which the department has installed solar energy systems; an accounting of the costs for each solar energy system installed or acquired by the department; a description of the energy savings the department has achieved by acquiring or installing a solar energy system or systems; and a review and analysis of the expected cost savings at the time of issuance of the bonds versus actual savings annually.

SEC. 16. Section 182.6 of the Streets and Highways Code is amended to read:

182.6. (a) Notwithstanding Sections 182 and 182.5, Sections 188, 188.8, and 825 do not apply to the expenditure of an amount of federal funds equal to the amount of federal funds apportioned to the state pursuant to that portion of subsection (b)(3) of Section 104, subsections (a) and (c) of Section 157, and subsection (d) of Section 160 of Title 23 of the United States Code that is allocated within the state subject to subsection (d)(3) of Section 133 of that code. These funds shall be known as the regional surface transportation program funds. The department, the transportation planning agencies, the county transportation commissions, and the metropolitan planning organizations may do all things necessary in their jurisdictions to secure and expend those federal funds in accordance with the intent of federal law and this chapter.

(b) The regional surface transportation program funds shall be apportioned by the department to the metropolitan planning organizations

designated pursuant to Section 134 of Title 23 of the United States Code and, in areas where none has been designated, to the transportation planning agency designated pursuant to Section 29532 of the Government Code. The funds shall be apportioned in the manner and in accordance with the formula set forth in subsection (d)(3) of Section 133 of Title 23 of the United States Code, except that the apportionment shall be among all areas of the state. Funds apportioned under this subdivision shall remain available for three federal fiscal years, including the federal fiscal year apportioned.

(c) Where county transportation commissions have been created by Division 12 (commencing with Section 130000) of the Public Utilities Code, all regional surface transportation program funds shall be further apportioned by the metropolitan planning organization to the county transportation commission on the basis of relative population.

In the Monterey Bay region, all regional surface transportation program funds shall be further apportioned, on the basis of relative population, by the metropolitan planning organization to the regional transportation planning agencies designated under subdivision (b) of Section 29532 of the Government Code.

(d) The applicable metropolitan planning organization, county transportation commission, or transportation planning agency shall annually apportion the regional surface transportation program funds for projects in each county, as follows:

(1) An amount equal to the amount apportioned under the federal-aid urban program in federal fiscal year 1990–91 adjusted for population. The adjustment for population shall be based on the population determined in the 1990 federal census except that no county shall be apportioned less than 110 percent of the apportionment received in the 1990–91 fiscal year. These funds shall be apportioned for projects implemented by cities, counties, and other transportation agencies on a fair and equitable basis based upon an annually updated five-year average of allocations. Projects shall be nominated by cities, counties, transit operators, and other public transportation agencies through a process that directly involves local government representatives.

(2) An amount not less than 110 percent of the amount that the county was apportioned under the federal-aid secondary program in federal fiscal year 1990–91, for use by that county.

(e) The department shall notify each metropolitan planning organization, county transportation commission, and transportation planning agency receiving an apportionment under this section, as soon as possible each year, of the amount of obligation authority estimated to be available for program purposes.

The metropolitan planning organization and transportation planning agency, in cooperation with the department, congestion management agencies, cities, counties, and affected transit operators, shall select and program projects in conformance with federal law. The metropolitan planning organization and transportation planning agency shall submit its transportation improvement program prepared pursuant to Section 134 of Title 23 of the United States Code to the department for incorporation into the state transportation improvement program not later than August 1 of each even-numbered year beginning in 1994.

(f) Not later than July 1 of each year, the metropolitan planning organizations, and the regional transportation planning agencies, receiving obligational authority under this article shall notify the department of the projected amount of obligational authority that each entity intends to use during the remainder of the current federal fiscal year, including, but not limited to, a list of projects that will be obligated by the end of the current federal fiscal year. Any federal obligational authority that will not be used shall be redistributed by the department to other projects in a manner that ensures that the state will continue to compete for and receive increased obligational authority during the federal redistribution of obligational authority. If the department does not have sufficient federal apportionments to fully use excess obligational authority, the metropolitan planning organizations or regional transportation planning agencies relinquishing obligational authority shall make sufficient apportionments available to the department to fund alternate projects, when practical, within the geographical areas relinquishing the obligational authority. Notwithstanding this subdivision, the department shall comply with subsections (d)(3) and (f) of Section 133 of Title 23 of the United States Code.

(g) A regional transportation planning agency that is not designated as, nor represented by, a metropolitan planning organization with an urbanized area population greater than 200,000 pursuant to the 1990 federal census may exchange its annual apportionment received pursuant to this section on a dollar-for-dollar basis for nonfederal State Highway Account funds, which shall be apportioned in accordance with subdivision (d).

(h) (1) If a regional transportation planning agency described in subdivision (g) does not elect to exchange its annual apportionment, a county located within the boundaries of that regional transportation planning agency may elect to exchange its annual apportionment received pursuant to paragraph (2) of subdivision (d) for nonfederal State Highway Account funds.

(2) A county not included in a regional transportation planning agency described in subdivision (g), whose apportionment pursuant to paragraph

(2) of subdivision (d) was less than 1 percent of the total amount apportioned to all counties in the state, may exchange its apportionment for nonfederal State Highway Account funds. If the apportionment to the county was more than 3½ percent of the total apportioned to all counties in the state, it may exchange that portion of its apportionment in excess of 3½ percent for nonfederal State Highway Account funds. Exchange funds received by a county pursuant to this section may be used for any transportation purpose.

(i) The department shall be responsible for closely monitoring the use of federal transportation funds, including regional surface transportation program funds to assure full and timely use. The department shall prepare a quarterly report for submission to the commission regarding the progress in use of all federal transportation funds. The department shall notify the commission and the appropriate implementation agency whenever there is a failure to use federal funds within the three-year apportionment period established under subdivision (b).

(j) The department shall provide written notice to implementing agencies when there is one year remaining within the three-year apportionment period established under subdivision (b) of this section.

(k) Within six months of the date of notification required under subdivision (j), the implementing agency shall provide to the department a plan to obligate funds that includes, but need not be limited to, a list of projects and milestones.

(*l*) If the implementing agency has not met the milestones established in the implementation plan required under subdivision (k), prior to the end of the three-year apportionment period established under subdivision (b), the commission shall redirect those funds for use on other transportation projects in the state.

(m) Notwithstanding subdivisions (g) and (h), regional surface transportation program funds available under this section exchanged pursuant to Section 182.8 may be loaned to and expended by the department. The department shall repay from the State Highway Account to the Traffic Congestion Relief Fund all funds received as federal reimbursements for funds exchanged under Section 182.8 as they are received from the Federal Highway Administration, except that those repayments are not required to be made more frequently than on a quarterly basis.

(n) Prior to determining the amount for local subvention required by this section, the department shall first deduct the amount authorized by the Legislature for increased department oversight of the federal subvented program.

SEC. 17. Section 182.7 of the Streets and Highways Code is amended to read:

182.7. (a) Notwithstanding Sections 182 and 182.5, Sections 188, 188.8, and 825 do not apply to the expenditure of an amount of federal funds equal to the amount of federal funds apportioned to the state pursuant to subsection (b)(2) of Section 104 of Title 23 of the United States Code. These funds shall be known as the congestion mitigation and air quality program funds and shall be expended in accordance with Section 149 of Title 23 of the United States Code. The department, the transportation planning agencies, and the metropolitan planning organizations may do all things necessary in their jurisdictions to secure and expend those federal funds in accordance with the intent of federal law and this chapter.

(b) The congestion mitigation and air quality program funds, including any funds to which subsection (c) of Section 110 of Title 23 of the United States Code, as added by subdivision (a) of Section 1310 of Public Law 105-178, applies, shall be apportioned by the department to the metropolitan planning organizations designated pursuant to Section 134 of Title 23 of the United States Code and, in areas where none has been designated, to the transportation planning agency established by Section 29532 of the Government Code. The funds shall be apportioned to metropolitan planning organizations and transportation planning agencies responsible for air quality conformity determinations in federally designated air quality nonattainment and maintenance areas within the state in the manner and in accordance with the formula set forth in subsection (b)(2) of Section 104 of Title 23 of the United States Code. Funds apportioned under this subdivision shall remain available for three federal fiscal years, including the federal fiscal year apportioned. Notwithstanding the foregoing, the formula for distributing apportionments made to metropolitan planning organizations and transportation planning agencies eligible for funding according to subsection (b)(2) of Section 104 of Title 23 of the United States Code shall, for the 2007 and 2008 federal fiscal years, provide apportionments for the Monterey Bay and Santa Barbara regions such that each shall receive 50 percent of its 2005 apportionment in federal fiscal year 2007 and 25 percent of its 2005 apportionment in federal fiscal year 2008.

(c) Notwithstanding subdivision (b), where county transportation commissions have been created by Division 12 (commencing with Section 130000) of the Public Utilities Code, all congestion mitigation and air quality program funds shall be further apportioned by the metropolitan planning organization to the county transportation commission on the basis of relative population within the federally designated air quality nonattainment and maintenance areas after first

apportioning to the nonattainment and maintenance areas in the manner and in accordance with the formula set forth in subsection (b)(2) of Section 104 of Title 23 of the United States Code.

In the Monterey Bay region, all congestion mitigation and air quality improvement program funds shall be further apportioned, on the basis of relative population, by the metropolitan planning organization to the regional transportation planning agencies designated under subdivision (b) of Section 29532 of the Government Code.

(d) The department shall notify each metropolitan planning organization, transportation planning agency, and county transportation commission receiving an apportionment under this section, as soon as possible each year, of the amount of obligational authority estimated to be available for expenditure from the federal apportionment. The metropolitan planning organizations, transportation planning agencies, and county transportation commissions, in cooperation with the department, congestion management agencies, cities and counties, and affected transit operators, shall select and program projects in conformance with federal law. Each metropolitan planning organization and transportation planning agency shall, not later than August 1 of each even-numbered year beginning in 1994, submit its transportation improvement program prepared pursuant to Section 134 of Title 23 of the United States Code to the department for incorporation into the state transportation improvement program.

(e) Not later than July 1 of each year, the metropolitan planning organizations and the regional transportation planning agencies receiving obligational authority under this section, shall notify the department of the projected amount of obligational authority that each entity intends to use during the remainder of the current federal fiscal year, including, but not limited to, a list of projects that will use the obligational authority. Any federal obligational authority that will not be used shall be redistributed by the department to other projects in a manner that ensures that the state will continue to compete for and receive increased obligational authority during the federal redistribution of obligational authority. If the department does not have sufficient federal apportionments to fully use excess obligational authority, the metropolitan planning organization or transportation planning agency relinquishing obligational authority shall make sufficient apportionments available to the department to fund alternate projects, when practical, within the geographical areas relinquishing the obligational authority. Notwithstanding this subdivision, the department shall comply with subsection (f) of Section 133 of Title 23 of the United States Code.

(f) The department shall be responsible for closely monitoring the use of federal transportation funds, including congestion management

and air quality funds to assure full and timely use. The department shall prepare a quarterly report for submission to the commission regarding the progress in use of all federal transportation funds. The department shall notify the commission and the appropriate implementation agency whenever there is a failure to use federal funds within the three-year apportionment period established under subdivision (b).

(g) The department shall provide written notice to implementing agencies when there is one year remaining within the three-year apportionment period established under subdivision (b).

(h) Within six months of the date of notification required under subdivision (g), the implementing agency shall provide to the department a plan to obligate funds that includes, but need not be limited to, a list of projects and milestones.

(i) If the implementing agency has not met the milestones established in the implementation plan required under subdivision (h), prior to the end of the three-year apportionment period established under subdivision (b), the commission shall redirect those funds for use on other transportation projects in the state.

(j) Congestion mitigation and air quality program funds available under this section exchanged pursuant to Section 182.8 may be loaned to and expended by the department. The department shall repay from the State Highway Account to the Traffic Congestion Relief Fund all funds received as federal reimbursements for funds exchanged under Section 182.8 as they are received from the Federal Highway Administration, except that those repayments are not required to be made more frequently than on a quarterly basis.

(k) Prior to determining the amount for local subvention required by this section, the department shall first deduct the amount authorized by the Legislature for increased department oversight of the federal subvented program.

SEC. 18. Section 1678 of the Vehicle Code is amended to read:

1678. (a) Between January 1, 2004, and December 31, 2004, inclusive, the fee amounts set forth in Section 488.385 of the Code of Civil Procedure, Section 10902 of the Revenue and Taxation Code, and Sections 4604, 5014, 5036, 6700.25, 9102.5, 9250.8, 9250.13, 9252, 9254, 9258, 9261, 9265, 9702, 11515, 11515.2, 12814.5, 14900, 14900.1, 14901, 14902, 38121, 38225.4, 38225.5, 38232, 38255, 38260, and 38265 shall be the base fee amounts charged by the department.

(b) On January 1, 2005, and every January 1 thereafter, the department shall adjust the fees imposed under the sections listed in subdivision (a) by increasing each fee in an amount equal to the increase in the California Consumer Price Index for the prior year, as calculated by the Department

of Finance, with amounts equal to or greater than fifty cents ($0.50) rounded to the next highest whole dollar.

(c) Any increases to the fees imposed under the sections listed in subdivision (a) that are enacted by legislation subsequent to January 1, 2005, shall be deemed to be changes to the base fee for purposes of the calculation performed pursuant to subdivision (b).

SEC. 19. Section 9250.13 of the Vehicle Code is amended to read:

9250.13. (a) (1) In addition to any other fees specified in this code and the Revenue and Taxation Code, a fee of eighteen dollars ($18) shall be paid at the time of registration or renewal of registration of every vehicle, except vehicles described in subdivision (a) of Section 5014.1, subject to registration under this code, except those vehicles that are expressly exempted under this code from the payment of registration fees.

(2) In addition to the fee required under paragraph (1), upon the implementation of the permanent trailer identification plate program, and as part of the Commercial Vehicle Registration Act of 2001 (Chapter 861 of the Statutes of 2000), all commercial motor vehicles subject to Section 9400.1 shall pay a fee of six dollars ($6).

(b) The money realized pursuant to this section shall be available, upon appropriation by the Legislature, for expenditure to offset the costs of increasing the uniformed field strength of the Department of the California Highway Patrol beyond its 1994 staffing level and those costs associated with maintaining this new level of uniformed field strength and carrying out those duties specified in subdivision (a) of Section 830.2 of the Penal Code.

SEC. 20. Section 9553.5 of the Vehicle Code is amended to read:

9553.5. (a) Whenever fees have not been paid in full for an application for registration of vehicles registered pursuant to Article 4 (commencing with Section 8050) of Chapter 4, the registrant shall have 20 days from the date of notice by the department to pay the balance of the fees due.

(b) Failure to pay the balance of the fees due within 20 days shall subject the application to penalties, as defined in Sections 9554 and 9554.5, on the unpaid portion of the California fees due.

SEC. 21. Section 9553.7 is added to the Vehicle Code, to read:

9553.7. The penalty for delinquency with respect to any transfer is fifteen dollars ($15) and applies only to the last transfer.

SEC. 22. Section 9554 of the Vehicle Code is amended to read:

9554. (a) (1) The penalty shall be computed as provided in Sections 9406 and 9559 and shall be collected with the fee, except that the penalty for delinquency with respect to any transfer is fifteen dollars ($15) and applies only to the last transfer.

(2) A penalty shall be added on any application for renewal of registration made later than midnight of the date of expiration or on or after the date penalties become due. The penalty shall be computed after the registration and weight fees have been combined with the license fee specified in Section 10751 of the Revenue and Taxation Code, as follows:

(A) For a delinquency period of 10 days or less, the penalty is 10 percent of the fee.

(B) For a delinquency period of more than 10 days to and including 30 days, the penalty is 20 percent of the fee.

(C) For a delinquency period of more than 30 days to and including one year, the penalty is 60 percent of the fee.

(D) For a delinquency period of more than one year to and including two years, the penalty is 80 percent of the fee.

(E) For a delinquency period of more than two years, the penalty is 160 percent of the fee.

(3) This subdivision applies to the renewal of registration for vehicles with expiration dates on or before December 31, 2002.

(b) Penalties specified in paragraphs (1), (2), and (3) of this subdivision shall be computed as provided in Section 9559 and shall be collected with the fee, except that the penalty for delinquency with respect to any transfer is fifteen dollars ($15) and applies only to the last transfer. A penalty shall be added on any application for a renewal of registration made later than midnight of the date of expiration or on or after the date penalties become due.

(1) (A) For a delinquency period of 10 days or less, the penalty is ten dollars ($10).

(B) For a delinquency period of more than 10 days, to and including 30 days, the penalty is fifteen dollars ($15).

(C) For a delinquency period of more than 30 days, to and including one year, the penalty is thirty dollars ($30).

(D) For a delinquency period of more than one year, to and including two years, the penalty is fifty dollars ($50).

(E) For a delinquency period of more than two years, the penalty is one hundred dollars ($100).

(2) The penalty on the weight fee and the vehicle license fee shall be computed after the weight fee as provided in Section 9400 or 9400.1 plus the vehicle license fee specified in Section 10751 of the Revenue and Taxation Code have been added together as follows:

(A) For a delinquency period of 10 days or less, the penalty is 10 percent of the fee.

(B) For a delinquency period exceeding 10 days, to and including 30 days, the penalty is 20 percent of the fee.

(C) For a delinquency period of more than 30 days, to and including one year, the penalty is 60 percent of the fee.

(D) For a delinquency period of more than one year, to and including two years, the penalty is 80 percent of the fee.

(E) For a delinquency period of more than two years, the penalty is 160 percent of the fee.

(3) Weight fees not reported and not paid within 20 days, as required by Section 9406, shall be assessed a penalty on the difference in the weight fee, as follows:

(A) For a delinquency period of 10 days or less, the penalty is 10 percent of the fee.

(B) For a delinquency period exceeding 10 days, to and including 30 days, the penalty is 20 percent of the fee.

(C) For a delinquency period of more than 30 days, to and including one year, the penalty is 60 percent of the fee.

(D) For a delinquency period of more than one year, to and including two years, the penalty is 80 percent of the fee.

(E) For a delinquency period of more than two years, the penalty is 160 percent of the fee.

(4) This subdivision applies to the renewal of registration for vehicles with expiration dates on or after January 1, 2003, but before December 1, 2008.

(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. 23. Section 9554 is added to the Vehicle Code, to read:

9554. (a) A penalty shall be added on any application for renewal of registration made later than midnight of the date of expiration or on or after the date penalties become due. Penalties shall be computed as provided in Section 9559 and shall be collected with the fee.

(b) The penalty assessment for the delinquent payment of the registration fee specified in Section 9250 shall be as follows:

(1) Ten dollars ($10) for a delinquency period of 10 days or less.

(2) Fifteen dollars ($15) for a delinquency period of more than 10 days, to and including 30 days.

(3) Thirty dollars ($30) for a delinquency period of more than 30 days, to and including one year.

(4) Fifty dollars ($50) for a delinquency period of more than one year, to and including two years.

(5) One hundred dollars ($100) for a delinquency period of more than two years.

(c) The penalty assessment for the delinquent payment of the weight fee specified in Section 9400 or 9400.1 and the vehicle license fee as

specified in Section 10751 of the Revenue and Taxation Code shall be as follows:

(1) Ten percent of the vehicle license fee, or the combined amount of the vehicle license fee and the weight fee if the vehicle is subject to both fees, for a delinquency period of 10 days or less.

(2) Twenty percent of the vehicle license fee, or the combined amount of the vehicle license fee and the weight fee if the vehicle is subject to both fees, for a delinquency period of more than 10 days, to and including 30 days.

(3) Sixty percent of the vehicle license fee, or the combined amount of the vehicle license fee and the weight fee if the vehicle is subject to both fees, for a delinquency period of more than 30 days, to and including one year.

(4) Eighty percent of the vehicle license fee, or the combined amount of the vehicle license fee and the weight fee if the vehicle is subject to both fees, for a delinquency period of more than one year, to and including two years.

(5) One hundred sixty percent of the vehicle license fee, or the combined amount of the vehicle license fee and the weight fee if the vehicle is subject to both fees, for a delinquency period of more than two years.

(d) On or after January 1, 2003, a penalty assessment for weight fees not reported and not paid within 20 days as required by Section 9406 shall be applied to the difference in the weight fee as follows:

(1) Ten percent of the fee for a delinquency period of 10 days or less.

(2) Twenty percent of the fee for a delinquency period more than 10 days, to and including 30 days.

(3) Sixty percent of the fee for a delinquency period more than 30 days, to and including one year.

(4) Eighty percent of the fee for a delinquency period more than one year, to and including two years.

(5) One hundred sixty percent for a delinquency period more than two years.

(e) A single penalty assessment for the delinquent payment of the fees specified in Sections 9250.8 and 9250.13 shall be as follows:

(1) Ten dollars ($10) for a delinquency period of 10 days or less.

(2) Fifteen dollars ($15) for a delinquency period of more than 10 days, to and including 30 days.

(3) Thirty dollars ($30) for a delinquency period of more than 30 days, to and including one year.

(4) Fifty dollars ($50) for a delinquency period of more than one year, to and including two years.

(5) One hundred dollars ($100) for a delinquency period of more than two years.

(6) This subdivision applies to the renewal of registration for vehicles with expiration dates on or after December 1, 2008.

(f) This section shall become operative January 1, 2009.

SEC. 24. Section 9554.5 of the Vehicle Code is amended to read:

9554.5. (a) A penalty shall be added on any application for original registration made later than midnight of the date of expiration or on or after the date penalties become due. The penalty shall be computed after the registration and weight fees have been combined with the license fee specified in Section 10751 of the Revenue and Taxation Code, as follows:

(1) For a delinquency period of one year or less, the penalty is 40 percent of the fee.

(2) For a delinquency period of more than one year to and including two years, the penalty is 80 percent of the fee.

(3) For a delinquency period of more than two years, the penalty is 160 percent of the fee.

(4) This subdivision applies to applications for an original registration where the date for which fees are due is on or before December 31, 2002.

(b) The penalties specified in paragraphs (1) and (2) shall be added to any delinquent application for original registration made on or after the date penalties become due.

(1) The penalty for the registration fee provided in Section 9250 is as follows:

(A) For a delinquency period of one year or less, the penalty is thirty dollars ($30).

(B) For a delinquency period of more than one year, to and including two years, the penalty is fifty dollars ($50).

(C) For a delinquency period of more than two years, the penalty is one hundred dollars ($100).

(2) The penalty on the weight fee and vehicle license fee shall be computed after the weight fee as provided in Section 9400 or 9400.1 plus the vehicle license fee specified in Section 10751 of the Revenue and Taxation Code have been added together, as follows:

(A) For a delinquency period of one year or less, the penalty is 40 percent of the fee.

(B) For a delinquency period of more than one year, to and including two years, the penalty is 80 percent of the fee.

(C) For a delinquency period of more than two years, the penalty is 160 percent of the fee.

(3) This subdivision shall apply to original registrations where the date the fee is due is on or after January 1, 2003, but before December 1, 2008.

(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. 25. Section 9554.5 is added to the Vehicle Code, to read:

9554.5. (a) On and after January 1, 2003, a penalty shall be added on any application for original registration made later than midnight of the date of expiration or on or after the date penalties become due. Penalties shall be computed as provided in Section 9559 and shall be collected with the fee.

(b) The penalty assessment for the delinquent payment of the registration fee specified in Section 9250 shall be as follows:

(1) Thirty dollars ($30) for a delinquency period of one year or less.

(2) Fifty dollars ($50) for a delinquency period of more than one year, to and including two years.

(3) One hundred dollars ($100) for a delinquency period of more than two years.

(c) The penalty assessment for the delinquent payment of the weight fee specified in Section 9400 or 9400.1 and the vehicle license fee as specified in Section 10751 of the Revenue and Taxation Code shall be as follows:

(1) Forty percent of the vehicle license fee, or the combined amount of the vehicle license fee and the weight fee if the vehicle is subject to both fees, for a delinquency period of one year or less.

(2) Eighty percent of the vehicle license fee, or the combined amount of the vehicle license fee and the weight fee if the vehicle is subject to both fees, for a delinquency period of more than one year, to and including two years.

(3) One hundred sixty percent of the vehicle license fee, or the combined amount of the vehicle license fee and the weight fee if the vehicle is subject to both fees, for a delinquency period of more than two years.

(d) A single penalty assessment for the delinquent payment of the fees specified in Sections 9250.8 and 9250.13 shall be as follows:

(1) Thirty dollars ($30) for a delinquency period of one year or less.

(2) Fifty dollars ($50) for a delinquency period of more than one year, to and including two years.

(3) One hundred dollars ($100) for a delinquency period of more than two years.

(4) This subdivision shall apply to applications for an original registration where the date the fee is due is on or after December 1, 2008.

(e) This section shall become operative January 1, 2009.

SEC. 26. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make statutory changes relative to provisions governing transportation funds to implement the Budget Act of 2008, it is necessary that this act take effect immediately.

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## CHAPTER 757

An act to amend Sections 2558.46, 41203.1, 42238.146, 52052, 52055.57, 52059, 56836.155, 60604, 60605, 60605.6, 60606, 60616, 60630, 60640, 60641, 60642.5, 60643, 60645, 60647, 69521.3, 69521.4, 69521.5, 69521.10, 69521.11, 69522, 69561, and 76300 of, to add Sections 12143 and 52055.59 to, and to repeal Sections 60642 and 60644 of, the Education Code, relating to education finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 2558.46 of the Education Code is amended to read:

2558.46. (a) (1) For the 2003–04 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced by a 1.195 percent deficit factor.

(2) For the 2004–05 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced by a 0.323 percent deficit factor.

(3) For the 2003–04 and 2004–05 fiscal years, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced further by a 1.826 percent deficit factor.

(4) For the 2005–06 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced further by a 0.898 percent deficit factor.

(5) For the 2008–09 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced by a 4.396 percent deficit factor.

(b) In computing the revenue limit for each county superintendent of schools for the 2006–07 fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for that county superintendent of schools had been determined for the 2003–04, 2004–05, and 2005–06 fiscal years without being reduced by the deficit factors specified in this section.

(c) In computing the revenue limit for each county superintendent of schools for the 2009–10 fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for that county superintendent of schools had been determined for the 2008–09 fiscal year without being reduced by the deficit factors specified in this section.

SEC. 2. Section 12143 is added to the Education Code, to read:

12143. The department shall submit to the Legislature, the Legislative Analyst's Office, and the Governor the following two annual reports on federal funds for education in kindergarten and grades 1 to 12, inclusive:

(a) One report, to be submitted no later than February 15 of each year, shall provide a three-year tracking of federal funds. For each federally funded program, the report shall include detail by type of funded activity (state administration, state-level activity, local assistance, and capital outlay) and state budget category (state operations, local assistance, and capital outlay). For each program, by type of funded activity and state budget category, the report shall include all of the following:

(1) Actual expenditures for the prior year.

(2) A revised estimate of current year expenditures.

(3) The budget-year appropriation.

(b) The other report, to be submitted no later than November 1 of each year, shall identify available federal carryover funds. Specifically, this report shall identify carryover funds, by fiscal year and potential reversion date, for each federally funded program by type of funded activity (state administration, state-level activity, local assistance, and capital outlay) and state budget category (state operations, local assistance, and capital outlay).

SEC. 3. Section 41203.1 of the Education Code is amended to read:

41203.1. (a) For the 1990–91 fiscal year and each fiscal year thereafter, allocations calculated pursuant to Section 41203 shall be distributed in accordance with calculations provided in this section. Notwithstanding Section 41203, and for the purposes of this section, school districts, community college districts, and direct elementary and secondary level instructional services provided by the State of California shall be regarded as separate segments of public education, and each of these three segments of public education shall be entitled to receive respective shares of the amount calculated pursuant to Section 41203 as though the calculation made pursuant to subdivision (b) of Section 8 of

Article XVI of the California Constitution were to be applied separately to each segment and the base year for the purposes of this calculation under paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution were based on the 1989–90 fiscal year. Calculations made pursuant to this subdivision shall be made so that each segment of public education is entitled to the greater of the amounts calculated for that segment pursuant to paragraph (1) or (2) of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(b) If the single calculation made pursuant to Section 41203 yields a guaranteed amount of funding that is less than the sum of the amounts calculated pursuant to subdivision (a), the amount calculated pursuant to Section 41203 shall be prorated for the three segments of public education.

(c) Notwithstanding any other law, this section does not apply to the 1992–93 to 2008–09 fiscal years, inclusive.

SEC. 4. Section 42238.146 of the Education Code is amended to read:

42238.146. (a) (1) For the 2003–04 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 1.198 percent deficit factor.

(2) For the 2004–05 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 0.323 percent deficit factor.

(3) For the 2003–04 and 2004–05 fiscal years, the revenue limit for each school district determined pursuant to this article shall be further reduced by a 1.826 percent deficit factor.

(4) For the 2005–06 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 0.892 percent deficit factor.

(5) For the 2008–09 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 4.713 percent deficit factor.

(b) In computing the revenue limit for each school district for the 2006–07 fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for that school district had been determined for the 2003–04, 2004–05, and 2005–06 fiscal years without being reduced by the deficit factors specified in this section.

(c) In computing the revenue limit for each school district for the 2009–10 fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for that school district had been determined for the 2008–09 fiscal year without being reduced by the deficit factors specified in this section.

SEC. 5. 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 grade 9 for the first time, divided by the total calculated in clause (ii).

(ii) The number of pupils entering grade 9 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 Section 60640 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 currently are 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 standards-based achievement tests provided for in Section 60642.5.

(2) 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, at a minimum, shall 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 annually shall 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 Section 60640 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. 6. Section 52055.57 of the Education Code is amended to read:

52055.57. (a) (1) Provisions that are applicable to local educational agencies under this section are for the purpose of implementing federal requirements under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.). The satisfaction of these criteria by local educational agencies that choose to participate under this article shall be a condition of receiving funds pursuant to this section.

(2) The department shall identify local educational agencies that are in danger of being identified within two years as program improvement local educational agencies under the federal No Child Left Behind Act of 2001, and shall notify those local educational agencies, in writing, of this status and provide those local educational agencies with research-based criteria to conduct a voluntary self-assessment.

(3) The self-assessment shall identify deficiencies within the operations of the local educational agency, and the programs and services of the local educational agency.

(4) A local educational agency identified pursuant to paragraph (2) is encouraged to revise its local educational agency plan based on the results of the self-assessment.

(5) The program described in this subdivision shall be referred to as the "Early Warning Program."

(b) (1) A local educational agency identified as a program improvement local educational agency under the federal No Child Left Behind Act of 2001 shall do all of the following:

(A) Conduct a self-assessment using materials and criteria based on current research and provided by the department.

(B) No later than 90 days after a local educational agency is identified for program improvement, contract with a county office of education or another external entity after working with the county superintendent of schools, for both of the following purposes:

(i) Verifying the fundamental teaching and learning needs in the schools of that local educational agency as determined by the local educational agency self-analysis, and identifying the specific academic problems of low-achieving pupils, including a determination of why the prior plan of the local educational agency failed to bring about increased pupil academic achievement.

(ii) Ensuring that the local educational agency receives intensive support and expertise to implement local educational agency reform initiatives in the revised local educational agency plan as required by the federal No Child Left Behind Act of 2001.

(C) Revise and expeditiously implement the local educational agency plan to reflect the findings of the verified self-assessment.

(D) After working with the county superintendent of schools or an external verifier, contract with an external provider to provide support and implement recommendations to assist the local educational agency in resolving shortcomings identified in the verified self-assessment.

(2) (A) Subject to the availability of funds in the annual Budget Act for this purpose, a local educational agency described in paragraph (1) annually may receive fifty thousand dollars ($50,000), plus ten thousand dollars ($10,000) for each school that is supported by federal funds pursuant to Title I of the federal No Child Left Behind Act of 2001 within the local educational agency, for the purpose of fulfilling the requirements of this subdivision. If funding is not provided in the annual Budget Act or other statute, local educational agencies shall not be subject to the requirements of subparagraphs (B) and (D) of paragraph (1).

(B) Subject to the availability of funds appropriated in the annual Budget Act for this purpose, a local educational agency identified as a program improvement local educational agency during the 2005–06 fiscal year, shall receive priority for funding based upon the performance of the socioeconomically disadvantaged subgroup of the local educational agency on the Academic Performance Index. Priority for funding shall be provided to the lowest performing local educational agencies that are identified as program improvement local educational agencies. It is the intent of the Legislature that funds apportioned pursuant to this paragraph be used to support activities identified in paragraph (1).

(C) It is the intent of the Legislature that a local educational agency identified as a program improvement local educational agency receive no more than two years of funding pursuant to this paragraph.

(c) A local educational agency that has been identified for corrective action under the federal No Child Left Behind Act of 2001 shall be subject to one or more of the following sanctions as recommended by the Superintendent and approved by the state board:

(1) Replacing local educational agency personnel who are relevant to the failure to make adequate yearly progress.

(2) Removing schools from the jurisdiction of the local educational agency and establishing alternative arrangements for the governance and supervision of those schools.

(3) Appointing, by the state board, a receiver or trustee, to administer the affairs of the local educational agency in place of the county superintendent of schools and the governing board.

(4) Abolishing or restructuring the local educational agency.

(5) Authorizing pupils to transfer from a school operated by the local educational agency to a higher performing school operated by another local educational agency, and providing those pupils with transportation to those schools, in conjunction with carrying out not less than one additional action described under this paragraph.

(6) Instituting and fully implementing a new curriculum that is based on state academic content and achievement standards, including providing appropriate professional development based on scientifically based research for all relevant staff, that offers substantial promise of improving educational achievement for high-priority pupils.

(7) Deferring programmatic funds or reducing administrative funds.

(d) (1) The department shall develop, and the state board shall approve at a public meeting, objective criteria by which a local educational agency identified for corrective action and subject to a sanction listed under subdivision (c) shall be evaluated to determine the pervasiveness and severity of its performance problems and the sanction to be imposed.

(2) A local educational agency identified for corrective action and subject to a sanction listed under subdivision (c) may apply for a one-year, nonrenewable grant of federal improvement funding to assist in its improvement process and may expend that grant funding over the time period allowable under federal law. It is the intent of the Legislature to integrate federal funding that is available for this purpose, including, but not limited to, funding for program improvement and school improvement grants pursuant to Section 6303 of Title 20 of the United States Code.

(3) The amount of a grant for a local educational agency with extensive and severe performance problems shall be one hundred fifty thousand dollars ($150,000) per school identified for program improvement pursuant to federal law. The amount of a grant for a local educational agency with moderate performance problems shall be one

hundred thousand dollars ($100,000) per school identified for program improvement pursuant to federal law. The amount of a grant for a local educational agency with minor or isolated performance problems shall be fifty thousand dollars ($50,000) per school identified for program improvement pursuant to federal law.

(4) A local educational agency that receives funding under this subdivision shall use the funds in accordance with Section 6316(b) and (c) of Title 20 of the United States Code. Pursuant to the technical assistance requirements under the federal No Child Left Behind Act of 2001 outlined in Section 6312(b) and (c) and Section 6317 of Title 20 of the United States Code, the Superintendent may recommend, and the state board may approve, that a local educational agency contract with a district assistance and intervention team or other technical assistance provider to receive guidance, support, and technical assistance. A district intervention and assistance team or other technical provider with which a local educational agency is required to contract shall perform the duties specified in subdivision (e) of Section 52059.

(5) Notwithstanding any other law, a local educational agency that receives funding under this subdivision or that receives other federal funds for school improvement shall not use those funds to compensate a receiver or trustee assigned by the state board pursuant to paragraph (3) of subdivision (c).

(e) A local educational agency that has received a sanction under subdivision (c) and has not exited program improvement under the federal No Child Left Behind Act of 2001 shall appear before the state board within three years to review the progress of the local educational agency. Upon hearing testimony and reviewing written data from the local educational agency, the district assistance and intervention team, or county superintendent of schools, the Superintendent shall recommend, and the state board may approve, an alternative sanction under subdivision (c), or may take any appropriate action.

(f) Subject to the availability of funds in the annual Budget Act for this purpose, a local educational agency that is not identified as a program improvement local educational agency under the federal No Child Left Behind Act of 2001 may annually receive up to fifteen thousand dollars ($15,000) per school identified as a program improvement school for the purposes of supporting schools identified as program improvement schools in the local educational agency and determining barriers to improved pupil academic achievement. That local educational agency shall receive no less than forty thousand dollars ($40,000) and no more than one million five hundred thousand dollars ($1,500,000) for those purposes. The Superintendent shall compile a list that ranks each local educational agency based on the number of, and percentage of, schools

identified as program improvement schools and shall provide this funding to local educational agencies equally from each list until all funds appropriated for this purpose are depleted. These funds shall be provided for no more than three years.

(g) For purposes of this article, "local educational agency" means a school district, county office of education, or charter school that elects to receive its funding directly pursuant to Section 47651, and that provides public educational services to pupils in kindergarten or any of grades 1 to 12, inclusive.

SEC. 7. Section 52055.59 is added to the Education Code, to read:

52055.59. (a) Subject to an appropriation in the annual Budget Act or other statute, the Superintendent shall contract with an independent evaluator to complete a comprehensive three-year evaluation of the program established pursuant to subdivision (d) of Section 52055.57. It is the intent of the Legislature that a total of one million dollars ($1,000,000) be provided for the independent evaluation, with three hundred thirty-four thousand dollars ($334,000) provided for the 2008–09 fiscal year, three hundred thirty-three thousand dollars ($333,000) provided for the 2009–10 fiscal year, and three hundred thirty-three thousand dollars ($333,000) provided for the 2010–11 fiscal year. The evaluation shall focus on local educational agencies that are identified for corrective action beginning with the 2007–08 fiscal year, and in the 2008–09, 2009–10, and 2010–11 fiscal years, and shall include data compiled for those local educational agencies for those years.

(b) The evaluation shall examine the implementation, impact, costs, and effectiveness of the corrective actions and reform strategies undertaken by local educational agencies that are identified for corrective action, as specified in subdivision (a). The evaluation also shall determine the effectiveness of the technical assistance provided by the district assistance and intervention teams and other technical assistance providers pursuant to Section 52059.

(c) The Superintendent shall ensure that the evaluation includes, at a minimum, all of the following factors:

(1) Program implementation data, including, but not limited to, a review of startup activities, the quality of the academic program, local governance and leadership, the allocation of fiscal resources, the allocation of personnel, management practices, community support, parental participation, the use of pupil data to inform instructional practice, and staff development.

(2) Pupil performance data, including, but not limited to, results of assessments used to determine whether local educational agencies have made significant progress towards meeting their state and federal academic growth targets and data for each of the following subgroups:

(A) English learners.

(B) Pupils with exceptional needs.

(C) Pupils who are eligible for funds under Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(3) Data on the percentage of fully credentialed teachers, the percentage of teachers who hold emergency credentials, the percentage of teachers assigned outside their subject area of competence, the accreditation status of the school if appropriate, average class size per grade level, and the number of pupils in multitrack, year-round schools. These data shall be compiled for the 2008–09, 2009–10, and 2010–11 school years.

(d) The evaluation shall include a rigorous qualitative and quantitative assessment of how program implementation affected pupil achievement and teacher quality using the information required pursuant to subdivision (c).

(e) The Superintendent shall submit two interim reports and a final report to the Governor, the Department of Finance, the Legislature, and the Legislative Analyst's Office. The reports shall be submitted to these agencies no later than November 1, 2009, November 1, 2010, and November 1, 2011, respectively.

SEC. 8. Section 52059 of the Education Code is amended to read:

52059. (a) For purposes of complying with the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), a statewide system of school support shall be established by the department to provide a statewide system of intensive and sustained support and technical assistance for school districts, county offices of education, and schools in need of improvement. The system shall consist of regional consortia as well as district assistance and intervention teams and other technical assistance providers.

(b) The regional consortia shall work collaboratively with, and provide technical assistance to, school districts and schools in need of improvement by doing the following:

(1) Reviewing and analyzing all facets of the operation of a local educational agency or school, including the following:

(A) The design and operation of the instructional program offered by the local educational agency or school.

(B) The recruitment, hiring, and retention of principals, teachers, and other staff, including vacancy issues. The regional consortia may request the assistance of the Fiscal Crisis and Management Assistance Team to review school district or school recruitment, hiring, and retention practices.

(C) The roles and responsibilities of district and school management personnel.

(2) Assisting the local educational agency or school in developing recommendations for improving pupil performance and school operations.

(3) Assisting the local educational agency or school in efforts to eliminate misassignments of certificated personnel.

(c) For purposes of performing the functions specified in subdivision (b), funds for the regional consortia shall be distributed based on the number of Title I schools, the pupil enrollment in those schools, and the number of school districts in each region that have been identified as being in need of improvement pursuant to Section 6316 of Title 20 of the United States Code.

(d) The regional consortia shall ensure that support is provided in the following order of priority:

(1) To school districts or county offices of education with schools that are subject to corrective action under Section 6316(b)(7) of Title 20 of the United States Code.

(2) To school districts or county offices of education with schools that are identified as being in need of improvement pursuant to Section 6316(b) of Title 20 of the United States Code.

(3) To provide support and assistance to school districts and county offices of education with schools participating under the federal No Child Left Behind Act of 2001 that need support and assistance to achieve the purposes of that act.

(4) To provide support and assistance to other school districts and county offices of education with schools participating in a program carried out under this chapter.

(e) In accordance with paragraph (4) of subdivision (d) of Section 52055.57, the Superintendent may recommend, and the state board may approve, that a local educational agency that has been identified for corrective action under the federal No Child Left Behind Act of 2001 contract with a district assistance and intervention team or other technical assistance provider to receive technical assistance, including, but not limited to, a needs assessment of the local educational agency.

(1) The Superintendent shall develop, and the state board shall approve, standards and criteria to be applied by a district assistance and intervention team or other technical assistance provider in carrying out its duties. The standards and criteria that a district assistance and intervention team or other technical assistance provider shall use in assessing a local educational agency shall address, at a minimum, all of the following areas:

(A) Governance.

(B) Alignment of curriculum, instruction, and assessments to state standards.

(C) Fiscal operations.

(D) Parent and community involvement.
(E) Human resources.
(F) Data systems and achievement monitoring.
(G) Professional development.

(2) Not later than 120 days after the assignment of a district assistance and intervention team or other technical assistance provider, or the next regularly scheduled meeting of the state board following the expiration of the 120 days, the team shall complete a report based on the findings from the needs assessment performed pursuant to paragraph (1). The report shall include, at a minimum, recommendations for improving the areas specified in paragraph (1) that are found to need improvement. The report also shall address the manner in which existing resources should be redirected to ensure that the recommendations can be implemented.

(3) Not later than 30 days after completion of the report specified in paragraph (2), the governing board of the local educational agency may submit an appeal to the Superintendent to be exempted from implementing one or more of the recommendations made in the report. The Superintendent, with approval of the state board, may exempt the local educational agency from complying with one or more of the recommendations made in the report.

(4) Not later than 60 days after completion of the report, the governing board of the local educational agency shall adopt the report recommendations described in paragraph (2), as modified by any exemptions granted by the Superintendent under paragraph (3), at a regularly scheduled meeting of the governing board.

(f) A local educational agency that is required to contract with a district assistance and intervention team or other technical assistance provider pursuant to this section shall reserve funding provided under subdivision (d) of Section 52055.57 to cover the entire cost of the team or other technical assistance provider before using that funding for other reform activities.

(g) Upon an evidence-based finding that a district assistance and intervention team or other technical assistance provider has not fulfilled its legal obligations pursuant to this section, the Superintendent, with the approval of the state board, may remove the district assistance and intervention team or other technical assistance provider from the state list of eligible providers.

(h) The provisions of this section are declarative of technical assistance requirements under the federal No Child Left Behind Act of 2001 outlined in Section 6316(b) and (c) and Section 6317(a) of Title 20 of the United States Code.

(i) For purposes of this article, all references to schools shall include charter schools.

SEC. 9. Section 56836.155 of the Education Code is amended to read:

56836.155. (a) On or before November 2, 1998, the department, in conjunction with the Legislative Analyst's Office, shall do the following:

(1) Calculate an "incidence multiplier" for each special education local plan area using the definition, methodology, and data provided in the final report submitted by the American Institutes for Research pursuant to Section 67 of Chapter 854 of the Statutes of 1997.

(2) Submit the incidence multiplier for each special education local plan area and supporting data to the Department of Finance.

(b) The Department of Finance shall review the incidence multiplier for each special education local plan area and the supporting data, and report any errors to the department and the Legislative Analyst's Office for correction.

(c) The Department of Finance shall approve the final incidence multiplier for each special education local plan area by November 23, 1998.

(d) For the 1998–99 fiscal year and each fiscal year thereafter to and including the 2008–09 fiscal year, the Superintendent shall perform the following calculation to determine the adjusted entitlement of each special education local plan area for the incidence of disabilities:

(1) The incidence multiplier for the special education local plan area shall be multiplied by the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(2) The amount determined pursuant to paragraph (1) shall be added to the statewide target amount per unit of average daily attendance for special education local plan area determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(3) Subtract the amount of funding for the special education local plan area determined pursuant to paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b) of Section 56836.08, as appropriate for the fiscal year in which the computation is made, or the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made, whichever is greater, from the amount determined pursuant to paragraph (2). For the purposes of this paragraph for the 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, 2007–08, and 2008–09 fiscal years, the amount, if any, received pursuant to Section 56836.159 shall be excluded from the funding level per unit of average

daily attendance for a special education local plan area. If the result is less than zero, the special education local plan area shall not receive an adjusted entitlement for the incidence of disabilities.

(4) Multiply the amount determined in paragraph (3) by either the average daily attendance reported for the special education local plan area for the fiscal year in which the computation is made, as adjusted pursuant to subdivision (a) of Section 56836.15, or the average daily attendance reported for the special education local plan area for the prior fiscal year, as adjusted pursuant to subdivision (a) of Section 56826.15, whichever is less.

(5) If there are insufficient funds appropriated in the fiscal year for which the computation is made for the purposes of this section, the amount received by each special education local plan area shall be prorated.

(e) For the 1997–98 fiscal year, the Superintendent shall perform the calculation in paragraphs (1) to (3), inclusive, of paragraph (d) only for the purposes of making the computation in paragraph (1) of subdivision (d) of Section 56836.08, but the special education local plan area shall not receive an adjusted entitlement for the incidence of disabilities pursuant to this section for the 1997–98 fiscal year.

SEC. 10. Section 60604 of the Education Code is amended to read:

60604. (a) The Superintendent shall design and implement, consistent with the timetable and plan required pursuant to subdivision (b), a statewide pupil assessment program consistent with the testing requirements of this article in accordance with the objectives set forth in Section 60602. That program shall include all of the following:

(1) A plan for producing valid, reliable, and comparable individual pupil scores in grades 2 to 11, inclusive, and a comprehensive analysis of these scores based on the results of the achievement test designated by the state board that assesses a broad range of basic academic skills pursuant to the Standardized Testing and Reporting (STAR) Program established by Article 4 (commencing with Section 60640).

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 2 to 11, inclusive.

(3) Statewide academically rigorous content and performance standards that reflect the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem.

(4) A statewide system that provides the results of testing in a manner that reflects the degree to which pupils are achieving the academically rigorous content and performance standards adopted by the state board.

(5) The alignment of assessment with the statewide academically rigorous content and performance standards adopted by the state board.

(6) The active, ongoing involvement of parents, classroom teachers, administrators, other educators, governing board members of school districts, and the public in all phases of the design and implementation of the statewide pupil assessment program.

(7) The development of a contract or contracts with a publisher or publishers, after the approval of statewide academically rigorous content standards by the state board, for the development of performance standards and assessments of applied academic skills designed to test pupils' knowledge of academic skills and abilities to apply that knowledge and those skills in order to solve problems and communicate.

(b) The Superintendent shall develop and annually update for the Legislature a five-year cost projection, implementation plan, and timetable for implementing the program described in subdivision (a). The annual update shall be submitted on or before March 1 of each year to the chairperson of the fiscal subcommittee considering budget appropriations in each house. The update shall explain any significant variations from the five-year cost projection for the current year budget and the proposed budget.

(c) The Superintendent shall provide each school district with guidelines for professional development that are designed to assist classroom teachers to use the results of the assessments administered pursuant to this chapter to modify instruction for the purpose of improving pupil learning. These guidelines shall be developed in consultation with classroom teachers and approved by the state board before dissemination.

(d) The Superintendent and the state board shall consider comments and recommendations from school districts and the public in the development, adoption, and approval of assessment instruments.

(e) The results of the achievement test administered pursuant to Article 4 (commencing with Section 60640) shall be returned to the school district within the period of time specified by the state board.

(f) This section shall become inoperative on July 1, 2011.

SEC. 11. Section 60605 of the Education Code is amended to read:

60605. (a) (1) (A) Not later than January 1, 1998, the state board shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for

assessing the academic achievement of individual pupils and of schools, school districts, and the California educational system. Not later than November 1, 1998, the state board shall adopt these standards in the core curriculum areas of history/social science and science.

(B) The state board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history/social science, and science based on the recommendations made by the Superintendent of a contractor or contractors.

(C) The state board shall require the contractor or contractors to submit performance standards to the Superintendent and the state board not later than a specified date that allows sufficient opportunity for the Superintendent to make a recommendation to the state board and for the state board to conduct regional hearings prior to the adoption of the performance standards.

(2) (A) The state board may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the state board. The state performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and does not mandate any actions or activities by school districts.

(B) Because these standards are models, the adoption of these standards is not subject to the Administrative Procedure Act. This subparagraph is declaratory of existing law.

(3) Before adopting academic content and performance standards, the state board shall hold regional hearings for the purpose of giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The state board shall ensure that the statewide assessment system adopted pursuant to this chapter yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

(2) This subdivision does not prevent the state board from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(c) To the extent feasible and as otherwise required, the state board shall ensure that assessments developed, or contracted for pursuant to Section 60642.5, by the state are aligned with the statewide content and performance standards adopted pursuant to subdivision (a). The department, with the approval of the state board, periodically shall contract for a review of the achievement test for conformance with these standards.

(d) After adopting statewide content and performance standards, the state board shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(e) The state board shall adopt regulations for the conduct and administration of the testing and assessment program.

(f) The state board shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and assessment questions and materials.

(g) This section shall become inoperative on July 1, 2011.

SEC. 12. Section 60605.6 of the Education Code is amended to read:

60605.6. Subject to the availability of funds in the annual Budget Act for this purpose, the Superintendent, upon approval of the state board, shall contract for the development and distribution of workbooks, as follows:

(a) One workbook to be distributed to all pupils in grade 10. This workbook shall contain information on the proficiency levels that must be demonstrated by pupils on the high school exit examination described in Chapter 9 (commencing with Section 60850). The workbook also shall contain sample questions, with explanations describing how these sample questions test pupil knowledge of the language arts and mathematics content standards adopted by the state board pursuant to Section 60605.

(b) Separate workbooks for each of grades 2 to 11, inclusive. Each pupil in grades 2 to 11, inclusive, who is required to take the achievement tests described in Section 60642.5 shall receive a copy of the workbook designed for the same grade level in which the pupil is enrolled. These workbooks shall contain material to assist pupils and their parents with standards-based learning, including the grade appropriate academic content standards adopted by the state board pursuant to Section 60605 and sample questions that require knowledge of these standards to

answer. The workbooks also shall describe how the sample questions test knowledge of the state board adopted academic content standards.

(c) This section shall become inoperative on July 1, 2011.

SEC. 13. Section 60606 of the Education Code is amended to read:

60606. (a) After adopting an assessment of applied academic skills for use in grades 4, 5, 8, and 10 pursuant to Section 60605, the state board shall submit the instrument, once designated or adopted, for review by the Statewide Pupil Assessment Review Panel, which is hereby established.

(b) The panel shall consist of six members. Three members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the Superintendent. A majority of the panel shall consist of parents whose children attend public schools in the state in kindergarten and grades 1 to 12, inclusive.

(c) Panel members shall serve two-year terms, without compensation. No panel member shall serve more than two consecutive terms.

(d) The panel shall review the instrument specified in subdivision (a) in order to ensure that the content of the instrument complies with the requirements of Section 60614. Notwithstanding any other provision of law, the panel may meet in closed session with a publisher for the purpose of addressing questions and clarifying issues that relate to ensuring that the content of the publisher's test or assessment, as the case may be, complies with the requirements of Section 60614.

(e) The panel shall report its findings and recommendations to the state board within 10 days of its receipt of the instrument. If the panel fails to report within the required 10 days, the test or assessment shall be deemed acceptable to the panel.

(f) This section shall become inoperative on July 1, 2011.

SEC. 14. Section 60616 of the Education Code is amended to read:

60616. Any achievement test adopted by the state board pursuant to this chapter may be reviewed by any Member of the Legislature or any member of the governing board of a school district, if the member agrees in writing prior to the review to maintain the confidentiality of the test.

SEC. 15. Section 60630 of the Education Code is amended to read:

60630. (a) The Superintendent shall prepare and submit an annual report to the Legislature and the state board containing an analysis of the results and test scores of the assessment of applied academic skills adopted pursuant to subdivision (b) of Section 60605. The report simultaneously shall be made available in an electronic medium on the Internet. The analysis may include, but need not be limited to, the following factors:

(1) Financial characteristics, including specially funded programs.

(2) Pupil and parent characteristics.

(3) Staff characteristics.

(4) Instructional methodologies and materials.

(b) School districts shall submit to the department whatever information the department deems necessary to carry out this section.

SEC. 16. Section 60640 of the Education Code is amended to read:

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) 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 2 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 Section 1412(a)(17) 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, pupils with limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, may take a second achievement test in their 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 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 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997–98 fiscal year, as specified in Section 60643, 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 choosing 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 Section 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.

(F) On or before January 1, 2006, the department shall submit to the Legislature a report on the development and implementation of the initial primary language assessments and recommendations on the development and implementation of future assessments and funding requirements.

(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 2 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 subdivisions (b), (e), (f), and (g).

(2) The state board annually shall establish the amount of funding to be apportioned to school districts for each test administered and annually shall establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each

September and the amount included in the annual Budget Act, and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (e), (f), and (g).

(3) An adjustment to the amount of funding to be apportioned per test shall 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 2 to 11, inclusive.

(2) The number of pupils to whom an achievement test was administered in grades 2 to 11, inclusive, in the school district.

(3) The number of pupils in paragraph (1) who were exempted from the test at the request of their parents or guardians.

(k) 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, with the approval of the state board, annually shall release to the public test items from the standards-based achievement tests pursuant to Section 60642.5 administered in previous

years. The minimum number of test items released per year shall be equal to 25 percent of the total number of test items on the test administered in the previous year.

(m) This section shall become inoperative on July, 1, 2011.

SEC. 17. Section 60641 of the Education Code is amended to read:

60641. (a) The department shall ensure that school districts comply with each of the following requirements:

(1) The standards-based achievement test provided for in Section 60642.5 is scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(2) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the parent or guardian of the pupil. The written report shall include a clear explanation of the purpose of the test, the score of the pupil, and the intended use by the school district of the test score. This subdivision does not require teachers or other school district personnel to prepare individualized explanations of the test score of each pupil.

(3) (A) The individual results of each pupil test administered pursuant to Section 60640 also shall be reported to the school and teachers of a pupil. The school district shall include the test results of a pupil in his or her pupil records. However, except as provided in this section, individual pupil test results only may be released with the permission of either the pupil's parent or guardian if the pupil is a minor, or the pupil if the pupil has reached the age of majority or is emancipated.

(B) Notwithstanding subparagraph (A), a pupil or his or her parent or guardian may authorize the release of individual pupil results to a postsecondary educational institution for the purpose of credit, placement, or admission.

(4) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting.

(b) The publisher of the standards-based achievement tests provided for in Section 60642.5 shall make the individual pupil, grade, school, school district, and state results available to the department pursuant to paragraph (9) of subdivision (a) of Section 60643 by August 8 of each year in which the achievement test is administered for those schools for which the last day of test administration, including makeup days, is on or before June 25. The department shall make the grade, school, school

district, and state results available on the Internet by August 15 of each year in which the achievement test is administered for those schools for which the last day of test administration, including makeup days, is on or before June 25.

(c) The department shall take all reasonable steps to ensure that the results of the test for all pupils who take the test by June 25 are made available on the Internet by August 15, as set forth in subdivision (b).

(d) The department shall ensure that a California Standards Test that is augmented for the purpose of determining credit, placement, or admission of a pupil in a postsecondary educational institution inform a pupil in grade 11 that he or she may request that the results from that assessment be released to a postsecondary educational institution.

SEC. 18. Section 60642 of the Education Code is repealed.

SEC. 19. Section 60642.5 of the Education Code is amended to read:

60642.5. (a) The Superintendent, with approval of the state board, shall provide for the development of an assessment instrument, to be called the California Standards Tests, that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the state board. These standards-based achievement tests shall contain the subject areas specified in paragraph (3) of subdivision (a) of Section 60603 for grades 2 to 8, inclusive, and shall include an assessment in history/social science in at least one elementary or middle school grade level selected by the state board and science in at least one elementary or middle school grade level selected by the state board, and the core curriculum areas specified in paragraph (5) of subdivision (a) of Section 60603 for grades 9 to 11, inclusive, except that history-social science shall not be included in the grade 9 assessment unless the state board adopts academic content standards for a grade 9 history-social science course, and shall include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skill if deemed valid and reliable and if resources are made available for their use.

(b) In approving a contract for the development or administration of the California Standards Tests, the state board shall consider each of the following criteria:

(1) The ability of the contractor to produce valid, reliable individual pupil scores.

(2) The ability of the contractor to report results pursuant to subdivision (a) of Section 60643 by August 8.

(3) The ability of the contractor to ensure alignment between the standards-based achievement test and the academically rigorous content and performance standards as those standards are adopted by the state

board. This criterion shall include the ability of the contractor to implement a process to establish and maintain alignment between the test items and the standards.

(4) The per pupil cost estimates of developing and, if appropriate, administering the proposed assessment with a system to facilitate the determination of future per pupil cost determinations.

(5) The procedures of the contractor to ensure the security and integrity of test questions and materials.

(6) The experience of the contractor in successfully conducting testing programs adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

(c) The standards-based achievement tests may use items from other tests.

SEC. 20. Section 60643 of the Education Code is amended to read:

60643. (a) To be eligible for consideration under Section 60642.5 by the state board, test publishers shall agree in writing each year to meet the following requirements, as applicable, if selected:

(1) Enter into an agreement, pursuant to subdivision (e) or (f), with the department by October 15 of that year.

(2) Align the standards-based achievement test provided for in Section 60642.5 to the academically rigorous content and performance standards adopted by the state board.

(3) Comply with subdivisions (c) and (d) of Section 60645.

(4) Provide valid and reliable individual pupil scores to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores to school districts and county boards of education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

(F) Comparison of statewide scores relative to other states.

(6) Provide disaggregated scores, based on limited-English-proficient status and nonlimited-English-proficient status. For purposes of this section, pupils with "nonlimited-English-proficient status" shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These scores shall be provided to school districts and county boards of education in the same forms and formats listed in paragraph (5).

(7) Provide disaggregated scores by pupil gender and ethnicity and provide disaggregated scores based on whether pupils are economically

disadvantaged or not. These disaggregated scores shall be in the same forms and formats as listed in paragraph (5). In any one year, the disaggregation shall entail information already being collected by school districts, county offices of education, or charter schools.

(8) Provide disaggregated scores for pupils who have individualized education programs and have enrolled in special education, to the extent required by federal law. These scores shall be provided in the same forms and formats listed in paragraph (5). This section shall not be construed to exclude the scores of special education pupils from any state or federal accountability system.

(9) Provide information listed in paragraphs (5), (6), (7), and (8) to the department and the state board in the medium requested by each entity, respectively.

(b) It is the intent of the Legislature that the publisher work with the Superintendent and the state board in developing a methodology to disaggregate statewide scores as required in paragraphs (6) and (7) of subdivision (a), and in determining which variable indicated on the STAR testing document shall serve as a proxy for "economically disadvantaged" status pursuant to paragraph (7) of subdivision (a).

(c) Access to information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a pupil from the test if a parent or parents decline to disclose income. This chapter does not abridge or deny rights to confidentiality contained in the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable state and federal law that protect the confidentiality of information collected by educational institutions.

(d) Notwithstanding any other law, the publisher of the standards-based achievement test provided for in Section 60642.5 or any contractor under subdivision (f) shall comply with all of the conditions and requirements enumerated in subdivision (a), as applicable, to the satisfaction of the state board.

(e) (1) A publisher shall not provide a test described in Section 60642.5 or 60650 or in subdivision (f) of Section 60640 for use in California public schools, unless the publisher enters into a written contract with the department as set forth in this subdivision.

(2) The department shall develop, and the state board shall approve, a contract to be entered into with a publisher pursuant to paragraph (1). The department may develop the contract through negotiations with the publisher.

(3) For purposes of the contracts authorized pursuant to this subdivision, 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.

(4) The contracts shall include provisions for progress payments to the publisher for work performed or costs incurred in the performance of the contract. Not less than 10 percent of the amount budgeted for each separate and distinct component task provided for in each contract shall be withheld pending final completion of all component tasks by that publisher. The total amount withheld pending final completion shall not exceed 10 percent of the total contract price.

(5) The contracts shall require liquidated damages to be paid by the publisher in the amount of up to 10 percent of the total cost of the contract for any component task that the publisher through its own fault or that of its subcontractors fails to substantially perform by the date specified in the agreement.

(6) The contracts shall establish the process and criteria by which the successful completion of each component task shall be recommended by the department and approved by the state board.

(7) The publishers shall submit, as part of the contract negotiation process, a proposed budget and invoice schedule, that includes a detailed listing of the costs for each component task and the expected date of the invoice for each completed component task.

(8) The contracts shall specify the following component tasks, as applicable, that are separate and distinct:

(A) Development of new tests or test items as required by paragraph (2) of subdivision (a).

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

(E) Reporting of test results to the school districts, including, but not limited to, all reports specified in this section.

(F) Reporting of test results to the department, including, but not limited to, the electronic files required pursuant to this section.

(G) All other analyses or reports required by the Superintendent to meet the requirements of state and federal law and set forth in the agreement.

(9) The contracts shall specify the specific reports and data files, if any, that are to be provided to school districts by the publisher and the number of copies of each report or file to be provided.

(10) The contracts shall specify the means by which any delivery date for materials to each school district shall be verified by the publisher and the school district.

(11) School districts may negotiate a separate agreement with the publisher for any additional materials or services not within the contracts specified in this subdivision, including, but not limited to, the administration of the tests to pupils in grade levels other than grades 2 to 11, inclusive. Any separate agreement is not within the scope of the contract specified in this subdivision.

(f) The department, with approval of the state board, may enter into a separate contract for the development or administration of a test authorized pursuant to this part, including, but not limited to, item development, coordination of tests, assemblage of tests or test items, scoring, or reporting. The liquidated damages provision set forth in paragraph (5) of subdivision (e) shall apply to a contract entered into pursuant to this subdivision.

(g) This section shall become inoperative on July, 1, 2011.

SEC. 21. Section 60644 of the Education Code is repealed.

SEC. 22. Section 60645 of the Education Code is amended to read:

60645. (a) The panel established pursuant to Section 60606 shall review the standards-based achievement test provided for in Section 60642.5 and items identified in subdivision (d) for compliance with Section 60614.

(b) Test questions or test content identified by the panel to be out of compliance with Section 60614 shall be recommended for deletion or replacement pursuant to subdivision (e) of Section 60606.

(c) The state board shall ensure that any question or content not in compliance with Section 60614 is deleted from the standards-based achievement test provided for in Section 60642.5.

(d) If necessary to maintain the requirements of Section 60642.5, the publisher shall replace deleted test content with revisions that comply with Section 60614 as required by the state board pursuant to subdivision (c).

SEC. 23. Section 60647 of the Education Code is amended to read:

60647. An action to challenge a provision of this article or a determination made by the state board under this article, shall be filed and adjudicated pursuant to Sections 860 to 870, inclusive, of the Code of Civil Procedure. No exercise of discretion by the state board in its administration of this article or exercise of its discretion pursuant to Section 60605 shall be overturned absent a finding that the state board acted in an arbitrary and capricious manner.

SEC. 24. Section 69521.3 of the Education Code is amended to read:

69521.3. (a) The Director of Finance is hereby authorized to act as agent for the state and, in that capacity, to sell the state student loan guarantee program assets and liabilities not retained by the Student Aid Commission to an entity that the director, in consultation with the Treasurer, determines will provide the best combination of each of the following:

(1) The highest price for those state student loan guarantee program assets and liabilities.

(2) The greatest security for the payment of the purchase price.

(3) Demonstrated competence and professional qualifications necessary for the continued satisfactory performance of student loan guarantee services.

(4) The approval of the Secretary of Education.

(5) The quality of student services offered, including, but not necessarily limited to, borrower training in budgeting and financial management, including debt management and other forms of financial literacy.

(6) Borrower transparency or disclosure policies for products or services, or both, offered to students outside of the federal student loan programs.

(b) Notwithstanding any other provision of law, the sale process shall include the steps the director, in consultation with the Treasurer, deems necessary or convenient to achieve the ends set forth in this section. The process shall include, but not necessarily be limited to, all of the following:

(1) The satisfaction of criteria established by the director, in consultation with the Treasurer, consistent with achieving a combination of the best price for those state student loan guarantee program assets and liabilities and the continued operation of student loan guarantee services for California under the Federal Family Education Loan Program. These criteria shall include any pertinent requirements of the Secretary of Education.

(2) A Notice of Request for Qualifications sent by the Director of Finance to each firm currently acting as a state student loan guarantee agency under the Federal Family Education Loan Program and any entity proposed by the Secretary of Education, and advertised in the State Contracts Register pursuant to Sections 14827.1 and 14827.2 of the Government Code. This notice shall include a description of the state student loan guarantee program, a summary description of the state student loan guarantee program assets and liabilities offered for sale, and a description of the due diligence review process to provide potential purchasers with further information regarding the state student loan guarantee program assets and liabilities offered for sale, the selection

criteria on which the transaction will be based, the submission requirements and deadlines, and a Department of Finance contact name and telephone number for more information. A copy of the Notice of Request for Qualifications shall be provided to the Joint Legislative Budget Committee within seven days of transmittal to state student loan guarantee agencies.

(3) The evaluation by the director, in consultation with the Treasurer, of all statements timely submitted in response to the Notice of Request for Qualifications sent pursuant to paragraph (2), using the criteria contained in the notice, and, based on those statements, the establishment of a qualified purchasers list.

SEC. 25. Section 69521.4 of the Education Code is amended to read:

69521.4. (a) If, after seeking the advice of, and in active participation with, the Treasurer, the Director of Finance determines that an alternative arrangement to the sale of the state student loan guarantee program assets and liabilities may be financially beneficial to the state, the Director of Finance is also hereby authorized to enter into an arrangement other than that authorized in Section 69521.3, for the purpose of maximizing the value of the state student loan guarantee program assets and liabilities. This arrangement may take any form the director, in consultation with the Treasurer, deems advisable to provide the best combination of each of the following:

(1) The greatest value to the General Fund.

(2) The greatest financial security for achieving value to the General Fund.

(3) The continued satisfactory performance of student loan guarantee services.

(4) The approval of the United States Secretary of Education, to the extent required by Public Law 94-482, or subsequent federal regulations.

(5) The quality of student services offered, including, but not necessarily limited to, borrower training in budgeting and financial management, including debt management and other forms of financial literacy.

(6) Borrower transparency or disclosure policies for products or services, or both, offered to students outside of the federal student loan programs.

(b) Notwithstanding any other provision of law, this process shall include the steps the Director of Finance, in consultation with the Treasurer, deems necessary or convenient to achieve the ends set forth in this section. The process shall include, but not necessarily be limited to, all of the following:

(1) The satisfaction of the established criteria consistent with achieving a combination of the greatest value to the General Fund and the continued

operation of student loan guarantee services for California under the Federal Family Education Loan Program. The criteria shall include any pertinent requirements of the Secretary of Education.

(2) A Notice of Request for Qualifications sent by the director to each nonprofit entity currently acting as a state student loan guaranty agency under the Federal Family Education Loan Program, any entity known to the director to be acting as a servicing agent for a state student loan guaranty agency, and any nonprofit entity proposed by the Secretary of Education, and advertised in the State Contracts Register pursuant to Sections 14827.1 and 14827.2 of the Government Code. The notice shall include a description of the state student loan guarantee program, a summary description of the state student loan guarantee program assets and liabilities, and a description of the due diligence review process to provide further information regarding the state student loan guarantee program assets and liabilities, the selection criteria on which the transaction will be based, submission requirements and date, and a Department of Finance contact name and phone number for more information. A copy of the Notice of Request for Qualifications shall be provided to the Joint Legislative Budget Committee within seven days of transmittal to state student loan guarantee agencies.

(3) The evaluation by the director, in consultation with the Treasurer, of all statements timely submitted in response to the Notice of Request for Qualifications, using the criteria contained in the notice, and, based on the statements, the establishment of a qualified purchasers list.

SEC. 26. Section 69521.5 of the Education Code is amended to read:

69521.5. (a) The Director of Finance is authorized to take all actions that he or she deems to be necessary or convenient to accomplish any of the following:

(1) To preserve the state student loan guarantee program assets, pending consummation of their sale or the consummation of any other transaction, to maximize the value of the state student loan guarantee program to the state, including, without limitation, as authorized in Sections 69522, 69526, and 69766.

(2) To engage in negotiations with, and provide sufficient information regarding the state student loan guarantee assets and liabilities to, potential purchasers or any potential transferee guaranty program operator.

(3) To either consummate the sale of, and transfer, the state student loan guarantee program assets and liabilities not retained to the Student Aid Commission to the transferee guarantee agency, or to consummate the agreement with the transferee guaranty program operator.

(4) To seek and negotiate with the United States Secretary of Education the designation of any alternative state student loan guarantee

agency for California under the Federal Family Education Loan Program or the approval of the Secretary of Education of any transferee guaranty program operator to the extent required by Public Law 94-82, or subsequent federal regulations.

(5) To transfer the Federal Student Loan Reserve Fund to any transferee guaranty agency in a manner that is consistent with the intentions of the United States Secretary of Education.

(6) To transfer any of the state student loan guarantee program assets in the form of cash or investments not transferred to any transferee guaranty agency or transferee guarantee program operator directly to the General Fund.

(7) To retain any state student loan guarantee program assets determined by the director to be necessary or appropriate for the purposes of the Student Aid Commission.

(b) In order to accomplish the purposes of this article, the Director of Finance shall do all of the following:

(1) Notify the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the Senate and Assembly Budget Committees of the determination of the Director of Finance to proceed with a transaction other than the sale of the state student loan guarantee program assets and liabilities pursuant to Section 69521.3, providing that notice no later than 30 days prior to the consummation of the transaction with the transferee guarantee program operator.

(2) Upon the consummation of the sale of the state student loan guarantee program assets to a transferee guaranty agency, the Director of Finance shall notify the Secretary of State and the Chairperson of the Joint Legislative Budget Committee.

(3) Upon the consummation of a transaction authorized by this article with a transferee guarantee program operator, the Director of Finance shall notify the Secretary of State and the Chairperson of the Joint Legislative Budget Committee.

(c) In order to accomplish the purposes of this article:

(1) The Student Aid Commission shall cooperate fully with the Director of Finance and, in particular, take all steps to preserve the state student loan guarantee program assets deemed necessary or convenient by the Director of Finance, including, without limitation, as set forth in Sections 69522, 69526, and 69766.

(2) The Student Aid Commission shall direct the auxiliary organization to cooperate fully with the director.

(3) Until the consummation of the sale or other transaction to maximize the value of the state student loan guarantee program to the state, all of the actions, approvals, and directions of the Student Aid

Commission affecting the state student loan guarantee program shall be effective only upon the approval of the Director of Finance.

(4) Notwithstanding any provision of the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code), the auxiliary organization shall, as directed by the Student Aid Commission under paragraph (2), cooperate fully with the Director of Finance.

SEC. 27. Section 69521.10 of the Education Code is amended to read:

69521.10. (a) The Director of Finance, in consultation with the Treasurer, shall select a firm or individual to provide advisory services based on demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required, in the manner described in this section.

(b) The Director of Finance and the Treasurer shall establish selection criteria for selecting an advisor. The criteria may include, but are not necessarily limited to, factors such as professional excellence, demonstrated competence, specialized experience in performing similar services, education and experience of key personnel to be assigned, staff capability, ability to meet schedules, nature and quality of similar completed work of the firm or individual, reliability and continuity of the firm or individual, and other considerations deemed by the director and the Treasurer to be relevant and necessary to the performance of advisory services.

(c) The Director of Finance, for the purposes of obtaining services under this section, shall send a Notice of Request for Qualifications to firms and individuals in the underwriter and financial advisor pools of the Treasurer. The director shall publish this notice in the State Contracts Register pursuant to Sections 14827.1 and 14827.2 of the Government Code. The notice shall include a description of the advisory services required, the selection criteria based on which the contract award will be made, submission requirements and deadlines, and a Department of Finance contact name and telephone number for more information. A copy of the Notice of Request for Qualifications shall be provided to the Joint Legislative Budget Committee within seven days of publication in the State Contracts Register.

(d) (1) After the final response date stated in the Notice of Request for Qualifications, the Director of Finance and the Treasurer shall review the responses submitted, and shall evaluate them using the criteria contained in the notice. The director and the Treasurer shall rank, in order of preference based on the criteria contained in the notice, the firm or individuals determined to be qualified to perform the required services.

(2) The Director of Finance and the Treasurer, or their designees, may interview any of the qualified firms or individuals regarding the experience and qualifications of those firms or individuals, as well as anticipated concepts and the benefits of alternative methods of furnishing the required services.

(e) (1) Following the interviews, if any, held pursuant to subdivision (d), the Director of Finance and the Treasurer shall adjust the ranking of the qualified individuals or firms to reflect those firms or individuals deemed to be the most highly qualified to perform the required services.

(2) The Director of Finance, in consultation with the Treasurer, shall enter into negotiations with the firm or individual most highly ranked pursuant to paragraph (1). If negotiations are concluded successfully, the director shall enter into a contract. If the director, in his or her sole discretion, concludes that the negotiations are unsuccessful, the director shall terminate the negotiations, and begin new negotiations, in consultation with the Treasurer, with the other firms or individuals ranked pursuant to paragraph (1) in order of their ranking, and either contract with or terminate negotiations with each next most highly ranked firm or individual.

(3) If, after pursuing the negotiation process set forth in paragraph (2), the Director of Finance has been unable to negotiate a satisfactory contract at fair and reasonable compensation, the director may reinstitute the selection process prescribed in this section, commencing with the issuance of a new Notice of Request for Qualifications.

(4) The Director of Finance shall notify the Joint Legislative Budget Committee in writing within seven days of entering into a contract with an individual or firm pursuant to paragraph (2).

SEC. 28. Section 69521.11 of the Education Code is amended to read:

69521.11. (a) The Director of Finance shall notify the Joint Legislative Budget Committee in writing upon his or her determination that neither the sale nor any other transaction authorized by this article is anticipated to achieve the purposes of this article.

(b) The Director of Finance shall cease those activities he or she is authorized or directed to undertake pursuant to this article and Sections 69522, 69526, and 69766 upon the earlier of:

(1) The 30th day following written notice by the director to the Chairperson of the Joint Legislative Budget Committee pursuant to subdivision (a).

(2) January 10, 2011.

SEC. 29. Section 69522 of the Education Code is amended to read:

69522. (a) (1) The commission may establish an auxiliary organization for the purpose of providing operational and administrative

services for the participation by the commission in the Federal Family Education Loan Program, or for other activities approved by the commission and determined by the commission to be all of the following:

(A) Related to student financial aid.

(B) Consistent with the general mission of the commission.

(C) Consistent with the purposes of the federal Higher Education Act of 1965 (Public Law 89-329) and amendments to that act.

(2) The activities approved by the commission under this subdivision shall not include either of the following:

(A) The issuance of bonds.

(B) Loan origination or loan capitalization activities. This paragraph shall not preclude the commission or the auxiliary organization from undertaking either of the following:

(i) Other permitted activities that are related to student financial aid in partnership with institutions that conduct loan origination or loan capitalization activities.

(ii) Loan origination or capitalization activities authorized pursuant to an agreement with the United States Secretary of Education for the lender-of-last-resort program.

(b) The auxiliary organization shall be established and maintained as a nonprofit public benefit corporation subject to the Nonprofit Public Benefit Corporation Law in Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, except that, if there is a conflict between this article and the Nonprofit Public Benefit Corporation Law, this article shall prevail.

(c) (1) The commission shall maintain its responsibility for financial aid program administration, policy leadership program evaluation, and information development and coordination. The auxiliary organization shall provide operational and support services essential to the administration of the Federal Family Education Loan Program and other permitted activities that are related to student financial aid, if those services are determined by the commission to be consistent with the overall mission of the commission.

(2) On or after the operative date of Article 2.4 (commencing with Section 69521), the commission shall not authorize the auxiliary organization to perform any new or additional services except those deemed by the Director of Finance to be necessary or convenient either for the operation of the state student loan guarantee program, as defined in Section 69521.2, or to accomplish the goal of maximizing the value of the state student loan guarantee program assets and liabilities pursuant to Article 2.4 (commencing with Section 69521).

(3) The implementation and effectuation of the auxiliary organization shall be carried out so as to enhance the administration and delivery of

commission programs and services. The commission shall conduct regular performance evaluations of the operation of auxiliary organizations in furtherance of its fiscal and fiduciary responsibilities for approved programs.

(d) (1) (A) The operations of the auxiliary organization shall be conducted in conformity with an operating agreement approved annually by the commission. On and after January 1, 2002, the commission may approve an operating agreement for a period not to exceed five years. Prior to approval, the commission shall provide a copy of the proposed operating agreement to the Department of Finance and the Joint Legislative Budget Committee for their review and comment. The operations of the auxiliary organization shall be limited to services prescribed in that agreement.

(B) On or after the operative date of Article 2.4 (commencing with Section 69521), the commission shall not approve any operating agreement that permits the auxiliary organization to perform any new or additional services, except those deemed by the Director of Finance to be necessary or convenient either for the operation of the state student loan guarantee program, as defined in Section 69521.2, or to accomplish the goal of maximizing the value of the state student loan guarantee program assets and liabilities pursuant to Article 2.4 (commencing with Section 69521).

(2) Prior to approval of any amendment to an existing operating agreement or any new operating agreement with an auxiliary organization or subsidiary auxiliary organization for the purpose of delineating new services or activities authorized pursuant to subdivision (a), the commission shall provide the Director of Finance and the Joint Legislative Budget Committee with at least 45 days advance notice in writing that includes a description of the proposed operating agreement. If the Director of Finance or the Joint Legislative Budget Committee notifies the commission regarding issues of concern with the proposed operating agreement, the commission shall convene a meeting of appropriate representatives from the commission, the Department of Finance, and the Legislature to resolve those issues.

(e) The commission shall oversee the development and operations of the auxiliary organization in a manner that ensures broad public input and consultation with representatives of the financial aid community, colleges and universities, and state agencies.

SEC. 30. Section 69561 of the Education Code is amended to read:

69561. (a) The Student Opportunity and Access Program is administered by the Student Aid Commission.

(b) The Student Aid Commission may apportion funds on a progress payment schedule for the support of projects designed to increase the

accessibility of postsecondary educational opportunities for any of the following elementary and secondary school pupils:

(1) Pupils who are from low-income families.

(2) Pupils who would be the first in their families to attend college.

(3) Pupils who are from schools or geographic regions with documented low-eligibility or college participation rates.

(c) These projects shall primarily do all of the following:

(1) Increase the availability of information for these pupils on the existence of postsecondary schooling and work opportunities.

(2) Raise the achievement levels of these pupils so as to increase the number of high school graduates eligible to pursue postsecondary learning opportunities.

(d) Projects may assist community college students in transferring to four-year institutions, to the extent that project resources are available.

(e) Projects may provide assistance to low-income fifth and sixth grade pupils and their parents in order to implement outreach efforts designed to use the future availability of financial assistance as a means of motivating pupils to stay in school and complete college preparatory courses.

(f) Projects may provide assistance to low-income middle and high school pupils and their parents in order to implement outreach efforts designed to use the future availability of financial assistance as a means of motivating pupils to stay in school by promoting career technical education public awareness. Projects shall promote the value of career technical education, available career programs in public schools and postsecondary segments with sequenced courses beginning in high school and continuing into postsecondary education, and the resulting career opportunities.

(g) Each project shall be proposed and operated through a consortium that involves at least one secondary school district office, at least one four-year college or university, at least one community college, and at least one of the following agencies:

(1) A nonprofit educational, counseling, or community agency.

(2) A private vocational or technical school accredited by a national, state, or regional accrediting association recognized by the United States Department of Education.

(h) The commission, in awarding initial project grants, shall give priority to proposals developed by more than three eligible agencies. Projects shall be located throughout the state in order to provide access to program services in rural, urban, and suburban areas.

(i) The governing board of each project, comprising at least one representative from each entity in the consortium, shall establish management policy, provide direction to the project director, set priorities

for budgetary decisions that reflect the specific needs of the project, and assume responsibility for maintaining the required level of matching funds, including solicitations from the private sector and corporate sources.

(j) Prior to receiving a project grant, each consortium shall conduct a planning process and submit a comprehensive project proposal to include, but not be limited to, the following information:

(1) The agencies participating in the project.

(2) The pupils to be served by the project.

(3) The ways in which the project will reduce duplication and related costs.

(4) The methods for assessing the project's impact.

(k) Each project shall include the direct involvement of secondary school staff in the daily operations of the project, with preference in funding to those projects that effectively integrate the objectives of the Student Opportunity and Access Program with those of the school district in providing services that are essential to preparing pupils for postsecondary education.

(*l*) Each project shall maintain within the project headquarters a comprehensive pupil-specific information system on pupils receiving services through the program in grades 11 and 12 at secondary schools within the participating districts. This information shall be maintained in a manner consistent with the law relating to pupil records.

(m) At least 30 percent or the equivalent of each project grant shall be allocated for stipends to peer advisers and tutors who meet all of the following criteria:

(1) Work with secondary school pupils.

(2) Are currently enrolled in a college or other postsecondary school as an undergraduate or graduate student.

(3) Have demonstrated financial need for the stipend.

(n) Each project should work cooperatively with other projects in the program and with the commission to establish viable student services and sound administrative procedures and to ensure coordination of the activities of the project with existing educational opportunity programs. The Student Aid Commission may develop additional regulations regarding the awarding of project grants and criteria for evaluating the effectiveness of the individual projects.

SEC. 31. Section 76300 of the Education Code is amended to read:

76300. (a) The governing board of each community college district shall charge each student a fee pursuant to this section.

(b) (1) The fee prescribed by this section shall be twenty dollars ($20) per unit per semester, effective with the spring term of the 2006–07 academic year.

(2) The board of governors shall proportionately adjust the amount of the fee for term lengths based upon a quarter system, and also shall proportionately adjust the amount of the fee for summer sessions, intersessions, and other short-term courses. In making these adjustments, the board of governors may round the per unit fee and the per term or per session fee to the nearest dollar.

(c) For the purposes of computing apportionments to community college districts pursuant to Section 84750, the board of governors shall subtract, from the total revenue owed to each district, 98 percent of the revenues received by districts from charging a fee pursuant to this section.

(d) The board of governors shall reduce apportionments by up to 10 percent to any district that does not collect the fees prescribed by this section.

(e) The fee requirement does not apply to any of the following:

(1) Students enrolled in the noncredit courses designated by Section 84757.

(2) California State University or University of California students enrolled in remedial classes provided by a community college district on a campus of the University of California or a campus of the California State University, for whom the district claims an attendance apportionment pursuant to an agreement between the district and the California State University or the University of California.

(3) Students enrolled in credit contract education courses pursuant to Section 78021, if the entire cost of the course, including administrative costs, is paid by the public or private agency, corporation, or association with which the district is contracting and if these students are not included in the calculation of the full-time equivalent students (FTES) of that district.

(f) The governing board of a community college district may exempt special part-time students admitted pursuant to Section 76001 from the fee requirement.

(g) (1) The fee requirements of this section shall be waived for any student who, at the time of enrollment, is a recipient of benefits under the Temporary Assistance to Needy Families program, the Supplemental Security Income/State Supplementary Program, or a general assistance program or has demonstrated financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid.

(2) The governing board of a community college district also shall waive the fee requirements of this section for any student who demonstrates eligibility according to income standards established by regulations of the board of governors.

(3) Paragraphs (1) and (2) may be applied to a student enrolled in the 2005–06 academic year if the student is exempted from nonresident tuition under paragraph (3) of subdivision (a) of Section 76140.

(h) The fee requirements of this section shall be waived for any student who, at the time of enrollment, is a dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. "Active service of the state," for the purposes of this subdivision, refers to a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code.

(i) The fee requirements of this section shall be waived for any student who is the surviving spouse or the child, natural or adopted, of a deceased person who met all of the requirements of Section 68120.

(j) The fee requirements of this section shall be waived for any student in an undergraduate program, including a student who has previously graduated from another undergraduate or graduate program, who is the dependent of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center and the Pentagon or the crash of United Airlines Flight 93 in southwestern Pennsylvania, if that dependent meets the financial need requirements set forth in Section 69432.7 for the Cal Grant A Program and either of the following applies:

(1) The dependent was a resident of California on September 11, 2001.

(2) The individual killed in the attacks was a resident of California on September 11, 2001.

(k) A determination of whether a person is a resident of California on September 11, 2001, for purposes of subdivision (j) shall be based on the criteria set forth in Chapter 1 (commencing with Section 68000) of Part 41 for determining nonresident and resident tuition.

(*l*) (1) "Dependent," for purposes of subdivision (j), is a person who, because of his or her relationship to an individual killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, qualifies for compensation under the federal September 11th Victim Compensation Fund of 2001 (Title IV (commencing with Section 401) of Public Law 107-42).

(2) A dependent who is the surviving spouse of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers provided in this section until January 1, 2013.

(3) A dependent who is the surviving child, natural or adopted, of an individual killed in the terrorist attacks of September 11, 2001, is entitled

to the waivers under subdivision (j) until that person attains the age of 30 years.

(4) A dependent of an individual killed in the terrorist attacks of September 11, 2001, who is determined to be eligible by the California Victim Compensation and Government Claims Board, is also entitled to the waivers provided in this section until January 1, 2013.

(m) (1) It is the intent of the Legislature that sufficient funds be provided to support the provision of a fee waiver for every student who demonstrates eligibility pursuant to subdivisions (g) to (j), inclusive.

(2) From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to 2 percent of the fees waived pursuant to subdivisions (g) to (j), inclusive. From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to ninety-one cents ($0.91) per credit unit waived pursuant to subdivisions (g) to (j), inclusive. It is the intent of the Legislature that funds provided pursuant to this subdivision be used to support the determination of financial need and delivery of student financial aid services, on the basis of the number of students for whom fees are waived. It also is the intent of the Legislature that the funds provided pursuant to this subdivision directly offset mandated costs claimed by community college districts pursuant to Commission on State Mandates consolidated Test Claims 99-TC-13 (Enrollment Fee Collection) and 00-TC-15 (Enrollment Fee Waivers). Funds allocated to a community college district for determination of financial need and delivery of student financial aid services shall supplement, and shall not supplant, the level of funds allocated for the administration of student financial aid programs during the 1992–93 fiscal year.

(n) The board of governors shall adopt regulations implementing this section.

SEC. 32. Notwithstanding any other law, the sum of twelve million five hundred thousand dollars ($12,500,000) is hereby appropriated from the Public Interest Research, Development, and Demonstration Fund to the Chancellor of the California Community Colleges.

(a) Of the amount appropriated in this section, the Chancellor of the California Community Colleges shall transfer twelve million dollars ($12,000,000) to the State Department of Education for expenditure in one-time funds for local grants to be allocated pursuant to Article 5 (commencing with Section 54690) of Chapter 9 of Part 29 of Division 4 of Title 2 of the Education Code over three years as specified in the Budget Act of 2008. In addition to the statutory program requirements, grantees shall create partnership academies that focus on clean technology

and energy businesses and provide skilled workforces for the products and services for energy or water conservation, or both, renewable energy, pollution reduction, or other technologies that improve the environment in furtherance of state environmental laws. Priority for grants pursuant to this subdivision shall be assigned to school districts that do not currently participate in the partnership academies program pursuant to Article 5 (commencing with Section 54690) of Chapter 9 of Part 29 of Division 4 of Title 2 of the Education Code. Existing grantees may apply subject to the availability of funds.

(b) Of the amount appropriated in this section, the Chancellor of the California Community Colleges shall transfer five hundred thousand dollars ($500,000) to the State Department of Education to pay for the expenses of administering the local grants pursuant to this section. Funding for purposes of this section shall be provided pursuant to an interagency agreement between the Chancellor of the California Community Colleges and the State Department of Education.

SEC. 33. (a) The sum of thirty nine million seven hundred eighty thousand dollars ($39,780,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges, in augmentation of Schedule (1) of Item 6870–101–0001 of Section 2.00 of the Budget Act of 2008, for the purpose of providing a 0.68 percent cost-of-living adjustment to apportionments to community college districts, for expenditure during the 2008–09 fiscal year.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for community college districts," as defined in subdivision (d) of Section 41202 of the Education Code, for the 2008–09 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2008–09 fiscal year.

SEC. 34. (a) The sum of three hundred eighty-eight million two hundred eighty-three thousand dollars ($388,283,000) is hereby appropriated from the General Fund to the State Department of Education. This appropriation reflects the portion of the June 2009 principal apportionment that is to be deferred until July 2009 and attributed to the 2009–10 fiscal year. Notwithstanding any other law, the department shall encumber the funds appropriated in this section by July 31, 2009. It is the intent of the Legislature that, by extending the encumbrance authority for the funds appropriated in this section to July 31, 2009, the funds will be treated in a manner consistent with Section

1.80 of the Budget Act of 2008. The appropriation is made in accordance with the following schedule:

(1) Six million two hundred twenty-seven thousand dollars ($6,227,000) for apprenticeship programs to be expended consistent with the requirements specified in Item 6110-103-0001 of Section 2.00 of the Budget Act of 2008.

(2) Ninety million one hundred seventeen thousand dollars ($90,117,000) for supplemental instruction to be expended consistent with the requirements specified in Item 6110-104-0001 of Section 2.00 of the Budget Act of 2008. Of the amount appropriated by this paragraph, fifty-one million sixty-one thousand dollars ($51,061,000) shall be expended consistent with Schedule (1) of Item 6110-104-0001 of Section 2.00 of the Budget Act of 2008, twelve million three hundred thirty thousand dollars ($12,330,000) shall be expended consistent with Schedule (2) of that item, four million six hundred ninety thousand dollars ($4,690,000) shall be expended consistent with Schedule (3) of that item, and twenty-two million thirty-six thousand dollars ($22,036,000) shall be expended consistent with Schedule (4) of that item.

(3) Thirty-nine million six hundred thirty thousand dollars ($39,630,000) for regional occupational centers and programs to be expended consistent with the requirements specified in Schedule (1) of Item 6110-105-0001 of Section 2.00 of the Budget Act of 2008.

(4) Fifty-two million five hundred eighty-three thousand dollars ($52,583,000) for home-to-school transportation to be expended consistent with the requirements specified in Schedule (1) of Item 6110-111-0001 of Section 2.00 of the Budget Act of 2008.

(5) Four million two hundred ninety-four thousand dollars ($4,294,000) for the Gifted and Talented Pupil Program to be expended consistent with the requirements specified in Item 6110-124-0001 of Section 2.00 of the Budget Act of 2008.

(6) Forty-five million eight hundred ninety-six thousand dollars ($45,896,000) for adult education to be expended consistent with the requirements specified in Schedule (1) of Item 6110-156-0001 of Section 2.00 of the Budget Act of 2008.

(7) Four million seven hundred fifty-one thousand dollars ($4,751,000) for community day schools to be expended consistent with the requirements specified in Item 6110-190-0001 of Section 2.00 of the Budget Act of 2008.

(8) Five million nine hundred forty-seven thousand dollars ($5,947,000) for categorical block grants for charter schools to be expended consistent with the requirements specified in Item 6110-211-0001 of Section 2.00 of the Budget Act of 2008.

(9) Thirty-eight million seven hundred twenty thousand dollars ($38,720,000) for the School Safety Block Grant to be expended consistent with the requirements specified in Schedule (1) of Item 6110-228-0001 of Section 2.00 of the Budget Act of 2008.

(10) One hundred million one hundred eighteen thousand dollars ($100,118,000) for the Targeted Instructional Improvement Grant Program to be expended consistent with the requirements specified in Item 6110-246-0001 of Section 2.00 of the Budget Act of 2008.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2009–10 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2009–10 fiscal year.

SEC. 35. (a) The sum of two hundred million dollars ($200,000,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges for apportionments to community college districts, for expenditure during the 2009–10 fiscal year, to be expended in accordance with Schedule (1) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2008.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for community college districts," as defined in subdivision (d) of Section 41202 of the Education Code, for the 2009–10 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2009–10 fiscal year.

SEC. 36. Notwithstanding paragraphs (1) and (2) of subdivision (d) of Section 41207 of the Education Code, there shall be no annual appropriation in the 2008–09 fiscal year from the General Fund to the Controller for allocation by the Controller to school districts and community colleges for the purposes described in Section 41207.

SEC. 37. (a) Notwithstanding Sections 42238.1 and 42238.15 of the Education Code or any other provision of law, the cost-of-living adjustment for Items 6110-104-0001, 6110-105-0001, 6110-111-0001, 6110-156-0001, 6110-158-0001, 6110-161-0001, 6110-189-0001, 6110-190-0001, 6110-196-0001, 6110-232-0001, 6110-234-0001, 6110-244-0001, and 6110-246-0001 of Section 2.00 of the Budget Act

of 2007 (Chapters 171 and 172 of the Statutes of 2007) and those items identified in subdivision (b) of Section 12.40 of the Budget Act of 2008 is zero percent for the 2008–09 fiscal year. All funds appropriated in the Budget Act of 2008 in the items identified in this section are in lieu of the amounts that would otherwise be appropriated pursuant to any other provision of law.

(b) Notwithstanding Section 42238.1 of the Education Code or any other provision of law, for purposes of Section 48664 of the Education Code the cost-of-living adjustment is zero percent for the 2008–09 fiscal year.

SEC. 38. Notwithstanding any other provision of law, the funds appropriated pursuant to Items 6110-103-0001, 6110-104-0001, 6110-105-0001, 6110-111-0001, 6110-124-0001, 6110-156-0001, 6110-158-0001, 6110-161-0001, 6110-190-0001, 6110-211-0001, and 6110-243-0001 of Section 2.00 of the Budget Act of 2008 shall be encumbered by July 31, 2009. This one-month extension of encumbrance authority is provided due to the effect of the deferral of the June 2009 principal apportionment on the budget items specified in this section. It is the intent of the Legislature that, by extending the encumbrance authority for the funds identified in this section to July 31, 2009, the funds will be treated in a manner consistent with Section 1.80 of the Budget Act of 2008.

SEC. 39. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement the Budget Act of 2008 at the earliest possible time, it is necessary that this act take effect immediately.

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## CHAPTER 758

An act to amend Sections 1266, 1279, 1324.21, 1324.23, 1324.28, 1324.29, 1324.30, 2805, 106925, 123853, 125191, 130501, 130506, and 130542 of, and to add Section 130542.1 to, the Health and Safety Code, to amend Sections 12693.43, 12693.63, and 12693.65 of, and to add Section 12693.271 to, the Insurance Code, and to amend Sections 4061, 4783, 4860, 5777, 14005.11, 14007.9, 14011.16, 14080, 14105.19, 14105.3, 14105.86, 14126.027, 14126.033, 14154, 14154.5, 14166.9, 14166.12, 14166.20, 14166.25, 14301.1, 14526.1, and 16809 of, to amend, repeal, and add Sections 14005.25 and 14166.245 of, to add Sections 4100.2, 4646.4, 7502.5, 14005.42, 14011.17, 14011.18, 14053.3,

14104.93, 14105.191, 14124.11, 14126.034, and 17605.051 to, and to add and repeal Article 2.93 (commencing with Section 14091.3), and Article 6.6 (commencing with Section 14199) of, Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to public health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 1266 of the Health and Safety Code is amended to read:

1266. (a) The Licensing and Certification Division shall be supported entirely by federal funds and special funds by no earlier than the beginning of the 2009–10 fiscal year unless otherwise specified in statute, or unless funds are specifically appropriated from the General Fund in the annual Budget Act or other enacted legislation. For the 2007–08 fiscal year, General Fund support shall be provided to offset licensing and certification fees in an amount of not less than two million seven hundred eighty-two thousand dollars ($2,782,000).

(b) The Licensing and Certification Program fees for the 2006–07 fiscal year shall be as follows:

| Type of Facility | Fee | |
|---|---|---|
| General Acute Care Hospitals | $ 134.10 | per bed |
| Acute Psychiatric Hospitals | $ 134.10 | per bed |
| Special Hospitals | $ 134.10 | per bed |
| Chemical Dependency Recovery Hospitals | $ 123.52 | per bed |
| Skilled Nursing Facilities | $ 202.96 | per bed |
| Intermediate Care Facilities | $ 202.96 | per bed |
| Intermediate Care Facilities - Developmentally Disabled | $ 592.29 | per bed |
| Intermediate Care Facilities - Developmentally Disabled - Habilitative | $1,000.00 | per facility |
| Intermediate Care Facilities - Developmentally Disabled - Nursing | $1,000.00 | per facility |
| Home Health Agencies | $2,700.00 | per facility |
| Referral Agencies | $5,537.71 | per facility |
| Adult Day Health Centers | $4,650.02 | per facility |
| Congregate Living Health Facilities | $ 202.96 | per bed |
| Psychology Clinics | $ 600.00 | per facility |

| | | |
|---|---|---|
| Primary Clinics - Community and Free | $ 600.00 | per facility |
| Specialty Clinics - Rehab Clinics | | |
| (For profit) | $2,974.43 | per facility |
| (Nonprofit) | $ 500.00 | per facility |
| Specialty Clinics - Surgical and Chronic | $1,500.00 | per facility |
| Dialysis Clinics | $1,500.00 | per facility |
| Pediatric Day Health/Respite Care | $ 142.43 | per bed |
| Alternative Birthing Centers | $2,437.86 | per facility |
| Hospice | $1,000.00 | per facility |
| Correctional Treatment Centers | $ 590.39 | per bed |

(c) Commencing February 1, 2007, and every February 1 thereafter, the department shall publish a list of estimated fees pursuant to this section. The calculation of estimated fees and the publication of the report and list of estimated fees shall not be subject to the rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) By February 1 of each year, the department shall prepare the following reports and shall make those reports, and the list of estimated fees required to be published pursuant to subdivision (c), available to the public by submitting them to the Legislature and posting them on the department's Web site:

(1) The department shall prepare a report of all costs for activities of the Licensing and Certification Program. At a minimum, this report shall include a narrative of all baseline adjustments and their calculations, a description of how each category of facility was calculated, descriptions of assumptions used in any calculations, and shall recommend Licensing and Certification Program fees in accordance with the following:

(A) Projected workload and costs shall be grouped for each fee category.

(B) Cost estimates, and the estimated fees, shall be based on the appropriation amounts in the Governor's proposed budget for the next fiscal year, with and without policy adjustments to the fee methodology.

(C) The allocation of program, operational, and administrative overhead, and indirect costs to fee categories shall be based on generally accepted cost allocation methods. Significant items of costs shall be directly charged to fee categories if the expenses can be reasonably identified to the fee category that caused them. Indirect and overhead costs shall be allocated to all fee categories using a generally accepted cost allocation method.

(D) The amount of federal funds and General Fund moneys to be received in the budget year shall be estimated and allocated to each fee category based upon an appropriate metric.

(E) The fee for each category shall be determined by dividing the aggregate state share of all costs for the Licensing and Certification Program by the appropriate metric for the category of licensure. Amounts actually received for new licensure applications, including change of ownership applications, and late payment penalties, pursuant to Section 1266.5, during each fiscal year shall be calculated and 95 percent shall be applied to the appropriate fee categories in determining Licensing and Certification Program fees for the second fiscal year following receipt of those funds. The remaining 5 percent shall be retained in the fund as a reserve until appropriated.

(2) (A) The department shall prepare a staffing and systems analysis to ensure efficient and effective utilization of fees collected, proper allocation of departmental resources to licensing and certification activities, survey schedules, complaint investigations, enforcement and appeal activities, data collection and dissemination, surveyor training, and policy development.

(B) The analysis under this paragraph shall be made available to interested persons and shall include all of the following:

(i) The number of surveyors and administrative support personnel devoted to the licensing and certification of health care facilities.

(ii) The percentage of time devoted to licensing and certification activities for the various types of health facilities.

(iii) The number of facilities receiving full surveys and the frequency and number of follow up visits.

(iv) The number and timeliness of complaint investigations.

(v) Data on deficiencies and citations issued, and numbers of citation review conferences and arbitration hearings.

(vi) Other applicable activities of the licensing and certification division.

(e) (1) The department shall adjust the list of estimated fees published pursuant to subdivision (c) if the annual Budget Act or other enacted legislation includes an appropriation that differs from those proposed in the Governor's proposed budget for that fiscal year.

(2) The department shall publish a final fee list, with an explanation of any adjustment, by the issuance of an all facilities letter, by posting the list on the department's Internet Web site, and by including the final fee list as part of the licensing application package, within 14 days of the enactment of the annual Budget Act. The adjustment of fees and the publication of the final fee list shall not be subject to the rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) (1) No fees shall be assessed or collected pursuant to this section from any state department, authority, bureau, commission, or officer,

unless federal financial participation would become available by doing so and an appropriation is included in the annual Budget Act for that state department, authority, bureau, commission, or officer for this purpose. No fees shall be assessed or collected pursuant to this section from any clinic that is certified only by the federal government and is exempt from licensure under Section 1206, unless federal financial participation would become available by doing so.

(2) For the 2006–07 state fiscal year, no fee shall be assessed or collected pursuant to this section from any general acute care hospital owned by a health care district with 100 beds or less.

(g) The Licensing and Certification Program may change annual license expiration renewal dates to provide for efficiencies in operational processes or to provide for sufficient cash flow to pay for expenditures. If an annual license expiration date is changed, the renewal fee shall be prorated accordingly. Facilities shall be provided with a 60-day notice of any change in their annual license renewal date.

SEC. 2. Section 1279 of the Health and Safety Code is amended to read:

1279. (a) Every health facility for which a license or special permit has been issued shall be periodically inspected by the department, or by another governmental entity under contract with the department. The frequency of inspections shall vary, depending upon the type and complexity of the health facility or special service to be inspected, unless otherwise specified by state or federal law or regulation. The inspection shall include participation by the California Medical Association consistent with the manner in which it participated in inspections, as provided in Section 1282 prior to September 15, 1992.

(b) Except as provided in subdivision (c), inspections shall be conducted no less than once every two years and as often as necessary to ensure the quality of care being provided.

(c) For a health facility specified in subdivision (a), (b), or (f) of Section 1250, inspections shall be conducted no less than once every three years, and as often as necessary to ensure the quality of care being provided.

(d) During the inspection, the representative or representatives shall offer such advice and assistance to the health facility as they deem appropriate.

(e) For acute care hospitals of 100 beds or more, the inspection team shall include at least a physician, registered nurse, and persons experienced in hospital administration and sanitary inspections. During the inspection, the team shall offer advice and assistance to the hospital as it deems appropriate.

(f) The department shall ensure that a periodic inspection conducted pursuant to this section is not announced in advance of the date of inspection. An inspection may be conducted jointly with inspections by entities specified in Section 1282. However, if the department conducts an inspection jointly with an entity specified in Section 1282 that provides notice in advance of the periodic inspection, the department shall conduct an additional periodic inspection that is not announced or noticed to the health facility.

(g) Notwithstanding any other provision of law, the department shall inspect for compliance with provisions of state law and regulations during a state periodic inspection or at the same time as a federal periodic inspection, including, but not limited to, an inspection required under this section. If the department inspects for compliance with state law and regulations at the same time as a federal periodic inspection, the inspection shall be done consistent with the guidance of the federal Centers for Medicare and Medicaid Services for the federal portion of the inspection.

(h) The department shall emphasize consistency across the state and its district offices when conducting licensing and certification surveys and complaint investigations, including the selection of state or federal enforcement remedies in accordance with Section 1423. The department may issue federal deficiencies and recommend federal enforcement actions in those circumstances where they provide more rigorous enforcement action.

SEC. 3. Section 1324.21 of the Health and Safety Code is amended to read:

1324.21. (a) For facilities licensed under subdivision (c) of Section 1250, there shall be imposed each state fiscal year a uniform quality assurance fee per resident day. The uniform quality assurance fee shall be based upon the entire net revenue of all skilled nursing facilities subject to the fee, except an exempt facility, as defined in Section 1324.20, calculated in accordance with subdivision (b).

(b) The amount of the uniform quality assurance fee to be assessed per resident day shall be determined based on the aggregate net revenue of skilled nursing facilities subject to the fee, in accordance with the methodology outlined in the request for federal approval required by Section 1324.27 and in regulations, provider bulletins, or other similar instructions. The uniform quality assurance fee shall be calculated as follows:

(1) (A) For the rate year 2004–05, the net revenue shall be projected for all skilled nursing facilities subject to the fee. The projection of net revenue shall be based on prior rate year data. Once determined, the aggregate projected net revenue for all facilities shall be multiplied by

2.7 percent, as determined under the approved methodology, and then divided by the projected total resident days of all providers subject to the fee.

(B) Notwithstanding subparagraph (A), the Director of Health Care Services may increase the amount of the fee up to 3 percent of the aggregate projected net revenue if necessary for the implementation of Article 3.8 (commencing with Section 14126) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code.

(2) For the rate year 2005–06 and subsequent rate years through and including the 2010–11 rate year, the net revenue shall be projected for all skilled nursing facilities subject to the uniform quality assurance fee. The projection of net revenue shall be based on the prior rate year's data. Once determined, the aggregate projected net revenue for all facilities shall be multiplied by 6 percent, as determined under the approved methodology, and then divided by the projected total resident days of all providers subject to the fee. The amounts so determined shall be subject to the provisions of subdivision (d).

(c) The director may assess and collect a nonuniform fee consistent with the methodology approved pursuant to Section 1324.27.

(d) In no case shall the fees collected annually pursuant to this article, taken together with applicable licensing fees, exceed the amounts allowable under federal law.

(e) If there is a delay in the implementation of this article for any reason, including a delay in the approval of the quality assurance fee and methodology by the federal Centers for Medicare and Medicaid Services, in the 2004–05 rate year or in any other rate year, all of the following shall apply:

(1) Any facility subject to the fee may be assessed the amount the facility will be required to pay to the department, but shall not be required to pay the fee until the methodology is approved and Medi-Cal rates are increased in accordance with paragraph (2) of subdivision (a) of Section 1324.28 and the increased rates are paid to facilities.

(2) The department may retroactively increase and make payment of rates to facilities.

(3) Facilities that have been assessed a fee by the department shall pay the fee assessed within 60 days of the date rates are increased in accordance with paragraph (2) of subdivision (a) of Section 1324.28 and paid to facilities.

(4) The department shall accept a facility's payment notwithstanding that the payment is submitted in a subsequent fiscal year than the fiscal year in which the fee is assessed.

SEC. 4. Section 1324.23 of the Health and Safety Code is amended to read:

1324.23. (a) The Director of Health Care Services, or his or her designee, shall administer this article.

(b) The director may adopt regulations as are necessary to implement this article. These regulations may be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). For purposes of this article, the adoption of regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. The regulations shall include, but need not be limited to, any regulations necessary for any of the following purposes:

(1) The administration of this article, including the proper imposition and collection of the quality assurance fee not to exceed amounts reasonably necessary for purposes of this article.

(2) The development of any forms necessary to obtain required information from facilities subject to the quality assurance fee.

(3) To provide details, definitions, formulas, and other requirements.

(c) As an alternative to subdivision (b), and notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the director may implement this article, in whole or in part, by means of a provider bulletin, or other similar instructions, without taking regulatory action, provided that no such bulletin or other similar instructions shall remain in effect after July 31, 2010. It is the intent of the Legislature that the regulations adopted pursuant to subdivision (b) shall be adopted on or before July 31, 2010.

SEC. 5. Section 1324.28 of the Health and Safety Code is amended to read:

1324.28. (a) This article shall be implemented as long as both of the following conditions are met:

(1) The state receives federal approval of the quality assurance fee from the federal Centers for Medicare and Medicaid Services.

(2) Legislation is enacted in the 2004 legislative session making an appropriation from the General Fund and from the Federal Trust Fund to fund a rate increase for skilled nursing facilities, as defined under subdivision (c) of Section 1250, for the 2004–05 rate year in an amount consistent with the Medi-Cal rates that specific facilities would have received under the rate methodology in effect as of July 31, 2004, plus the proportional costs as projected by Medi-Cal for new state or federal mandates.

(b) This article shall remain operative only as long as all of the following conditions are met:

(1) The federal Centers for Medicare and Medicaid Services continues to allow the use of the provider assessment provided in this article.

(2) The Medi-Cal Long Term Care Reimbursement Act, Article 3.8 (commencing with Section 14126) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, as added during the 2003–04 Regular Session by the act adding this section, is enacted and implemented on or before July 31, 2005, or as extended as provided in that article, and remains in effect thereafter.

(3) The state has continued its maintenance of effort for the level of state funding of nursing facility reimbursement for rate year 2005–06, and for every subsequent rate year continuing through the 2010–11 rate year, in an amount not less than the amount that specific facilities would have received under the rate methodology in effect on July 31, 2004, plus Medi-Cal's projected proportional costs for new state or federal mandates, not including the quality assurance fee.

(4) The full amount of the quality assurance fee assessed and collected pursuant to this article remains available for the purposes specified in Section 1324.25 and for related purposes.

(c) If all of the conditions in subdivision (a) are met, this article is implemented, and subsequently, any one of the conditions in subdivision (b) is not met, on and after the date that the department makes that determination, this article shall not be implemented, notwithstanding that the condition or conditions subsequently may be met.

(d) Notwithstanding subdivisions (a), (b), and (c), in the event of a final judicial determination made by any state or federal court that is not appealed, or by a court of appellate jurisdiction that is not further appealed, in any action by any party, or a final determination by the administrator of the federal Centers for Medicare and Medicaid Services, that federal financial participation is not available with respect to any payment made under the methodology implemented pursuant to this article because the methodology is invalid, unlawful, or contrary to any provision of federal law or regulations, or of state law, this section shall become inoperative.

SEC. 6. Section 1324.29 of the Health and Safety Code is amended to read:

1324.29. The quality assurance fee shall cease to be assessed and collected on or after July 31, 2011.

SEC. 7. Section 1324.30 of the Health and Safety Code is amended to read:

1324.30. This article shall become inoperative on July 31, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. Section 2805 of the Health and Safety Code is amended to read:

2805. (a) Except as otherwise provided in subdivision (b), every pest abatement district employee who handles, applies, or supervises the use of any pesticide for public health purposes, shall be certified by the state department as a vector control technician in at least one of the following categories commensurate with assigned duties:

(1) Mosquito control.

(2) Terrestrial invertebrate vector control.

(3) Vertebrate vector control.

(b) The state department may establish by regulation exemptions from the requirements of this section that are deemed reasonably necessary to further the purposes of this section.

(c) The state department shall establish by regulation minimum standards for continuing education for any government agency employee certified under Section 116110 and regulations adopted pursuant thereto, who handles, applies, or supervises the use of any pesticide for public health purposes.

(d) An official record of the completed continuing education units shall be maintained by the state department. If a certified technician fails to meet the requirements set forth under subdivision (c), the state department shall suspend the technician's certificate or certificates and immediately notify the technician and the employing district. The state department shall establish by regulation procedures for reinstating a suspended certificate.

(e) The state department shall charge and collect a nonreturnable renewal fee of one hundred twenty dollars ($120) to be paid by each continuing education certificant on or before the first day of July, or on any other date that is determined by the state department. Each person employed on September 29, 1996, in a position that requires certification shall first pay the annual fee the first day of the first July following that date. All new certificants shall first pay the annual fee the first day of the first July following their certification.

(f) The state department shall collect and account for all money received pursuant to this section and shall deposit it in the Vectorborne Disease Account provided for in Section 116112. Notwithstanding Section 116112, fees deposited in the Vectorborne Disease Account pursuant to this section shall be available for expenditure, upon appropriation by the Legislature, to implement this section.

(g) Fees collected pursuant to this section shall be subject to the annual fee increase provisions of Section 100425.

SEC. 9. Section 106925 of the Health and Safety Code is amended to read:

106925. (a) Except as otherwise provided in subdivision (b) or (i), every government agency employee who handles, applies, or supervises the use of any pesticide for public health purposes, shall be certified by the department as a vector control technician in at least one of the following categories commensurate with assigned duties, as follows:

(1) Mosquito control.

(2) Terrestrial invertebrate vector control.

(3) Vertebrate vector control.

(b) The department may establish by regulation exemptions from the requirements of this section that are deemed reasonably necessary to further the purposes of this section.

(c) The department shall establish by regulation minimum standards for continuing education for any government agency employee certified under Section 116110 and regulations adopted pursuant thereto, who handles, applies, or supervises the use of any pesticide for public health purposes.

(d) An official record of the completed continuing education units shall be maintained by the department. If a certified technician fails to meet the requirements set forth under subdivision (c), the department shall suspend the technician's certificate or certificates and immediately notify the technician and the employing agency. The department shall establish by regulation procedures for reinstating a suspended certificate.

(e) The department shall charge and collect a nonreturnable renewal fee of one hundred twenty dollars ($120) to be paid by each continuing education certificant on or before the first day of July, or on any other date that is determined by the department. Each person employed on September 20, 1988, in a position that requires certification, shall first pay the annual fee the first day of the first July following that date. All new certificants shall first pay the annual fee the first day of the first July following their certification.

(f) The department shall charge and collect nonrefundable examination fees for providing examinations pursuant to this section. When certification is required as a condition of employment, the employing agency shall pay the fees for certified technician applicants. The fees shall not exceed the estimated reasonable cost of providing the examinations, as determined by the director.

(g) The department shall collect and account for all money received pursuant to this section and shall deposit it in the Vectorborne Disease Account provided for in Section 116112. Notwithstanding Section 116112, fees deposited in the Vectorborne Disease Account pursuant to this section shall be available for expenditure, upon appropriation by the Legislature, to implement this section.

(h) Fees collected pursuant to this section shall be subject to the annual fee increase provisions of Section 100425.

(i) Employees of the Department of Food and Agriculture and county agriculture departments holding, or working under the supervision of an employee holding, a valid Qualified Applicator Certificate in Health Related Pest Control, issued by the licensing and certification program of the Department of Pesticide Regulation, shall be exempt from this section.

SEC. 10. Section 123853 of the Health and Safety Code is amended to read:

123853. (a) The department may enter into contracts with one or more manufacturers on a negotiated or bid basis as the purchaser, but not the dispenser or distributor, of factor replacement therapies under the California Children's Services Program for the purpose of enabling the department to obtain the full range of available therapies and services required for clients with hematological disorders at the most favorable price and to enable the department, notwithstanding any other provision of state law, to obtain discounts, rebates, or refunds from the manufacturers based upon the large quantities purchased under the program. Nothing in this subdivision shall interfere with the usual and customary distribution practices of factor replacement therapies. In order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process under this section is necessary. Therefore, a contract under this subdivision may be on a negotiated basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code. Contracts entered pursuant to this subdivision shall be confidential and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(b) (1) Factor replacement therapy manufacturers shall calculate and pay interest on late or unpaid rebates. The interest shall not apply to any prior period adjustments of unit rebate amounts or department utilization adjustments. Manufacturers shall calculate and pay interest on late or unpaid rebates for quarters that begin on or after the effective date of the act that added this subdivision.

(2) Following the final resolution of any dispute regarding the amount of a rebate, any underpayment by a manufacturer shall be paid with interest calculated pursuant to paragraph (4), and any overpayment, together with interest at the rate calculated pursuant to paragraph (4), shall be credited by the department against future rebates due.

(3) Interest pursuant to paragraphs (1) and (2) shall begin accruing 38 calendar days from the date of mailing the invoice, including supporting utilization data sent to the manufacturer. Interest shall continue to accrue until the date of mailing of the manufacturer's payment.

(4) Interest rates and calculations pursuant to paragraphs (1) and (2) shall be identical to interest rates and calculations set forth in the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations.

(c) If the department has not received a rebate payment, including interest, within 180 days of the date of mailing of the invoice, including supporting utilization data, a factor replacement therapy manufacturer's contract with the department shall be deemed to be in default and the contract may be terminated in accordance with the terms of the contract. This subdivision does not limit the department's right to otherwise terminate a contract in accordance with the terms of that contract.

(d) The department may enter into contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of pharmaceuticals, appliances, durable medical equipment, medical supplies, and other product-type health care services and laboratories for the purpose of obtaining the most favorable prices to the state and to assure adequate access and quality of the product or service. In order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process under this subdivision is necessary. Therefore, contracts under this subdivision may be on a negotiated basis and shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code.

(e) The department may contract with one or more manufacturers of each multisource prescribed product or supplier of outpatient clinical laboratory services on a bid or negotiated basis. Contracts for outpatient clinical laboratory services shall require that the contractor be a clinical laboratory licensed or certified by the State of California or certified under Section 263a of Title 42 of the United States Code. Nothing in this subdivision shall be construed as prohibiting the department from contracting with less than all manufacturers or clinical laboratories, including just one manufacturer or clinical laboratory, on a bid or negotiated basis.

SEC. 11. Section 125191 of the Health and Safety Code is amended to read:

125191. (a) The department may enter into contracts with one or more manufacturers on a negotiated or bid basis as the purchaser, but not the dispenser or distributor, of factor replacement therapies under

the Genetically Handicapped Person's Program for the purpose of enabling the department to obtain the full range of available therapies and services required for clients with hematological disorders at the most favorable price and to enable the department, notwithstanding any other provision of state law, to obtain discounts, rebates, or refunds from the manufacturers based upon the large quantities purchased under the program. Nothing in this subdivision shall interfere with the usual and customary distribution practices of factor replacement therapies. In order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process under this section is necessary. Therefore, a contract under this subdivision may be entered into on a negotiated basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code. Contracts entered pursuant to this subdivision shall be confidential and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(b) (1) Factor replacement therapy manufacturers shall calculate and pay interest on late or unpaid rebates. The interest shall not apply to any prior period adjustments of unit rebate amounts or department utilization adjustments. Manufacturers shall calculate and pay interest on late or unpaid rebates for quarters that begin on or after the effective date of the act that added this subdivision.

(2) Following the final resolution of any dispute regarding the amount of a rebate, any underpayment by a manufacturer shall be paid with interest calculated pursuant to paragraph (4), and any overpayment, together with interest at the rate calculated pursuant to paragraph (4), shall be credited by the department against future rebates due.

(3) Interest pursuant to paragraphs (1) and (2) shall begin accruing 38 calendar days from the date of mailing the invoice, including supporting utilization data sent to the manufacturer. Interest shall continue to accrue until the date of mailing of the manufacturer's payment.

(4) Interest rates and calculations pursuant to paragraphs (1) and (2) shall be identical to interest rates and calculations set forth in the federal Centers for Medicare and Medicaid Services' Medicaid Drug Rebate Program Releases or regulations.

(c) If the department has not received a rebate payment, including interest, within 180 days of the date of mailing of the invoice, including supporting utilization data, a factor replacement therapy manufacturer's contract with the department shall be deemed to be in default and the contract may be terminated in accordance with the terms of the contract.

This subdivision does not limit the department's right to otherwise terminate a contract in accordance with the terms of that contract.

(d) The department may enter into contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of pharmaceuticals, appliances, durable medical equipment, medical supplies, and other product-type health care services and laboratories for the purpose of obtaining the most favorable prices to the state and to assure adequate access and quality of the product or service. In order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process under this subdivision is necessary. Therefore, contracts under this subdivision may be entered into on a negotiated basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code.

(e) The department may contract with one or more manufacturers of each multisource prescribed product or supplier of outpatient clinical laboratory services on a bid or negotiated basis. Contracts for outpatient clinical laboratory services shall require that the contractor be a clinical laboratory licensed or certified by the State of California or certified under Section 263a of Title 42 of the United States Code. Nothing in this subdivision shall be construed as prohibiting the department from contracting with less than all manufacturers or clinical laboratories, including just one manufacturer or clinical laboratory, on a bid or negotiated basis.

SEC. 12. Section 130501 of the Health and Safety Code is amended to read:

130501. For purposes of this division, the following definitions shall apply:

(a) "Average manufacturer's price" has the same meaning as this term is defined in Section 1927(k)(1) of the federal Social Security Act (42 U.S.C. Sec. 1396r-8)(k)(1).

(b) "Department" means the State Department of Health Care Services.

(c) "Eligible Californian" means a resident of the state who meets any one or more of the following:

(1) Has total unreimbursed medical expenses equal to at least 10 percent of his or her family's income where the family's income does not exceed the state median family income.

(2) To the extent allowed by federal law, is enrolled in the Medicare Program, but whose prescription drugs are not covered by the Medicare Program.

(3) Has a family income that does not exceed 300 percent of the federal poverty guidelines and who does not have outpatient prescription drug coverage paid for by any one of the following:

(A) In whole by the Medi-Cal program.

(B) In whole or in part by the Healthy Families Program or other programs funded by the state.

(C) In whole or in part by another third-party payer, provided that the individual has not reached the annual limit on his or her prescription drug coverage.

(4) For purposes of this subdivision, the cost of drugs provided under this division is considered an expense incurred by the family for eligibility determination purposes.

(d) "Fund" means the California Discount Prescription Drug Program Fund.

(e) "Manufacturer" means a drug manufacturer as defined in Section 4033 of the Business and Professions Code.

(f) "Manufacturer's rebate" means the rebate for an individual drug or aggregate rebate for a group of drugs necessary to make the price for the drug ingredients equal to or less than the applicable benchmark price.

(g) "Medicaid best price" has the same meaning as this term is defined in Section 1927(c)(1)(C) of the Social Security Act (42 U.S.C. Sec. 1396r-8)(c)(1)(C).

(h) "Multiple-source drug" has the same meaning as this term is defined in Section 1927(k)(7) of the Social Security Act (42 U.S.C. Sec. 1396r-8)(k)(7).

(i) "National drug code" or "NDC" means the unique 10-digit, three-segment number assigned to each drug product listed under Section 510 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 360). This number identifies the labeler or vendor, product, and trade package.

(j) "National sales data" means prescription data obtained from a national-level prescription tracking service.

(k) "Participating manufacturer" means a drug manufacturer that has contracted with the department to provide an individual drug or group of drugs for the program.

(*l*) "Participating pharmacy" means a pharmacy that has executed a pharmacy provider agreement with the department for this program.

(m) "Pharmacy contract rate" means the negotiated per prescription reimbursement rate for drugs dispensed to eligible Californians. The department shall establish a single, basic pharmacy rate, but may contract at different rates with pharmacies in order to provide access throughout the state.

(n) "Prescription drug" means any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(o) "Private discount drug program" means a prescription drug discount card or manufacturer patient assistance program that provides discounted or free drugs to eligible individuals. For the purposes of this division, a private discount drug program is not considered insurance or a third-party payer program.

(p) "Program" means the California Discount Prescription Drug Program.

(q) "Single-source drug" has the same meaning as this term, and the term innovator multiple-source drug, are defined in Section 1927(k)(7) of the Social Security Act (42 U.S.C. Sec. 1396r-8)(k)(7).

(r) "Therapeutic category" means a drug or a grouping of drugs determined by the department to have similar attributes and to be alternatives for the treatment of a specific disease or condition.

(s) "Volume weighted average discount" means the aggregated average discount for the drugs of a manufacturer, weighted by each drug's percentage of the total prescription volume of that manufacturer's drugs. For purposes of this calculation, discounts shall include any rebate amounts used to fund program costs pursuant to Section 130542.1. Drugs excluded from contracting by the department, pursuant to subdivision (d) of Section 130506 and in a manner consistent with subdivision (c) of Section 130506, shall be excluded from the calculation of the volume weighted average discount. National sales data shall be used to calculate the volume weighted average discount pursuant to Section 130506. Program utilization data shall be used to calculate the volume weighted average discount pursuant to Section 130507.

SEC. 13. Section 130506 of the Health and Safety Code is amended to read:

130506. (a) The department shall negotiate drug discount agreements with manufacturers to provide discounts for single-source and multiple-source prescription drugs through the program. The department shall attempt to negotiate the maximum possible discount for an eligible Californian. The department shall attempt to negotiate, with each manufacturer, discounts to offer single-source prescription drugs under the program at a volume weighted average discount that is equal to or below any one of the following benchmark prices:

(1) Eighty-five percent of the average manufacturer price for a drug, as published by the Centers for Medicare and Medicaid Services.

(2) The lowest price provided to any nonpublic entity in the state by a manufacturer to the extent that the Medicaid best price exists under federal law.

(3) The Medicaid best price, to the extent that this price exists under federal law.

(b) The department may require the drug manufacturer to provide information that is reasonably necessary for the department to carry out its duties pursuant to this division.

(c) The department shall pursue manufacturer discount agreements to ensure that the number and type of drugs available through the program is sufficient to give an eligible Californian a formulary comparable to the Medi-Cal list of contract drugs, or if this information is available to the department, a formulary that is comparable to that provided to CalPERS enrollees.

(d) To obtain the most favorable discounts, the department may limit the number of drugs available through the program.

(e) The drug discount agreements negotiated pursuant to this section shall be used to reduce the cost of drugs purchased by program participants and to fund program costs pursuant to Section 130542.1.

(f) All information reported by a manufacturer to, negotiations with, and agreements executed with, the department or its third-party vendor pursuant to this section, shall be considered confidential and corporate proprietary information. This information shall not be subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). The Bureau of State Audits and the Controller shall have access to pricing information in a manner that is consistent with their access to this information under the Medi-Cal program and under law. The Bureau of State Audits and the Controller may use this information only to investigate or audit the administration of the program. Neither the Bureau of State Audits, the Controller, nor the department may disclose this information in a form that identifies a specific manufacturer or wholesaler or prices charged for drugs of this manufacturer or wholesaler. Information provided to the department pursuant to subdivision (e) of Section 130530 shall not be affected by the confidentiality protections established by this subdivision.

(g) (1) Any pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code may participate in the program.

(2) Any manufacturer may participate in the program.

SEC. 14. Section 130542 of the Health and Safety Code is amended to read:

130542. (a) The department shall deposit all payments the department receives pursuant to this division into the California Discount Prescription Drug Program Fund, which is hereby established in the State Treasury.

(b) Notwithstanding Section 13340 of the Government Code, the fund is hereby continuously appropriated to the department without regard to fiscal year for the purpose of providing payment to participating pharmacies pursuant to this division and for defraying the costs of administering this division.

(c) Notwithstanding any other provision of law, no money in the fund is available for expenditure for any other purpose or for loaning or transferring to any other fund, including the General Fund, except as provided in Section 130542.1. The fund shall also contain any interest accrued on moneys in the fund.

SEC. 15. Section 130542.1 is added to the Health and Safety Code, to read:

130542.1. (a) It is the intent of the Legislature that the program shall be self-financing and that General Fund moneys provided to the fund shall be repaid within five years after implementation of the program begins. The department shall provide the Legislature with a five-year projection of program revenues and expenditures as part of its annual budget request. The projection shall include a projected General Fund repayment schedule.

(b) The department may use up to 25 percent of manufacturer rebate revenues to administer the program, including the funding of a float account to finance payments to participating pharmacies in advance of the receipt of manufacturer rebates.

SEC. 16. Section 12693.271 is added to the Insurance Code, to read:

12693.271. (a) The Legislature finds and declares that the state faces a fiscal crisis that requires unprecedented measures to reduce General Fund expenditures.

(b) Notwithstanding any other provision of law, beginning the first day of the fifth month following the enactment of the 2008–09 Budget Act, the rates for the participating health, dental, and vision plans shall be set by reducing the rates that were in effect on July 1, 2007, by 5 percent, and by adjusting the July 1, 2007, rates downward to account for any reduction in the actuarial value of the benefits provided to subscribers as of the first day of the fifth month following the enactment of the 2008–09 Budget Act, associated with annual limitations on dental benefits. This requirement does not preclude the board from making other downward adjustments that it deems appropriate as a result of its annual rate negotiation process.

SEC. 17. Section 12693.43 of the Insurance Code is amended to read:

12693.43. (a) Applicants applying to the purchasing pool shall agree to pay family contributions, unless the applicant has a family contribution

sponsor. Family contribution amounts consist of the following two components:

(1) The flat fees described in subdivision (b) or (d).

(2) Any amounts that are charged to the program by participating health, dental, and vision plans selected by the applicant that exceed the cost to the program of the highest cost Family Value Package in a given geographic area.

(b) In each geographic area, the board shall designate one or more Family Value Packages for which the required total family contribution is:

(1) Seven dollars ($7) per child with a maximum required contribution of fourteen dollars ($14) per month per family for applicants with annual household incomes up to and including 150 percent of the federal poverty level.

(2) Nine dollars ($9) per child with a maximum required contribution of twenty-seven dollars ($27) per month per family for applicants with annual household incomes greater than 150 percent and up to and including 200 percent of the federal poverty level and for applicants on behalf of children described in clause (ii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 12693.70. Commencing the first day of the fifth month following the enactment of the 2008–09 Budget Act, the family contribution pursuant to this paragraph shall be twelve dollars ($12) per child with a maximum required contribution of thirty-six dollars ($36) per month per family.

(3) (A) On and after July 1, 2005, fifteen dollars ($15) per child with a maximum required contribution of forty-five dollars ($45) per month per family for applicants with annual household income to which subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is applicable. Notwithstanding any other provision of law, if an application with an effective date prior to July 1, 2005, was based on annual household income to which subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is applicable, then this subparagraph shall be applicable to the applicant on July 1, 2005, unless subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is no longer applicable to the relevant family income. The program shall provide prior notice to any applicant for currently enrolled subscribers whose premium will increase on July 1, 2005, pursuant to this subparagraph and, prior to the date the premium increase takes effect, shall provide that applicant with an opportunity to demonstrate that subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is no longer applicable to the relevant family income.

(B) Commencing the first day of the fifth month following the enactment of the 2008–09 Budget Act, the family contribution pursuant

to this paragraph shall be seventeen dollars ($17) per child with a maximum required contribution of fifty-one dollars ($51) per month per family.

(c) Combinations of health, dental, and vision plans that are more expensive to the program than the highest cost Family Value Package may be offered to and selected by applicants. However, the cost to the program of those combinations that exceeds the price to the program of the highest cost Family Value Package shall be paid by the applicant as part of the family contribution.

(d) The board shall provide a family contribution discount to those applicants who select the health plan in a geographic area that has been designated as the Community Provider Plan. The discount shall reduce the portion of the family contribution described in subdivision (b) to the following:

(1) A family contribution of four dollars ($4) per child with a maximum required contribution of eight dollars ($8) per month per family for applicants with annual household incomes up to and including 150 percent of the federal poverty level.

(2) Six dollars ($6) per child with a maximum required contribution of eighteen dollars ($18) per month per family for applicants with annual household incomes greater than 150 percent and up to and including 200 percent of the federal poverty level and for applicants on behalf of children described in clause (ii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 12693.70. Commencing the first day of the fifth month following the enactment of the 2008–09 Budget Act, the family contribution pursuant to this paragraph shall be nine dollars ($9) per child with a maximum required contribution of twenty-seven dollars ($27) per month per family.

(3) (A) On and after July 1, 2005, twelve dollars ($12) per child with a maximum required contribution of thirty-six dollars ($36) per month per family for applicants with annual household income to which subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is applicable. Notwithstanding any other provision of law, if an application with an effective date prior to July 1, 2005, was based on annual household income to which subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is applicable, then this subparagraph shall be applicable to the applicant on July 1, 2005, unless subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is no longer applicable to the relevant family income. The program shall provide prior notice to any applicant for currently enrolled subscribers whose premium will increase on July 1, 2005, pursuant to this subparagraph and, prior to the date the premium increase takes effect, shall provide that applicant with an opportunity to demonstrate that

subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is no longer applicable to the relevant family income.

(B) Commencing the first day of the fifth month following the enactment of the 2008–09 Budget Act, the family contribution pursuant to this paragraph shall be fourteen dollars ($14) per child with a maximum required contribution of forty-two dollars ($42) per month per family.

(e) Applicants, but not family contribution sponsors, who pay three months of required family contributions in advance shall receive the fourth consecutive month of coverage with no family contribution required.

(f) Applicants, but not family contribution sponsors, who pay the required family contributions by an approved means of electronic fund transfer shall receive a 25-percent discount from the required family contributions.

(g) It is the intent of the Legislature that the family contribution amounts described in this section comply with the premium cost sharing limits contained in Section 2103 of Title XXI of the Social Security Act. If the amounts described in subdivision (a) are not approved by the federal government, the board may adjust these amounts to the extent required to achieve approval of the state plan.

(h) The adoption and one readoption of regulations to implement paragraph (3) of subdivision (b) and paragraph (3) of subdivision (d) shall be deemed to be an emergency and necessary for the immediate preservation of public peace, health, and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the board is hereby exempted from the requirement that it describe specific facts showing the need for immediate action and from review by the Office of Administrative Law. For purpose of subdivision (e) of Section 11346.1 of the Government code, the 120-day period, as applicable to the effective period of an emergency regulatory action and submission of specified materials to the Office of Administrative law, is hereby extended to 180 days.

(i) The board may adopt, and may only one-time readopt, regulations to implement the changes to this section that are effective the first day of the fifth month following the enactment of the 2008–09 Budget Act. The adoption and one-time readoption of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the board is hereby exempted for this purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code.

SEC. 18. Section 12693.63 of the Insurance Code is amended to read:

12693.63. (a) The board shall determine the dental benefits to be provided to subscribers by the program. These benefits shall be consistent with those provided to state employees through the Department of Personnel Administration on July 1, 1997, except that orthodontia shall only be a benefit when it is determined to be medically necessary.

(b) The board shall establish the required subscriber copayment levels for dental benefits. The copayment levels established by the board shall, to the extent possible, reflect the copayment levels provided to state employees through the Department of Personnel Administration on July 1, 1997, except that no copayment shall be charged for medically necessary orthodontia services. There shall be no subscriber copayments for preventive and diagnostic services, including, but not limited to, examinations, teeth cleaning, X-rays, topical fluoride treatments, space maintainers, and sealants.

(c) No deductible shall be charged to subscribers for dental benefits.

(d) (1) The board may establish a cap on the amount of dental coverage provided to a subscriber in a given benefit year effective on and after the first day of the fifth month following enactment of the 2008–09 Budget Act. This dental coverage cap shall not be lower than one thousand five hundred dollars ($1,500) per subscriber per benefit year.

(2) The board may adopt, and may only one-time readopt, regulations to implement paragraph (1). The adoption and one-time readoption of a regulation authorized by this paragraph is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the board is hereby exempted for this purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code.

SEC. 19. Section 12693.65 of the Insurance Code is amended to read:

12693.65. (a) Vision benefits shall be provided to subscribers and shall meet the federal coverage requirements in Section 2103 of Title XXI of the Social Security Act.

(b) The covered benefits shall be equivalent to those provided to state employees through the Department of Personnel Administration on July 1, 1997, except for tinted lenses and also photochromatic lenses, unless otherwise deemed medically necessary.

(c) The board shall establish the required subscriber copayment levels for vision benefits consistent with the limitations of Section 2103 of Title XXI of the Social Security Act. The copayment levels established by the board shall, to the extent possible, reflect the copayment levels provided to state employees through the Department of Personnel Administration on July 1, 1997.

(d) The board may adopt, and may only one-time readopt, regulations to implement subdivision (b). The adoption and one-time readoption of a regulation authorized by this subdivision is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the board is hereby exempted for this purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code.

SEC. 20. Section 4061 of the Welfare and Institutions Code is amended to read:

4061. (a) The department shall utilize a joint state-county decisionmaking process to determine the appropriate use of state and local training, technical assistance, and regulatory resources to meet the mission and goals of the state's mental health system. The department shall use the decisionmaking collaborative process required by this section in all of the following areas:

(1) Providing technical assistance to the State Department of Mental Health and local mental health departments through direction of existing state and local mental health staff and other resources.

(2) Analyzing mental health programs, policies, and procedures.

(3) Providing forums on specific topics as they relate to the following:

(A) Identifying current level of services.

(B) Evaluating existing needs and gaps in current services.

(C) Developing strategies for achieving statewide goals and objectives in the provision of services for the specific area.

(D) Developing plans to accomplish the identified goals and objectives.

(4) Providing forums on policy development and direction with respect to mental health program operations and clinical issues.

(5) Identifying and funding a statewide training and technical assistance entity jointly governed by local mental health directors and mental health constituency representation, which can do all of the following:

(A) Coordinate state and local resources to support training and technical assistance to promote quality mental health programs.

(B) Coordinate training and technical assistance to ensure efficient and effective program development.

(C) Provide essential training and technical assistance, as determined by the state-county decisionmaking process.

(b) Local mental health board members shall be included in discussions pursuant to Section 4060 when the following areas are discussed:

(1) Training and education program recommendations.

(2) Establishment of statewide forums for all organizations and individuals involved in mental health matters to meet and discuss program and policy issues.

(3) Distribution of information between the state, local programs, local mental health boards, and other organizations as appropriate.

(c) The State Department of Mental Health and local mental health departments may provide staff or other resources, including travel reimbursement, for consultant and advisory services; for the training of personnel, board members, or consumers and families in state and local programs and in educational institutions and field training centers approved by the department; and for the establishment and maintenance of field training centers.

SEC. 21. Section 4100.2 is added to the Welfare and Institutions Code, to read:

4100.2. (a) Commencing January 10, 2009, and each year thereafter, the State Department of Mental Health shall provide the fiscal committees of the Legislature with a fiscal estimate package for the current year and budget year for the state hospitals by January 10 and at the time of the Governor's May Revision.

(b) At a minimum, the estimate package shall address patient caseload by commitment category, non-level-of-care and level-of-care staffing requirements, and operating expenses and equipment.

(c) In addition to subdivision (b), each estimate submitted shall include all of the following:

(1) A statement articulating the assumptions and methodologies used for calculating the patient caseload factors, all staffing costs, and operating expenses and equipment.

(2) Where applicable, individual policy changes shall contain a narrative and basis for its proposed and estimated costs.

(3) Fiscal bridge charts shall be included to provide the basis for the year-to-year changes.

(d) The department may provide any additional information as deemed appropriate to provide a comprehensive fiscal perspective to the Legislature for analysis and deliberations for purposes of appropriation.

SEC. 21.5. Section 4646.4 is added to the Welfare and Institutions Code, to read:

4646.4. (a) Effective September 1, 2008, regional centers shall ensure, at the time of development, scheduled review, or modification of a consumer's individual program plan developed pursuant to Sections 4646 and 4646.5, or of an individualized family service plan pursuant to Section 95020 of the Government Code, the establishment of an internal process. This internal process shall ensure adherence with federal

and state law and regulation, and when purchasing services and supports, shall ensure all of the following:

(1) Conformance with the regional center's purchase of service policies, as approved by the department pursuant to subdivision (d) of Section 4434.

(2) Utilization of generic services and supports when appropriate.

(3) Utilization of other services and sources of funding as contained in Section 4659.

(4) Consideration of the family's responsibility for providing similar services and supports for a minor child without disabilities in identifying the consumer's service and support needs as provided in the least restrictive and most appropriate setting. In this determination, regional centers shall take into account the consumer's need for extraordinary care, services, supports and supervision, and the need for timely access to this care.

(b) Final decisions regarding the consumer's individual program plan shall be made pursuant to Section 4646.

(c) Final decisions regarding the individual family support plan shall be made pursuant to Section 95020 of the Government Code.

(d) By no later than April 1, 2009, the department shall provide the fiscal and policy committees of the Legislature with a written update regarding the implementation of this section.

SEC. 22. Section 4783 of the Welfare and Institutions Code is amended to read:

4783. (a) (1) The Family Cost Participation Program is hereby created in the State Department of Developmental Services for the purpose of assessing a cost participation to parents, as defined in Section 50215 of Title 17 of the California Code of Regulations, who have a child to whom all of the following applies:

(A) The child has a developmental disability or is eligible for services under the California Early Intervention Services Act.

(B) The child is zero years of age through 17 years of age.

(C) The child lives in the parents' home.

(D) The child receives services and supports purchased through the regional center.

(E) The child is not eligible for Medi-Cal.

(2) Notwithstanding any other provision of law, a parent described in subdivision (a) shall participate in the Family Cost Participation Program established pursuant to this section.

(3) Application of this section to children zero through two years of age, inclusive, shall be contingent upon approval by the United States Department of Education.

(b) (1) The department shall develop and establish a Family Cost Participation Schedule that shall be used by regional centers to assess the parents' cost participation. The schedule shall consist of a sliding scale for families with an annual gross income not less than 400 percent of the federal poverty guideline, and be adjusted for the level of annual gross income and the number of persons living in the family home.

(2) The schedule established pursuant to this section shall be exempt from the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Family cost participation assessments shall only be applied to respite, day care, and camping services that are included in the child's individual program plan or individualized family service plan for children zero through two years of age.

(d) If there is more than one minor child living in the parents' home and receiving services or supports paid for by the regional center, or living in a 24-hour out-of-home facility, including a developmental center, the assessed amount shall be adjusted as follows:

(1) A parent that meets the criteria specified in subdivision (b) with two children shall be assessed at 75 percent of the respite, day care, and camping services in each child's individual program plan or individualized family service plan for each child living at home.

(2) A parent that meets the criteria specified in subdivision (b) with three children shall be assessed at 50 percent of the respite, day care, and camping services included in each child's individual program plan or individualized family service plan for each child living at home.

(3) A parent that meets the criteria specified in subdivision (b) with four children shall be assessed 25 percent of the respite, day care, and camping services included in each child's individual program plan or individualized family service plan for each child living at home.

(4) A parent that meets the criteria specified in subdivision (b) with more than four children shall be exempt from participation in the Family Cost Participation Program.

(e) For each child, the amount of cost participation shall be less than the amount of the parental fee that the parent would pay if the child lived in a 24-hour, out-of-home facility.

(f) Commencing January 1, 2005, each regional center shall be responsible for administering the Family Cost Participation Program.

(g) Family cost participation assessments or reassessments shall be conducted as follows:

(1) (A) A regional center shall assess the cost participation for all parents of current consumers who meet the criteria specified in this section. A regional center shall use the most recent individual program plan or individualized family service plan for this purpose.

(B) A regional center shall assess the cost participation for parents of newly identified consumers at the time of the initial individual program plan or the individualized family service plan.

(C) Reassessments for cost participation shall be conducted as part of the individual program plan or individual family service plan review pursuant to subdivision (b) of Section 4646 or subdivision (f) of Section 95020 of the Government Code.

(D) The parents are responsible for notifying the regional center when a change in family income occurs that would result in a change in the assessed amount of cost participation.

(2) Parents shall self-certify their gross annual income to the regional center by providing copies of W-2 Wage Earners Statements, payroll stubs, a copy of the prior year's state income tax return, or other documents and proof of other income.

(3) A regional center shall notify parents of the parents' assessed cost participation within 10 working days of receipt of the parents' complete income documentation.

(4) Parents who have not provided copies of income documentation pursuant to paragraph (2) shall be assessed the maximum cost participation based on the highest income level adjusted for family size until such time as the appropriate income documentation is provided. Parents who subsequently provide income documentation that results in a reduction in their cost participation shall be reimbursed for the actual cost difference incurred for services identified in the individual program plan or individualized family service plan for respite, day care, and camping services, for 90 calendar days preceding the reassessment. The actual cost difference is the difference between the maximum cost participation originally assessed and the reassessed amount using the parents' complete income documentation, that is substantiated with receipts showing that the services have been purchased by the parents.

(5) The executive director of the regional center may grant a cost participation adjustment for parents who incur an unavoidable and uninsured catastrophic loss with direct economic impact on the family or who substantiate, with receipts, significant unreimbursed medical costs associated with care for a child who is a regional center consumer. A redetermination of the cost participation adjustment shall be made at least annually.

(h) A provider of respite, day care, or camping services shall not charge a rate for the parents' share of cost that is higher than the rate paid by the regional center for its share of cost.

(i) The department shall develop, and regional centers shall use, all forms and documents necessary to administer the program established pursuant to this section. The forms and documents shall be posted on

the department's Web site. A regional center shall provide appropriate materials to parents at the initial individual program plan or individualized family service plan meeting and subsequent individual program plan or individualized family service plan review meetings. These materials shall include a description of the Family Cost Participation Program.

(j) The department shall include an audit of the Family Cost Participation Program during its audit of a regional center.

(k) (1) Parents of children ages three through 17 years of age may appeal an error in the amount of the parents' cost participation to the executive director of the regional center within 30 days of notification of the amount of the assessed cost participation. The parents may appeal to the Director of Developmental Services, or his or her designee, any decision by the executive director made pursuant to this subdivision within 15 days of receipt of the written decision of the executive director.

(2) Parents of children ages three through 17 years of age who dispute the decision of the executive director pursuant to paragraph (5) of subdivision (g) shall have a right to a fair hearing as described in, and the regional center shall provide notice pursuant to, Chapter 7 (commencing with Section 4700). This paragraph shall become inoperative on July 1, 2006.

(3) On and after July 1, 2006, a parent described in paragraph (2) shall have the right to appeal the decision of the executive director to the Director of Developmental Services, or his or her designee, within 15 days of receipt of the written decision of the executive director.

(*l*) For parents of children ages zero through two years of age, inclusive, the complaint, mediation, and due process procedures set forth in Sections 52170 to 52174, inclusive, of Title 17 of the California Code of Regulations shall be used to resolve disputes regarding this section.

(m) The department may adopt emergency regulations to implement this section. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this subdivision.

(n) By April 1, 2005, and annually thereafter, the department shall report to the appropriate fiscal and policy committees of the Legislature on the status of the implementation of the Family Cost Participation

Program established under this section. On and after April 1, 2006, the report shall contain all of the following:

(1) The annual total purchase of services savings attributable to the program per regional center.

(2) The annual costs to the department and each regional center to administer the program.

(3) The number of families assessed a cost participation per regional center.

(4) The number of cost participation adjustments granted pursuant to paragraph (5) of subdivision (g) per regional center.

(5) The number of appeals filed pursuant to subdivision (k) and the number of those appeals granted, modified, or denied.

SEC. 23. Section 4860 of the Welfare and Institutions Code is amended to read:

4860. (a) (1) The hourly rate for supported employment services provided to consumers receiving individualized services shall be thirty dollars and eighty-two cents ($30.82).

(2) Job coach hours spent in travel to consumer worksites may be reimbursable for individualized services only when the job coach travels from the vendor's headquarters to the consumer's worksite or from one consumer's worksite to another, and only when the travel is one way.

(b) The hourly rate for group services shall be thirty dollars and eighty-two cents ($30.82), regardless of the number of consumers served in the group. Consumers in a group shall be scheduled to start and end work at the same time, unless an exception that takes into consideration the consumer's compensated work schedule is approved in advance by the regional center. The department, in consultation with stakeholders, shall adopt regulations to define the appropriate grounds for granting these exceptions. When the number of consumers in a supported employment placement group drops to fewer than the minimum required in subdivision (r) of Section 4851 the regional center may terminate funding for the group services in that group, unless, within 90 days, the program provider adds one or more regional center, or Department of Rehabilitation funded supported employment consumers to the group.

(c) Job coaching hours for group services shall be allocated on a prorated basis between a regional center and the Department of Rehabilitation when regional center and Department of Rehabilitation consumers are served in the same group.

(d) When Section 4855 applies, fees shall be authorized for the following:

(1) A three-hundred-sixty-dollar ($360) fee shall be paid to the program provider upon intake of a consumer into a supported employment program. No fee shall be paid if that consumer completed

a supported employment intake process with that same supported employment program within the previous 12 months.

(2) A seven-hundred-twenty-dollar ($720) fee shall be paid upon placement of a consumer in an integrated job, except that no fee shall be paid if that consumer is placed with another consumer or consumers assigned to the same job coach during the same hours of employment.

(3) A seven-hundred-twenty-dollar ($720) fee shall be paid after a 90-day retention of a consumer in a job, except that no fee shall be paid if that consumer has been placed with another consumer or consumers, assigned to the same job coach during the same hours of employment.

(e) Notwithstanding paragraph (4) of subdivision (a) of Section 4648 the regional center shall pay the supported employment program rates established by this section.

SEC. 24. Section 5777 of the Welfare and Institutions Code is amended to read:

5777. (a) (1) Except as otherwise specified in this part, a contract entered into pursuant to this part shall include a provision that the mental health plan contractor shall bear the financial risk for the cost of providing medically necessary mental health services to Medi-Cal beneficiaries irrespective of whether the cost of those services exceeds the payment set forth in the contract. If the expenditures for services do not exceed the payment set forth in the contract, the mental health plan contractor shall report the unexpended amount to the department, but shall not be required to return the excess to the department.

(2) If the mental health plan is not the county's, the mental health plan may not transfer the obligation for any mental health services to Medi-Cal beneficiaries to the county. The mental health plan may purchase services from the county. The mental health plan shall establish mutually agreed-upon protocols with the county that clearly establish conditions under which beneficiaries may obtain non-Medi-Cal reimbursable services from the county. Additionally, the plan shall establish mutually agreed-upon protocols with the county for the conditions of transfer of beneficiaries who have lost Medi-Cal eligibility to the county for care under Part 2 (commencing with Section 5600), Part 3 (commencing with Section 5800), and Part 4 (commencing with Section 5850).

(3) The mental health plan shall be financially responsible for ensuring access and a minimum required scope of benefits, consistent with state and federal requirements, to the services to the Medi-Cal beneficiaries of that county regardless of where the beneficiary resides. The department shall require that the definition of medical necessity used, and the minimum scope of benefits offered, by each mental health contractor be

the same, except to the extent that any variations receive prior federal approval and are consistent with state and federal statutes and regulations.

(b) Any contract entered into pursuant to this part may be renewed if the plan continues to meet the requirements of this part, regulations promulgated pursuant thereto, and the terms and conditions of the contract. Failure to meet these requirements shall be cause for nonrenewal of the contract. The department may base the decision to renew on timely completion of a mutually agreed upon plan of correction of any deficiencies, submissions of required information in a timely manner, or other conditions of the contract. At the discretion of the department, each contract may be renewed for a period not to exceed three years.

(c) (1) The obligations of the mental health plan shall be changed only by contract or contract amendment.

(2) A change may be made during a contract term or at the time of contract renewal, where there is a change in obligations required by federal or state law or when required by a change in the interpretation or implementation of any law or regulation. To the extent permitted by federal law and except as provided under subdivision (r) of Section 5778, if any change in obligations occurs that affects the cost to the mental health plan of performing under the terms of its contract, the department may reopen contracts to negotiate the state General Fund allocation to the mental health plan under Section 5778, if the mental health plan is reimbursed through a fee-for-service payment system, or the capitation rate to the mental health plan under Section 5779, if the mental health plan is reimbursed through a capitated rate payment system. During the time period required to redetermine the allocation or rate, payment to the mental health plan of the allocation or rate in effect at the time the change occurred shall be considered interim payments and shall be subject to increase or decrease, as the case may be, effective as of the date on which the change is effective.

(3) To the extent permitted by federal law, either the department or the mental health plan may request that contract negotiations be reopened during the course of a contract due to substantial changes in the cost of covered benefits that result from an unanticipated event.

(d) The department shall immediately terminate a contract when the director finds that there is an immediate threat to the health and safety of Medi-Cal beneficiaries. Termination of the contract for other reasons shall be subject to reasonable notice of the department's intent to take that action and notification of affected beneficiaries. The plan may request a public hearing by the Office of Administrative Hearings.

(e) A plan may terminate its contract in accordance with the provisions in the contract. The plan shall provide written notice to the department at least 180 days prior to the termination or nonrenewal of the contract.

(f) Upon the request of the Director of Mental Health, the Director of the Department of Managed Health Care may exempt a mental health plan contractor or a capitated rate contract from the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code). These exemptions may be subject to conditions the director deems appropriate. Nothing in this part shall be construed to impair or diminish the authority of the Director of the Department of Managed Health Care under the Knox-Keene Health Care Service Plan Act of 1975, nor shall anything in this part be construed to reduce or otherwise limit the obligation of a mental health plan contractor licensed as a health care service plan to comply with the requirements of the Knox-Keene Health Care Service Plan Act of 1975, and the rules of the Director of the Department of Managed Health Care promulgated thereunder. The Director of Mental Health, in consultation with the Director of the Department of Managed Health Care, shall analyze the appropriateness of licensure or application of applicable standards of the Knox-Keene Health Care Service Plan Act of 1975.

(g) (1) The department, pursuant to an agreement with the State Department of Health Care Services, shall provide oversight to the mental health plans to ensure quality, access, and cost efficiency. At a minimum, the department shall, through a method independent of any agency of the mental health plan contractor, monitor the level and quality of services provided, expenditures pursuant to the contract, and conformity with federal and state law.

(2) (A) Commencing July 1, 2008, county mental health plans, in collaboration with the department, the federally required external review organization, providers, and other stakeholders, shall establish an advisory statewide performance improvement project (PIP) to increase the coordination, quality, effectiveness, and efficiency of service delivery to children who are either receiving at least three thousand dollars ($3,000) per month in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program services or children identified in the top 5 percent of the county EPSDT cost, whichever is lowest. The statewide PIP shall replace one of the two required PIPs that mental health plans must perform under federal regulations outlined in the mental health plan contract.

(B) The federally required external quality review organization shall provide independent oversight and reviews with recommendations and findings or summaries of findings, as appropriate, from a statewide perspective. This information shall be accessible to county mental health plans, the department, county welfare directors, providers, and other

interested stakeholders in a manner that both facilitates, and allows for, a comprehensive quality improvement process for the EPSDT Program.

(C) Each July, the department, in consultation with the federally required external quality review organization and the county mental health plans, shall determine the average monthly cost threshold for counties to use to identify children to be reviewed who are currently receiving EPSDT services. The department shall consult with representatives of county mental health directors, county welfare directors, providers, and the federally required external quality review organization in setting the annual average monthly cost threshold and in implementing the statewide PIP. The department shall provide an annual update to the Legislature on the results of this statewide PIP by October 1 of each year for the prior fiscal year.

(D) It is the intent of the Legislature for the EPSDT PIP to increase the coordination, quality, effectiveness, and efficiency of service delivery to children receiving EPSDT services and to facilitate evidence-based practices within the program, and other high-quality practices consistent with the values of the public mental health system within the program to ensure that children are receiving appropriate mental health services for their mental health wellness.

(E) This paragraph shall become inoperative on September 1, 2011.

(h) County employees implementing or administering a mental health plan act in a discretionary capacity when they determine whether or not to admit a person for care or to provide any level of care pursuant to this part.

(i) If a county chooses to discontinue operations as the local mental health plan, the new plan shall give reasonable consideration to affiliation with nonprofit community mental health agencies that were under contract with the county and that meet the mental health plan's quality and cost efficiency standards.

(j) Nothing in this part shall be construed to modify, alter, or increase the obligations of counties as otherwise limited and defined in Chapter 3 (commencing with Section 5700) of Part 2. The county's maximum obligation for services to persons not eligible for Medi-Cal shall be no more than the amount of funds remaining in the mental health subaccount pursuant to Sections 17600, 17601, 17604, 17605, 17606, and 17609 after fulfilling the Medi-Cal contract obligations.

SEC. 25. Section 7502.5 is added to the Welfare and Institutions Code, to read:

7502.5. The total number of developmental center residents in the secure treatment facility at Porterville Developmental Center shall not exceed 297.

SEC. 26. Section 14005.11 of the Welfare and Institutions Code is amended to read:

14005.11. (a) To the extent required by federal law for qualified Medicare beneficiaries, the department shall pay the premiums, deductibles, and coinsurance for elderly and disabled persons entitled to benefits under Title XVIII of the federal Social Security Act, whose income does not exceed the federal poverty level and whose resources do not exceed 200 percent of the Supplemental Security Income program standard.

(b) The department shall, in addition to subdivision (a), pay applicable additional premiums, deductibles, and coinsurance for drug coverage extended to qualified Medicare beneficiaries.

(c) The deductible payments required by subdivision (b) may be covered by providing the same drug coverage as offered to categorically needy recipients, as defined in Section 14050.1.

(d) As specified in this section, it is the intent of the Legislature to assist in the payment of Medicare Part B premiums for qualified low-income Medi-Cal beneficiaries who are ineligible for federal sharing or federal contribution for the payment of those premiums.

(e) Except as provided in subdivision (f), for a Medi-Cal beneficiary who has a share of cost but who is ineligible for the assistance provided pursuant to subdivision (a), or who is ineligible for any other federally funded assistance for the payment of the beneficiary's Medicare Part B premium, the department shall pay for the beneficiary's Medicare Part B premium in the month following each month that the beneficiary's share of cost has been met.

(f) For a Medi-Cal beneficiary who has a share of cost at or below five hundred dollars ($500) but who is ineligible for the assistance provided pursuant to subdivision (a), and is ineligible for any other federally funded assistance for the payment of the beneficiary's Medicare Part B premium, the department shall pay for the beneficiary's Medicare Part B premium on a monthly basis, regardless of whether the beneficiary's share of cost has been met.

(g) When a county is informed that an applicant or beneficiary is eligible for Medicare benefits, the county shall determine whether that individual is eligible under the Qualified Medicare Beneficiary (QMB) program, the Specified Low-Income Medicare Beneficiary (SLMB) program, or the Qualifying Individual program and enroll the applicant or beneficiary in the appropriate program.

SEC. 27. Section 14005.25 of the Welfare and Institutions Code is amended to read:

14005.25. (a) To the extent federal financial participation is available, the department shall exercise the option under Section 1902(e)(12) of

the federal Social Security Act (42 U.S.C. Sec. 1396a(e)(12)) to extend continuous eligibility to children 19 years of age and younger. A child shall remain eligible pursuant to this subdivision from the date of a determination of eligibility for Medi-Cal benefits until the earlier of either:

(1) The end of a 12-month period following the eligibility determination.

(2) The date the individual exceeds the age of 19 years.

(b) This section shall be implemented only if, and to the extent that, federal financial participation is available.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall, without taking regulatory action, implement this section by means of all county letters or similar instructions. Thereafter, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) In order to implement changes in the level of funding for health care services, commencing on the first day of the month following 90 days after the operative date of amendments to this section that added this subdivision, the continuous eligibility time period provided in paragraph (1) of subdivision (a) shall be reduced to six months.

(e) 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. 28. Section 14005.25 is added to the Welfare and Institutions Code, to read:

14005.25. (a) To the extent federal financial participation is available, the department shall exercise the option under Section 1902(e)(12) of the federal Social Security Act (42 U.S.C. Sec. 1396a(e)(12)) to extend continuous eligibility to children 19 years of age and younger. A child shall remain eligible pursuant to this subdivision from the date of a determination of eligibility for Medi-Cal benefits until the earlier of either:

(1) The end of a 12-month period following the eligibility determination.

(2) The date the individual exceeds the age of 19 years.

(b) This section shall be implemented only if, and to the extent that, federal financial participation is available.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall, without taking regulatory action, implement this section by means of all county letters or similar instructions. Thereafter, the department

shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) This section shall become operative on January 1, 2012.

SEC. 29. Section 14005.42 is added to the Welfare and Institutions Code, to read:

14005.42. (a) The department shall provide full-scope benefits under this chapter, without share of cost, to all individuals on behalf of whom kinship guardians are receiving aid under any of the Kinship Guardian Assistance Payment Programs pursuant to Article 4.5 (commencing with Section 11360) of Chapter 2.

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department and the State Department of Social Services may implement, without taking regulatory action, this section by means of all county letters or similar instruction. Thereafter, as needed, the departments shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) To the extent that federal financial participation is not available, the cost of benefits provided under this section shall be covered only by state funds.

(d) The department and the State Department of Social Services shall work cooperatively to develop procedures that maximize the availability of federal financial participation for the cost of benefits provided under this section. The procedures shall include conforming the application and eligibility determination process for this population to meet the requirements of federal Medicaid law.

SEC. 30. Section 14007.9 of the Welfare and Institutions Code is amended to read:

14007.9. (a) The department shall adopt the option made available under Section 1902(a)(10)(A)(ii)(XIII) of the federal Social Security Act (42 U.S.C. Sec. 1396a(a)(10)(A)(ii)(XIII)). In order to be eligible for benefits under this section, an individual shall be required to meet all of the following requirements:

(1) His or her net countable income is less than 250 percent of the federal poverty level for one person or, if the deeming of spousal income applies to the individual, his or her net countable income is less than 250 percent of the federal poverty level for two persons.

(2) He or she is disabled under Title II of the Social Security Act (Subch. 2 (commencing with Sec. 401), Ch. 7, Title 42 U.S.C.), Title XVI of the Social Security Act (Subch. 16 (commencing with Sec. 1381), Ch. 7, Title 42, U.S.C.), or Section 1902(v) of the Social Security Act

(42 U.S.C. Sec. 1396a(v)). An individual shall be determined to be eligible under this section without regard to his or her ability to engage in, or actual engagement in, substantial gainful activity, as defined in Section 223(d)(4) of the Social Security Act (42 U.S.C. Sec. 423(d)(4)).

(3) Except as otherwise provided in this section, his or her net nonexempt resources, which shall be determined in accordance with the methodology used under Title XVI of the federal Social Security Act (42 U.S.C. Sec. 1381 et seq.), are not in excess of the limits provided for under those provisions.

(b) (1) Countable income shall be determined under Section 1612 of the federal Social Security Act (42 U.S.C. Sec. 1382a), except that the individual's disability income, including all federal and state disability benefits and private disability insurance, shall be exempted. Resources excluded under Section 1613 of the federal Social Security Act (42 U.S.C. Sec. 1382b) shall be disregarded.

(2) Resources in the form of employer or individual retirement arrangements authorized under the Internal Revenue Code shall be exempted as authorized by Section 1902(r) of the federal Social Security Act (42 U.S.C. Sec. 1396a(r)).

(c) Medi-Cal benefits provided under this chapter pursuant to this section shall be available in the same amount, duration, and scope as those benefits are available for persons who are eligible for Medi-Cal benefits as categorically needy persons and as specified in Section 14007.5.

(d) Individuals eligible for Medi-Cal benefits under this section shall be subject to the payment of premiums determined under this subdivision. The department shall establish sliding-scale premiums that are based on countable income, with a minimum premium of twenty dollars ($20) per month and a maximum premium of two hundred fifty dollars ($250) per month, and shall, by regulations, annually adjust the premiums. Prior to adjustment of any premiums pursuant to this subdivision, the department shall submit a report of proposed premium adjustments to the appropriate committees of the Legislature as part of the annual budget act process.

(e) The department shall adopt regulations specifying the process for discontinuance of eligibility under this section for nonpayment of premiums for more than two months by a beneficiary.

(f) In order to implement the collection of premiums under this section, the department may develop and execute a contract with a public or private entity to collect premiums, or may amend any existing or future premium-collection contract that it has executed. Notwithstanding any other provision of law, any contract developed and executed or amended

pursuant to this subdivision is exempt from the approval of the Director of General Services and from the Public Contract Code.

(g) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement, without taking any regulatory action, this section by means of an all-county letter or similar instruction. Thereafter, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(h) Notwithstanding any other provision of law, this section shall be implemented only if, and to the extent that, the department determines that federal financial participation is available pursuant to Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.).

(i) Subject to subdivision (h), this section shall be implemented commencing April 1, 2000.

SEC. 31. Section 14011.16 of the Welfare and Institutions Code is amended to read:

14011.16. (a) Commencing August 1, 2003, the department shall implement a requirement for beneficiaries to file semiannual status reports as part of the department's procedures to ensure that beneficiaries make timely and accurate reports of any change in circumstance that may affect their eligibility. The department shall develop a simplified form to be used for this purpose. The department shall explore the feasibility of using a form that allows a beneficiary who has not had any changes to so indicate by checking a box and signing and returning the form.

(b) Beneficiaries who have been granted continuous eligibility under Section 14005.25 shall not be required to submit semiannual status reports. To the extent federal financial participation is available, all children under 19 years of age shall be exempt from the requirement to submit semiannual status reports.

(c) For any period of time that the continuous eligibility period described in paragraph (1) of subdivision (a) of Section 14005.25 is reduced to six months, subdivision (b) shall become inoperative, and all children under 19 years of age shall be required to file semiannual status reports.

(d) Beneficiaries whose eligibility is based on a determination of disability or on their status as aged or blind shall be exempt from the semiannual status report requirement described in subdivision (a). The department may exempt other groups from the semiannual status report requirement as necessary for simplicity of administration.

(e) When a beneficiary has completed, signed, and filed a semiannual status report that indicated a change in circumstance, eligibility shall be redetermined.

(f) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement this section by means of all county letters or similar instructions without taking regulatory action. Thereafter, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(g) This section shall be implemented only if and to the extent federal financial participation is available.

SEC. 32. Section 14011.17 is added to the Welfare and Institutions Code, to read:

14011.17. The following persons shall be exempt from the semiannual reporting requirements described in Section 14011.16:

(a) Pregnant women whose eligibility is based on pregnancy.

(b) Beneficiaries receiving Medi-Cal through Aid for Adoption of Children Program.

(c) Beneficiaries who have a public guardian.

(d) Medically indigent children who are not living with a parent or relative and who have a public agency assuming their financial responsibility.

(e) Individuals receiving minor consent services.

(f) Beneficiaries in the Breast and Cervical Cancer Treatment Program.

(g) Beneficiaries who are CalWORKs recipients and custodial parents whose children are CalWORKs recipients.

SEC. 33. Section 14011.18 is added to the Welfare and Institutions Code, to read:

14011.18. (a) On or before December 15, 2010, the State Department of Health Care Services shall report to the fiscal and health policy committees of the Legislature on the effects of reducing the time period of continuous eligibility for children and imposing a semiannual status reporting requirement to maintain Medi-Cal eligibility for children. The report shall include all of the following information:

(1) The number of children enrolled in Medi-Cal by eligibility category prior to the imposition of semiannual status reporting and on a quarterly basis after the imposition of semiannual reporting. Within each eligibility category, the report also shall identify the number of enrolled children in Medi-Cal managed care and in fee-for-service Medi-Cal.

(2) The annual cost per child enrollee in managed care and by cost category in fee-for-service prior to the imposition of semiannual reporting and for the 2009–10 fiscal year.

(3) An analysis of enrollment interruptions and reinstatements for children prior to the imposition of semiannual reporting and for the 2009–10 fiscal year. The analysis shall include data on the number of children disenrolled as a result of the semiannual reporting requirement, the number of those children who were subsequently reenrolled in Medi-Cal by duration of their enrollment gap, and an analysis, to the extent feasible, of the extent to which enrollment gaps resulted from the failure of families to file a complete semiannual report versus a change in family circumstances that resulted in a child no longer being eligible for no-cost Medi-Cal coverage, and the number of children that transitioned to the Healthy Families Program as a result of semiannual reporting.

(4) An estimate of the additional annual county eligibility administration costs or savings resulting from the processing of semiannual reports for children, disenrollment processing, reinstatement, reenrollment, and caseload reductions.

(b) For purposes of preparing the report, the department shall seek funding, or participation from appropriate nonprofit organizations, including foundations and universities, or both.

SEC. 34. Section 14053.3 is added to the Welfare and Institutions Code, to read:

14053.3. As federal financial participation reimbursement is not allowed for ancillary services provided to persons residing in facilities that have been found to be institutions for mental disease (IMD), and since, consistent with Part 2 (commencing with Section 5600) of Division 5 and Chapter 6 (commencing with Section 17600) of Part 5, counties are financially responsible for mental health services and related ancillary services provided to persons through county mental health programs when Medi-Cal reimbursement is not available, when it is determined that Medi-Cal reimbursement has been paid for ancillary services for residents of IMDs, both the federal financial participation reimbursement and any state funds paid for the ancillary services provided to residents of IMDs shall be recovered from counties by the State Department of Mental Health in accordance with applicable state and federal statutes and regulations.

SEC. 35. Section 14080 of the Welfare and Institutions Code is amended to read:

14080. (a) Notwithstanding any other provision of this chapter, reimbursement to providers for dental services provided to individuals 21 years of age or older at the time of services shall be limited to not

more than one thousand eight hundred dollars ($1,800) per beneficiary in any calendar year, commencing January 1, 2006. This limitation shall not apply to any of the following:

(1) Emergency dental services within the scope of covered dental benefits defined as a dental condition manifesting itself by acute symptoms of sufficient severity such that the absence of immediate medical attention could reasonably be expected to result in placing the health of the individual in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

(2) Services that are federally mandated under Part 440 (commencing with Section 440.1) of Title 42 of the Code of Federal Regulations, including pregnancy-related services and services for other conditions that might complicate the pregnancy.

(3) Dentures.

(4) Maxillofacial and complex oral surgery.

(5) Maxillofacial services, including dental implants and implant-retained prostheses.

(6) Services provided in long-term care facilities.

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, provider bulletins, or similar instructions. No later than January 1, 2008, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The department shall pursue any state plan amendment or other federal approval necessary in order to effectuate this section. This section shall be implemented only to the extent that federal financial participation is available.

SEC. 42. Article 2.93 (commencing with Section 14091.3) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

## Article 2.93. Payments to Hospitals

14091.3. (a) For purposes of this section, the following definitions shall apply:

(1) "Medi-Cal managed care plan contracts" means those contracts entered into with the department by any individual, organization, or entity pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.91 (commencing with Section 14089), or Article 1 (commencing with Section 14200) or Article

7 (commencing with Section 14490) of Chapter 8, or Chapter 8.75 (commencing with Section 14590).

(2) "Medi-Cal managed care health plan" means an individual, organization, or entity operating under a Medi-Cal managed care plan contract with the department under this chapter, Chapter 8 (commencing with Section 14200), or Chapter 8.75 (commencing with Section 14590).

(b) The department shall take all appropriate steps to amend the Medicaid State Plan, if necessary, to carry out this section. This section shall be implemented only to the extent that federal financial participation is available. The department shall adopt rules and regulations to carry out this section. Until January 1, 2010, any rules and regulations adopted pursuant to this subdivision may be adopted as emergency regulations in accordance with the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(c) Any hospital that does not have in effect a contract with a Medi-Cal managed care health plan, as defined in paragraph (2) of subdivision (a), that establishes payment amounts for services furnished to a beneficiary enrolled in that plan shall accept as payment in full, from all these plans, the following amounts:

(1) For outpatient services, the Medi-Cal Fee-For-Service (FFS) payment amounts.

(2) For emergency inpatient services, the average per diem contract rate specified in paragraph (2) of subdivision (b) of Section 14166.245, except that the payment amount shall not be reduced by 5 percent. For the purposes of this paragraph, this payment amount shall apply to all hospitals, including hospitals that contract with the department under the Medi-Cal Selective Provider Contracting Program described in Article 2.7 (commencing with Section 14081), and small and rural hospitals specified in Section 124840 of the Health and Safety Code.

(3) For poststabilization services following an emergency admission, payment amounts shall be consistent with subdivision (e) of Section 438.114 of Title 42 of the Code of Federal Regulations. This paragraph shall only be implemented to the extent that contract amendment language providing for these payments is approved by CMS. For purposes of this paragraph, this payment amount shall apply to all hospitals, including hospitals that contract with the department under the Medi-Cal Selective Provider Contracting Program pursuant to Article 2.6 (commencing with Section 14081).

(d) Medi-Cal managed care health plans that, pursuant to the department's encouragement in All Plan Letter 07003, have been paying out-of-network hospitals the most recent California Medical Assistance Commission regional average per diem rate as a temporary rate for purposes of Section 1932(b)(2)(D) of the Social Security Act (SSA), which became effective January 1, 2007, shall make reconciliations and adjustments for all hospital payments made since January 1, 2007, based upon rates published by the department pursuant to Section 1932(b)(2)(D) of the SSA and effective January 1, 2007, through June 30, 2008, and, if applicable, provide supplemental payments to hospitals as necessary to make payments that conform with Section 1932(b)(2)(D) of the SSA. In order to provide managed care health plans with 60 working days to make any necessary supplemental payments to hospitals prior to these payments becoming subject to the payment of interest, Section 1300.71 of Title 28 of the California Code of Regulations shall not apply to these supplemental payments until 30 working days following the publication by the department of the rates.

(e) (1) The department shall provide a written report to the policy and fiscal committees of the Legislature on October 1, 2009, and May 1, 2010, on the implementation and impact made by this section, including the impact of these changes on access to hospitals by managed care enrollees and on contracting between hospitals and managed care health plans, including the increase or decrease in the number of these contracts.

(2) Not later than August 1, 2010, the department shall report to the Legislature on the implementation of this section. The report shall include, but not be limited to, information and analyses addressing managed care enrollee access to hospital services, the impact of the section on managed care health plan capitation rates, the impact of this section on the extent of contracting between managed care health plans and hospitals, and fiscal impact on the state.

(3) For the purposes of preparing the annual status reports and the final evaluation report required pursuant to this subdivision, Medi-Cal managed care health plans shall provide the department with all data and documentation, including contracts with providers, including hospitals, as deemed necessary by the department to evaluate the impact of the implementation of this section. In order to ensure the confidentiality of managed care health plan proprietary information, and thereby enable the department to have access to all of the data necessary to provide the Legislature with accurate and meaningful information regarding the impact of this section, all information and documentation provided to the department pursuant to this section shall be considered proprietary and shall be exempt from disclosure as official information

pursuant to subdivision (k) of Section 6254 of the Government Code as contained in the California Public Records Act.

(f) 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. 43. Section 14104.93 is added to the Welfare and Institutions Code, to read:

14104.93. (a) The department may distribute provider bulletins and other provider communications for the Medi-Cal program by either print or electronic medium, including posting on the department's Medi-Cal program Web site. The posting may include information relating to the California Children's Services (CCS) Program, the Genetically Handicapped Persons Program (GHPP), the Family PACT program, and the Every Woman Counts program. Communications on the department's Internet Web site shall be posted in a timely manner and maintained on the Web site for one year from the date of posting.

(b) The department's Web site for the Medi-Cal program shall be appropriately maintained to ensure factual clarity regarding the program, to facilitate ease of use for providers, and to sustain the integrity of the Medi-Cal program.

(c) This section shall be implemented on the first day of the month following 30 days after the operative date of this section.

SEC. 44. Section 14105.19 of the Welfare and Institutions Code is amended to read:

14105.19. (a) Notwithstanding any other provision of law, in order to implement changes in the level of funding for health care services, the director shall reduce provider payments as specified in this section.

(b) (1) Except as provided in subdivision (c), payments shall be reduced by 10 percent for Medi-Cal fee-for-service benefits for dates of service on and after July 1, 2008, through and including dates of service on February 28, 2009.

(2) Except as provided in subdivision (c), payments shall be reduced by 10 percent for non-Medi-Cal programs described in Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, and Section 14105.18, for dates of service on and after July 1, 2008, through and including dates of service on February 28, 2009.

(3) For managed health care plans that contract with the department pursuant to this chapter, Chapter 8 (commencing with Section 14200), and Chapter 8.75 (commencing with Section 14590), payments shall be reduced by the actuarial equivalent amount of the payment reduction specified in this subdivision pursuant to contract amendments or change orders effective on July 1, 2008.

(4) Notwithstanding paragraphs (1) and (2), payment reductions set forth in this subdivision shall apply to small and rural hospitals, as defined in Section 124840 of the Health and Safety Code, for dates of service on and after July 1, 2008, through and including October 31, 2008.

(c) The services listed in this subdivision shall be exempt from the payment reductions specified in subdivision (b):

(1) Acute hospital inpatient services, except for payments to hospitals not under contract with the State Department of Health Care Services, as provided in Section 14166.245.

(2) Federally qualified health center services, including those facilities deemed to have federally qualified health center status pursuant to a waiver under subdivision (a) of Section 1315 of Title 42 of the United States Code.

(3) Rural health clinic services.

(4) All of the following facilities:

(A) A skilled nursing facility pursuant to subdivision (c) of Section 1250 of the Health and Safety Code, except a skilled nursing facility that is a distinct part of a general acute care hospital. For purposes of this paragraph, "distinct part" has the same meaning as defined in Section 72041 of Title 22 of the California Code of Regulations.

(B) An intermediate care facility for the developmentally disabled pursuant to subdivision (e), (g), or (h) of Section 1250 of the Health and Safety Code, or a facility providing continuous skilled nursing care to developmentally disabled individuals pursuant to the pilot project established by Section 14495.10.

(C) A subacute care unit, as defined in Section 51215.5 of Title 22 of the California Code of Regulations.

(5) Payments to facilities owned or operated by the State Department of Mental Health or the State Department of Developmental Services.

(6) Hospice.

(7) Contract services as designated by the director pursuant to subdivision (e).

(8) Payments to providers to the extent that the payments are funded by means of a certified public expenditure or an intergovernmental transfer pursuant to Section 433.51 of Title 42 of the Code of Federal Regulations.

(9) Services pursuant to local assistance contracts and interagency agreements to the extent the funding is not included in the funds appropriated to the department in the annual Budget Act.

(10) Payments to Medi-Cal managed care plans pursuant to Section 4474.5 for services to consumers transitioning from Agnews Developmental Center into Alameda, San Mateo, and Santa Clara

Counties pursuant to the Plan for the Closure of Agnews Developmental Center.

(11) Breast and cervical cancer treatment provided pursuant to Section 14007.71.

(12) The Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program pursuant to Section 14105.18.

(d) Subject to the exception for services listed in subdivision (c), the payment reductions required by subdivision (b) shall apply to the services rendered by any provider who may be authorized to bill for the service, including, but not limited to, physicians, podiatrists, nurse practitioners, certified nurse midwives, nurse anesthetists, and organized outpatient clinics.

(e) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section by means of a provider bulletin, or similar instruction, without taking regulatory action.

(f) The reductions described in this section shall apply only to payments for services when the General Fund share of the payment is paid with funds directly appropriated to the department in the annual Budget Act and shall not apply to payments for services paid with funds appropriated to other departments or agencies.

(g) The department shall promptly seek any necessary federal approvals for the implementation of this section.

SEC. 45. Section 14105.191 is added to the Welfare and Institutions Code, to read:

14105.191. (a) Notwithstanding any other provision of law, in order to implement changes in the level of funding for health care services, the director shall reduce provider payments, as specified in this section.

(b) (1) Except as otherwise provided in this section, payments shall be reduced by 1 percent for Medi-Cal fee-for-service benefits for dates of service on and after March 1, 2009.

(2) Except as provided in subdivision (d), for dates of service on and after March 1, 2009, payments to the following classes of providers shall be reduced by 5 percent for Medi-Cal fee-for-service benefits:

(A) Intermediate care facilities, excluding those facilities identified in paragraph (5) of subdivision (d). For purposes of this section, "intermediate care facility" has the same meaning as defined in Section 51118 of Title 22 of the California Code of Regulations.

(B) Skilled nursing facilities that are distinct parts of general acute care hospitals. For purposes of this section, "distinct part" has the same meaning as defined in Section 72041 of Title 22 of the California Code of Regulations.

(C) Rural swing-bed facilities.

(D) Subacute care units that are, or are parts of, distinct parts of general acute care hospitals. For purposes of this subparagraph, "subacute care unit" has the same meaning as defined in Section 51215.5 of Title 22 of the California Code of Regulations.

(E) Pediatric subacute care units that are, or are parts of, distinct parts of general acute care hospitals. For purposes of this subparagraph, "pediatric subacute care unit" has the same meaning as defined in Section 51215.8 of Title 22 of the California Code of Regulations.

(F) Adult day health care centers.

(3) Except as provided in subdivision (d), for dates of service on and after March 1, 2009, Medi-Cal fee-for-service payments to pharmacies shall be reduced by 5 percent.

(4) Except as provided in subdivision (d), payments shall be reduced by 1 percent for non-Medi-Cal programs described in Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, and Section 14105.18, for dates of service on and after March 1, 2009.

(5) For managed health care plans that contract with the department pursuant to this chapter, Chapter 8 (commencing with Section 14200), and Chapter 8.75 (commencing with Section 14590), payments shall be reduced by the actuarial equivalent amount of the payment reductions specified in this subdivision pursuant to contract amendments or change orders effective on July 1, 2008, or thereafter.

(c) Notwithstanding any other provision of this section, payments to hospitals that are not under contract with the State Department of Health Care Services pursuant to Article 2.6 (commencing with Section 14081) for inpatient hospital services provided to Medi-Cal beneficiaries and that are subject to Section 14166.245 shall be governed by that section.

(d) To the extent applicable, the services, facilities, and payments listed in this subdivision shall be exempt from the payment reductions specified in subdivision (b):

(1) Acute hospital inpatient services that are paid under contracts pursuant to Article 2.6 (commencing with Section 14081).

(2) Federally qualified health center services, including those facilities deemed to have federally qualified health center status pursuant to a waiver pursuant to subsection (a) of Section 1115 of the federal Social Security Act (42 U.S.C. Sec. 1315(a)).

(3) Rural health clinic services.

(4) Skilled nursing facilities licensed pursuant to subdivision (c) of Section 1250 of the Health and Safety Code other than those specified in paragraph (2) of subdivision (b).

(5) Intermediate care facilities for the developmentally disabled licensed pursuant to subdivision (e), (g), or (h) of Section 1250 of the

Health and Safety Code, or facilities providing continuous skilled nursing care to developmentally disabled individuals pursuant to the pilot project established by Section 14495.10.

(6) Payments to facilities owned or operated by the State Department of Mental Health or the State Department of Developmental Services.

(7) Hospice services.

(8) Contract services, as designated by the director pursuant to subdivision (f).

(9) Payments to providers to the extent that the payments are funded by means of a certified public expenditure or an intergovernmental transfer pursuant to Section 433.51 of Title 42 of the Code of Federal Regulations.

(10) Services pursuant to local assistance contracts and interagency agreements to the extent the funding is not included in the funds appropriated to the department in the annual Budget Act.

(11) Payments to Medi-Cal managed care plans pursuant to Section 4474.5 for services to consumers transitioning from Agnews Developmental Center into the Counties of Alameda, San Mateo, and Santa Clara pursuant to the Plan for the Closure of Agnews Developmental Center.

(12) Breast and cervical cancer treatment provided pursuant to Section 14007.71 and as described in paragraph (3) of subdivision (a) of Section 14105.18 or Article 1.5 (commencing with Section 104160) of Chapter 2 of Part 1 of Division 103 of the Health and Safety Code.

(13) The Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program pursuant to Section 14105.18.

(14) Small and rural hospitals, as defined in Section 124840 of the Health and Safety Code.

(e) Subject to the exemptions listed in subdivision (d), the payment reductions required by paragraph (1) of subdivision (b) shall apply to the benefits rendered by any provider who may be authorized to bill for provision of the benefit, including, but not limited to, physicians, podiatrists, nurse practitioners, certified nurse midwives, nurse anesthetists, and organized outpatient clinics.

(f) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement and administer this section by means of provider bulletins, or similar instructions, without taking regulatory action.

(g) The reductions described in this section shall apply only to payments for benefits when the General Fund share of the payment is paid with funds directly appropriated to the department in the annual Budget Act, and shall not apply to payments for benefits paid with funds appropriated to other departments or agencies.

(h) The department shall promptly seek any necessary federal approvals for the implementation of this section. To the extent that federal financial participation is not available with respect to any payment that is reduced pursuant to this section, the director may elect not to implement such reduction.

SEC. 46. Section 14105.3 of the Welfare and Institutions Code is amended to read:

14105.3. (a) The department is considered to be the purchaser, but not the dispenser or distributor, of prescribed drugs under the Medi-Cal program for the purpose of enabling the department to obtain from manufacturers of prescribed drugs the most favorable price for those drugs furnished by one or more manufacturers, based upon the large quantity of the drugs purchased under the Medi-Cal program, and to enable the department, notwithstanding any other provision of state law, to obtain from the manufacturers discounts, rebates, or refunds based on the quantities purchased under the program, insofar as may be permissible under federal law. Nothing in this section shall interfere with usual and customary distribution practices in the drug industry.

(b) The department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of appliances, durable medical equipment, medical supplies, and other product-type health care services and with laboratories for clinical laboratory services for the purpose of obtaining the most favorable prices to the state and to assure adequate quality of the product or service. Except as provided in subdivision (f), this subdivision shall not apply to prescribed drugs dispensed by pharmacies licensed pursuant to Article 7 (commencing with Section 4110) of Chapter 9 of Division 2 of the Business and Professions Code.

(c) Notwithstanding subdivision (b), the department may not enter into a contract with a clinical laboratory unless the clinical laboratory operates in conformity with Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code and the regulations adopted thereunder, and Section 263a of Title 42 of the United States Code and the regulations adopted thereunder.

(d) The department shall contract with manufacturers of single-source drugs on a negotiated basis, and with manufacturers of multisource drugs on a bid or negotiated basis.

(e) In order to ensure and improve access by Medi-Cal beneficiaries to both hearing aid appliances and provider services, and to ensure that the state obtains the most favorable prices, the department, by June 30, 2008, shall enter into exclusive or nonexclusive contracts, on a bid or negotiated basis, for purchasing hearing aid appliances.

(f) In order to provide specialized care in the distribution of specialized drugs, as identified by the department and that include, but are not limited to, blood factors and immunizations, the department may enter into contracts with providers licensed to dispense dangerous drugs or devices pursuant to Division 2 (commencing with Section 4000) of the Business and Professions Code, for programs that qualify for federal funding pursuant to the Medicaid state plan, or waivers and the programs authorized by Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of, and Article 1 (commencing with Section 125125) of Chapter 2 of Part 5 of, Division 106 of the Health and Safety Code, in accordance with this subdivision.

(1) The department shall, for purposes of ensuring proper patient care, consult current standards of practice when executing a provider contract.

(2) The department shall, for purposes of ensuring quality of care to people with unique conditions requiring specialty drugs, contract with a nonexclusive number of providers that meets the needs of the affected population, covers all geographic regions in California, and reflects the distribution of the specialty drug in the community. The department may use a single provider in the event the product manufacturer designates a sole source delivery mechanism. The department shall consult with interested parties and appropriate stakeholders in implementing this section with respect to all of the following:

(A) Notifying stakeholder representatives of the potential inclusion or exclusion of drugs in the specialty pharmacy program.

(B) Allowing for written input regarding the potential inclusion or exclusion of drugs into the specialty pharmacy program.

(C) Scheduling at least one public meeting regarding the potential inclusion or exclusion of drugs into the specialty pharmacy program.

(D) Obtaining a recommendation from the Medi-Cal Drug Utilization Review Advisory Committee, established pursuant to Section 1927 of the federal Social Security Act (42 U.S.C. Sec. 1396r-8), on the inclusion or exclusion of drugs into the specialty pharmacy program distribution based on clinical best practices related to each drug considered.

(3) For purposes of this subdivision, the definition of "blood factors" has the same meaning as that term is defined in Section 14105.86.

(4) The department shall make every reasonable effort to ensure all medically necessary clotting factor therapies are available for the treatment of people with bleeding disorders.

(5) The department shall generate an annual report, published publicly six months after the end of the first and second years after implementation, which shall include, but not be limited to, all of the following information:

(A) The number and geographic distribution of participating providers.

(B) The number and geographic distribution of beneficiaries receiving specialty drugs, including on a per provider basis.

(C) A summary of problems and complaints received regarding the specialty pharmacy program.

(D) An evaluation of hospital and emergency services before and after implementation for the targeted patient population.

(E) Results of patient satisfaction surveys.

(F) The cost-effectiveness of the program.

(6) This subdivision shall become inoperative three years after the date of implementation, as provided pursuant to a notice to the public issued by the department, or until July 1, 2013, whichever is earlier.

(g) The department may contract with an intermediary to establish provider contracts pursuant to this section for programs that qualify for federal funding pursuant to the Medicaid state plan or waivers and the programs authorized by Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of, and Article 1 (commencing with Section 125125) of Chapter 2 of Part 5 of Division 106 of the Health and Safety Code.

(h) In carrying out contracting activity for this or any section associated with the Medi-Cal list of contract drugs, notwithstanding Section 19130 of the Government Code, the department may contract, either directly or through the fiscal intermediary, for pharmacy consultant staff necessary to accomplish the contracting process or treatment authorization request reviews. The fiscal intermediary contract, including any contract amendment, system change pursuant to a change order, and project or systems development notice shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, Chapter 7 (commencing with Section 11700) of Part 1 of Division 3 of Title 2 of the Government Code, and any policies, procedures, or regulations authorized by these provisions.

(i) In order to achieve maximum cost savings the Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Therefore contracts under this section shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(j) For purposes of implementing the contracting provisions specified in this section, the department shall do all of the following:

(1) Ensure adequate access for Medi-Cal patients to quality laboratory testing services in the geographic regions of the state where contracting occurs.

(2) Consult with the statewide association of clinical laboratories and other appropriate stakeholders on the implementation of the contracting provisions specified in this section to ensure maximum access for

Medi-Cal patients consistent with the savings targets projected by the 2002–03 Budget Conference Committee for clinical laboratory services provided under the Medi-Cal program.

(3) Consider which types of laboratories are appropriate for implementing the contracting provisions specified in this section, including independent laboratories, outreach laboratory programs of hospital based laboratories, clinic laboratories, physician office laboratories, and group practice laboratories.

SEC. 47. Section 14105.86 of the Welfare and Institutions Code is amended to read:

14105.86. (a) For the purposes of this section, the following definitions apply:

(1) (A) "Average sales price" means the price reported to the Centers for Medicare and Medicaid Services by the manufacturer pursuant to Section 1847A of the federal Social Security Act (42 U.S.C. Sec. 1395w-3a).

(B) "Average manufacturer price" means the price reported to the Centers for Medicare and Medicaid Services pursuant to Section 1927 of the federal Social Security Act (42 U.S.C. Sec. 1396r-8).

(2) "Blood factors" means plasma protein therapies and their recombinant analogs. Blood factors include, but are not limited to, all of the following:

(A) Coagulation factors, including:

(i) Factor VIII, nonrecombinant.

(ii) Factor VIII, porcine.

(iii) Factor VIII, recombinant.

(iv) Factor IX, nonrecombinant.

(v) Factor IX, complex.

(vi) Factor IX, recombinant.

(vii) Antithrombin III.

(viii) Anti-inhibitor factor.

(ix) Von Willebrand factor.

(x) Factor VIIa, recombinant.

(B) Immune Globulin Intravenous.

(C) Alpha-1 Proteinase Inhibitor.

(b) The reimbursement for blood factors shall be by national drug code number and shall not exceed 120 percent of the average sales price of the last quarter reported.

(c) The average sales price for blood factors of manufacturers or distributors that do not report an average sales price pursuant to subdivision (a) shall be identical to the average manufacturer price. The average sales price for new products that do not have a calculable average sales price or average manufacturer price shall be equal to a projected

sales price, as reported by the manufacturer to the department. Manufacturers reporting a projected sales price for a new product shall report the first monthly average manufacturer price reported to the Centers for Medicare and Medicaid Services. The reporting of an average sales price that does not meet the requirement of this subdivision shall result in that blood factor no longer being considered a covered benefit.

(d) The average sales price shall be reported at the national drug code level to the department on a quarterly basis.

(e) (1) Effective July 1, 2008, the department shall collect a state rebate, in addition to rebates pursuant to other provisions of state or federal law, for blood factors reimbursed pursuant to this section by programs that qualify for federal drug rebates pursuant to Section 1927 of the federal Social Security Act (42 U.S.C. Sec. 1396r-8) or otherwise qualify for federal funds under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) pursuant to the Medicaid state plan or waivers and the programs authorized by Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of, and Article 1 (commencing with Section 125125) of Part 5 of Chapter 2 of Division 106 of the Health and Safety Code. The state rebate shall be negotiated as necessary between the department and the manufacturer. Manufacturers, who do not execute an agreement to pay additional rebates pursuant to this section, shall have their blood factors available only through an approved treatment or service authorization request. All blood factors that meet the definition of a covered outpatient drug pursuant to Section 1927 of the federal Social Security Act (42 U.S.C. Sec. 1396r-8) shall remain a benefit subject to the utilization controls provided for in this section.

(2) In reviewing authorization requests, the department shall approve the lowest net cost product that meets the beneficiary's medical need. The review of medical need shall take into account a beneficiary's clinical history or the use of the blood factor pursuant to payment by another third party, or both.

(f) A beneficiary may obtain blood factors that require a treatment or service authorization request pursuant to subdivision (e) if the beneficiary qualifies for continuing care status. To be eligible for continuing care status, a beneficiary must be taking the blood factor and the department has reimbursed a claim for the blood factor with a date of service that is within 100 days prior to the date the blood factor was placed on treatment authorization request status. A beneficiary may remain eligible for continuing care status, provided that a claim is submitted for the blood factor in question at least every 100 days and the date of service of the claim is within 100 days of the date of service of the last claim submitted for the same blood factor.

(g) Changes made to the list of covered blood factors under this or any other section shall be exempt from the requirements of 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 shall not be subject to the review and approval of the Office of Administrative Law.

SEC. 48. Section 14124.11 is added to the Welfare and Institutions Code, to read:

14124.11. (a) The department shall establish a two-year pilot program to utilize the federal Public Assistance Reporting Information System (PARIS) to identify veterans and their dependents or survivors who are enrolled in the Medi-Cal program and assist them in obtaining federal veteran health care benefits.

(b) The department shall select three consenting counties that have in operation a United States Department of Veterans Affairs (USDVA) medical center to participate in the pilot program.

(c) Under the pilot program, the department shall exchange information with PARIS and identify veterans and their dependents or survivors who are receiving Medi-Cal benefits in the pilot program counties.

(d) The department shall refer identified Medi-Cal beneficiaries who are receiving high-cost services, including long-term care, to county veteran service officers (CVSOs) to obtain information regarding, and assistance in obtaining, USDVA benefits.

(e) Prior to commencement of the pilot program, the department shall do all of the following:

(1) Enter into an agreement with the California Department of Veterans Affairs (CDVA) to perform CVSO outreach services in connection with the pilot program. The CDVA agreement shall contain performance standards that would allow the department to measure the effectiveness of the pilot program.

(2) Enter into any agreements that are required by the federal government to utilize the PARIS system.

(3) Perform any information technology activities that are necessary to utilize the PARIS system.

(f) The department shall monitor the two-year pilot program, evaluate the outcomes and savings, and provide the fiscal committees of the Legislature with a report on the findings and recommendations. If the department determines that the pilot program is cost effective, it may implement the program statewide at any time and continue operation of PARIS indefinitely.

(g) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific, this section by means of written directives without taking further regulatory action.

(h) The department shall implement the pilot program by July 1, 2009.

(i) In order to achieve maximum cost savings the Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Therefore, contracts under this section shall be exempt from the Public Contract Code and from Chapter 3 (commencing with Section 11250) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 49. Section 14126.027 of the Welfare and Institutions Code is amended to read:

14126.027. (a) (1) The Director of Health Care Services, or his or her designee, shall administer this article.

(2) The regulations and other similar instructions adopted pursuant to this article shall be developed in consultation with representatives of the long-term care industry, organized labor, seniors, and consumers.

(b) (1) The director may adopt regulations as are necessary to implement this article. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement that it describe specific facts showing the need for immediate action.

(2) The regulations adopted pursuant to this section may include, but need not be limited to, any regulations necessary for any of the following purposes:

(A) The administration of this article, including the specific analytical process for the proper determination of long-term care rates.

(B) The development of any forms necessary to obtain required cost data and other information from facilities subject to the ratesetting methodology.

(C) To provide details, definitions, formulas, and other requirements.

(c) As an alternative to the adoption of regulations pursuant to subdivision (b), and notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the director may implement this article, in whole or in part, by means of a provider bulletin or other similar instructions, without taking regulatory action, provided that no such bulletin or other similar instructions shall remain in effect after July 31, 2010. It is the intent that

regulations adopted pursuant to subdivision (b) shall be in place on or before July 31, 2010.

SEC. 50. Section 14126.033 of the Welfare and Institutions Code is amended to read:

14126.033. (a) This article, including Section 14126.031, shall be funded as follows:

(1) General Fund moneys appropriated for purposes of this article pursuant to Section 6 of the act adding this section shall be used for increasing rates, except as provided in Section 14126.031, for freestanding skilled nursing facilities, and shall be consistent with the approved methodology required to be submitted to the Centers for Medicare and Medicaid Services pursuant to Article 7.6 (commencing with Section 1324.20) of Chapter 2 of Division 2 of the Health and Safety Code.

(2) (A) Notwithstanding Section 14126.023, for the 2005–06 rate year, the maximum annual increase in the weighted average Medi-Cal rate required for purposes of this article shall not exceed 8 percent of the weighted average Medi-Cal reimbursement rate for the 2004–05 rate year as adjusted for the change in the cost to the facility to comply with the nursing facility quality assurance fee for the 2005–06 rate year, as required under subdivision (b) of Section 1324.21 of the Health and Safety Code, plus the total projected Medi-Cal cost to the facility of complying with new state or federal mandates.

(B) Beginning with the 2006–07 rate year, the maximum annual increase in the weighted average Medi-Cal reimbursement rate required for purposes of this article shall not exceed 5 percent of the weighted average Medi-Cal reimbursement rate for the prior fiscal year, as adjusted for the projected cost of complying with new state or federal mandates.

(C) Beginning with the 2007–08 rate year and continuing through the 2008–09 rate year, the maximum annual increase in the weighted average Medi-Cal reimbursement rate required for purposes of this article shall not exceed 5.5 percent of the weighted average Medi-Cal reimbursement rate for the prior fiscal year, as adjusted for the projected cost of complying with new state or federal mandates.

(D) For the 2009–10 and 2010–11 rate years, the maximum annual increase in the weighted average Medi-Cal reimbursement rate required for purposes of this article shall not exceed 5 percent of the weighted average Medi-Cal reimbursement rate for the prior fiscal year, as adjusted for the projected cost of complying with new state or federal mandates.

(E) To the extent that new rates are projected to exceed the adjusted limits calculated pursuant to subparagraph (A) to (D), inclusive, as applicable, the department shall adjust the increase to each skilled nursing

facility's projected rate for the applicable rate year by an equal percentage.

(b) The rate methodology shall cease to be implemented on and after July 31, 2011.

(c) (1) It is the intent of the Legislature that the implementation of this article result in individual access to appropriate long-term care services, quality resident care, decent wages and benefits for nursing home workers, a stable workforce, provider compliance with all applicable state and federal requirements, and administrative efficiency.

(2) Not later than December 1, 2006, the Bureau of State Audits shall conduct an accountability evaluation of the department's progress toward implementing a facility-specific reimbursement system, including a review of data to ensure that the new system is appropriately reimbursing facilities within specified cost categories and a review of the fiscal impact of the new system on the General Fund.

(3) Not later than January 1, 2007, to the extent information is available for the three years immediately preceding the implementation of this article, the department shall provide baseline information in a report to the Legislature on all of the following:

(A) The number and percent of freestanding skilled nursing facilities that complied with minimum staffing requirements.

(B) The staffing levels prior to the implementation of this article.

(C) The staffing retention rates prior to the implementation of this article.

(D) The numbers and percentage of freestanding skilled nursing facilities with findings of immediate jeopardy, substandard quality of care, or actual harm, as determined by the certification survey of each freestanding skilled nursing facility conducted prior to the implementation of this article.

(E) The number of freestanding skilled nursing facilities that received state citations and the number and class of citations issued during calendar year 2004.

(F) The average wage and benefits for employees prior to the implementation of this article.

(4) Not later than January 1, 2009, the department shall provide a report to the Legislature that does both of the following:

(A) Compares the information required in paragraph (2) to that same information two years after the implementation of this article.

(B) Reports on the extent to which residents who had expressed a preference to return to the community, as provided in Section 1418.81 of the Health and Safety Code, were able to return to the community.

(5) The department may contract for the reports required under this subdivision.

(d) This section shall become inoperative on July 31, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 51. Section 14126.034 is added to the Welfare and Institutions Code, to read:

14126.034. (a) (1) The department shall convene a workgroup of interested stakeholders to make recommendations to the department to ensure compliance with the intent of this article, as provided in subdivision (a) of Section 14126.02.

(2) (A) Interested stakeholders shall include consumers or their representatives, or both, including current or former skilled nursing facility residents, and family members of current or former skilled nursing facility residents, or both, seniors or their representatives, or both, skilled nursing facility representatives, labor representatives, and people with disabilities and disability rights advocates.

(B) A stakeholder workgroup of 18 members shall be convened representing interested stakeholders from the groups listed in subparagraph (A), with six members selected from each of the following areas of interest:

(i) Consumers.

(ii) Skilled nursing facility labor.

(iii) Skilled nursing facilities.

(C) Interested stakeholders within each of the areas of interest in subparagraph (B) shall nominate and select six members within their area of interest to serve on the stakeholder workgroup to represent their interests.

(D) The stakeholder workgroup shall also include representatives from the department, the Office of the State Long-Term Care Ombudsman, the State Department of Public Health, the Office of Statewide Health Planning and Development, with members appointed by their respective directors, or their designee, and may also include legislative staff, academics, and other state department representatives, including, but not limited to, representatives from the California Department of Aging and the State Department of Developmental Services.

(b) (1) Each stakeholder workgroup meeting shall be chaired by a facilitator from an organization independent of the department and any of the stakeholder groups, to the extent that foundation funding is made available for this purpose. If no funds are made available for this purpose, the department shall facilitate the stakeholder workgroup meetings.

(2) The consumers, skilled nursing facility labor, and skilled nursing facility stakeholder workgroup members shall each select one

representative who will meet with the department and the facilitator to develop meeting agendas after having solicited input from each representative's respective stakeholder group.

(3) To the extent that foundation funding is made available, stakeholder workgroup members shall receive reimbursement for any actual, necessary, and reasonable expenses incurred in connection with their duties as members of the workgroup.

(c) The department shall assign staff as needed to assist the stakeholder workgroup in carrying out its responsibilities.

(d) In developing recommendations, the stakeholder workgroup shall consider the structure of, and potential changes to, the facility-specific ratesetting system, developed pursuant to Section 14126.023, that may improve the quality of resident care. The stakeholder workgroup members may take into consideration the following factors, or any other factors deemed relevant to ensure the quality of resident care:

(1) Skilled nursing facility staffing levels, including, but not limited to, compliance with existing staffing requirements.

(2) Skilled nursing facility staff wages and benefits, including, but not limited to, geographic disparities in wages and benefits.

(3) Skilled nursing facility staff turnover and retention.

(4) Deficiency reports issued as a result of both surveys and complaint investigations, to the extent that they may be disclosed as public records, and the enforcement actions taken under federal certification and state licensing laws and regulations.

(5) Skilled nursing facility compliance with assessments required to ascertain residents' preference for, and ability to return to, the community as required by Section 1418.81 of the Health and Safety Code, including necessary follow through to assure care necessary for a resident to transition out of skilled nursing facility care and into the community.

(6) The extent to which this article encourages compliance with the United States Supreme Court decision in Olmstead v. L.C. ex rel. Zimring (1999) 527 U.S. 581, including using the ratesetting system to increase Olmstead compliance.

(7) Health care efficiency.

(8) Health care safety.

(9) The extent to which a pay-for-performance program may contribute to improving the quality of resident care and appropriate performance measures for a pay-for-performance program.

(10) Preventable emergency room visits and rehospitalizations.

(11) Resident and family satisfaction with care and resident's quality of life, including improvements on ways to measure satisfaction.

(12) Recommendations for methods to evaluate the effectiveness of the facility-specific ratesetting system, defined in Section 14126.023, in meeting the intent of this article, pursuant to Section 14126.02.

(13) Additional quality measures, included, but not limited to, adequate nutrition and ready availability of durable medical equipment.

(e) The department shall convene the stakeholder workgroup no later than one month following the effective date of this section. The stakeholder workgroup shall meet a minimum of six times through December 31, 2008. Subcommittees may be convened and meet as necessary.

(f) In addition to recommendations provided during stakeholder workgroup meetings, individual members of the stakeholder workgroup and any other interested stakeholders may provide to the department any additional written recommendations on the items considered in the stakeholder workgroup meetings.

(g) The department shall provide technical assistance to the stakeholder workgroup to evaluate the feasibility of its recommendations so that the stakeholder workgroup will have the benefit of the department's analysis when discussing and reviewing proposed recommendations.

(h) The department shall review and analyze all recommendations from the stakeholder workgroup, individual workgroup members, and any other interested stakeholders, and, no later than March 1, 2009, the department shall deliver to the Legislature, both of the following:

(1) The complete recommendations of the stakeholder workgroup, individual workgroup members, and any other interested stakeholders.

(2) The department's analysis of the feasibility to implement the proposed recommendations.

(i) (1) The stakeholder workgroup may continue to meet to carry out its responsibilities pursuant to subdivision (d) for an extension period of up to one year. During this extension period, the stakeholder workgroup shall meet at least quarterly as agreed by the department and those members selected pursuant to paragraph (2) of subdivision (a).

(2) During the extension period the stakeholder workgroup's activities may include assisting the department or Legislature, or both, to enact improvements to the ratesetting system.

(j) The department shall seek partnership with one or more independent, nonprofit groups or foundations, academic institutions, or governmental entities providing grants for health-related activities, to support stakeholder workgroup efforts.

(k) The department shall seek necessary legislative changes to implement the stakeholder workgroup's recommendations that the

department determines are feasible to implement as part of the reauthorization of this section.

(*l*) The department may meet the intent of this article, as stated in subdivision (a) of Section 14126.02, by using the stakeholder workgroup's recommendations in order to design an evaluation of the effectiveness of the facility-specific ratesetting system established pursuant to Section 14126.023.

(m) Implementation and administration of this section is not dependent on the availability of foundation funding.

SEC. 52. Section 14154 of the Welfare and Institutions Code is amended to read:

14154. (a) The department shall establish and maintain a plan whereby costs for county administration of the determination of eligibility for benefits under this chapter will be effectively controlled within the amounts annually appropriated for that administration. The plan, to be known as the County Administrative Cost Control Plan, shall establish standards and performance criteria, including workload, productivity, and support services standards, to which counties shall adhere. The plan shall include standards for controlling eligibility determination costs that are incurred by performing eligibility determinations at county hospitals, or that are incurred due to the outstationing of any other eligibility function. Except as provided in Section 14154.15, reimbursement to a county for outstationed eligibility functions shall be based solely on productivity standards applied to that county's welfare department office. The plan shall be part of a single state plan, jointly developed by the department and the State Department of Social Services, in conjunction with the counties, for administrative cost control for the California Work Opportunity and Responsibility to Kids (CalWORKs), Food Stamp, and Medical Assistance (Medi-Cal) programs. Allocations shall be made to each county and shall be limited by and determined based upon the County Administrative Cost Control Plan. In administering the plan to control county administrative costs, the department shall not allocate state funds to cover county cost overruns that result from county failure to meet requirements of the plan. The department and the State Department of Social Services shall budget, administer, and allocate state funds for county administration in a uniform and consistent manner.

(b) Nothing in this section, Section 15204.5, or Section 18906 shall be construed so as to limit the administrative or budgetary responsibilities of the department in a manner that would violate Section 14100.1, and thereby jeopardize federal financial participation under the Medi-Cal program.

(c) (1) The Legislature finds and declares that in order for counties to do the work that is expected of them, it is necessary that they receive

adequate funding, including adjustments for reasonable annual cost-of-doing-business increases. The Legislature further finds and declares that linking appropriate funding for county Medi-Cal administrative operations, including annual cost-of-doing-business adjustments, with performance standards will give counties the incentive to meet the performance standards and enable them to continue to do the work they do on behalf of the state. It is therefore the Legislature's intent to provide appropriate funding to the counties for the effective administration of the Medi-Cal program at the local level to ensure that counties can reasonably meet the purposes of the performance measures as contained in this section.

(2) It is the intent of the Legislature to not appropriate funds for the cost-of-doing-business adjustment for the 2008–09 fiscal year.

(d) The department is responsible for the Medi-Cal program in accordance with state and federal law. A county shall determine Medi-Cal eligibility in accordance with state and federal law. If in the course of its duties the department becomes aware of accuracy problems in any county, the department shall, within available resources, provide training and technical assistance as appropriate. Nothing in this section shall be interpreted to eliminate any remedy otherwise available to the department to enforce accurate county administration of the program. In administering the Medi-Cal eligibility process, each county shall meet the following performance standards each fiscal year:

(1) Complete eligibility determinations as follows:

(A) Ninety percent of the general applications without applicant errors and are complete shall be completed within 45 days.

(B) Ninety percent of the applications for Medi-Cal based on disability shall be completed within 90 days, excluding delays by the state.

(2) (A) The department shall establish best-practice guidelines for expedited enrollment of newborns into the Medi-Cal program, preferably with the goal of enrolling newborns within 10 days after the county is informed of the birth. The department, in consultation with counties and other stakeholders, shall work to develop a process for expediting enrollment for all newborns, including those born to mothers receiving CalWORKs assistance.

(B) Upon the development and implementation of the best-practice guidelines and expedited processes, the department and the counties may develop an expedited enrollment timeframe for newborns that is separate from the standards for all other applications, to the extent that the timeframe is consistent with these guidelines and processes.

(C) Notwithstanding the rulemaking procedures of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section by

means of all-county letters or similar instructions, without further regulatory action.

(3) Perform timely annual redeterminations, as follows:

(A) Ninety percent of the annual redetermination forms shall be mailed to the recipient by the anniversary date.

(B) Ninety percent of the annual redeterminations shall be completed within 60 days of the recipient's annual redetermination date for those redeterminations based on forms that are complete and have been returned to the county by the recipient in a timely manner.

(C) Ninety percent of those annual redeterminations where the redetermination form has not been returned to the county by the recipient shall be completed by sending a notice of action to the recipient within 45 days after the date the form was due to the county.

(D) When a child is determined by the county to change from no share of cost to a share of cost and the child meets the eligibility criteria for the Healthy Families Program established under Section 12693.98 of the Insurance Code, the child shall be placed in the Medi-Cal-to-Healthy Families Bridge Benefits Program, and these cases shall be processed as follows:

(i) Ninety percent of the families of these children shall be sent a notice informing them of the Healthy Families Program within five working days from the determination of a share of cost.

(ii) Ninety percent of all annual redetermination forms for these children shall be sent to the Healthy Families Program within five working days from the determination of a share of cost if the parent has given consent to send this information to the Healthy Families Program.

(iii) Ninety percent of the families of these children placed in the Medi-Cal-to-Healthy Families Bridge Benefits Program who have not consented to sending the child's annual redetermination form to the Healthy Families Program shall be sent a request, within five working days of the determination of a share of cost, to consent to send the information to the Healthy Families Program.

(E) Subparagraph (D) shall not be implemented until 60 days after the Medi-Cal and Joint Medi-Cal and Healthy Families applications and the Medi-Cal redetermination forms are revised to allow the parent of a child to consent to forward the child's information to the Healthy Families Program.

(e) The department shall develop procedures in collaboration with the counties and stakeholder groups for determining county review cycles, sampling methodology and procedures, and data reporting.

(f) On January 1 of each year, each applicable county, as determined by the department, shall report to the department on the county's results in meeting the performance standards specified in this section. The report

shall be subject to verification by the department. County reports shall be provided to the public upon written request.

(g) If the department finds that a county is not in compliance with one or more of the standards set forth in this section, the county shall, within 60 days, submit a corrective action plan to the department for approval. The corrective action plan shall, at a minimum, include steps that the county shall take to improve its performance on the standard of standards with which the county is out of compliance. The plan shall establish interim benchmarks for improvement that shall be expected to be met by the county in order to avoid a sanction.

(h) (1) If a county does not meet the performance standards for completing eligibility determinations and redeterminations as specified in this section, the department may, at its sole discretion, reduce the allocation of funds to that county in the following year by 2 percent. Any funds so reduced may be restored by the department if, in the determination of the department, sufficient improvement has been made by the county in meeting the performance standards during the year for which the funds were reduced. If the county continues not to meet the performance standards, the department may reduce the allocation by an additional 2 percent for each year thereafter in which sufficient improvement has not been made to meet the performance standards.

(2) No reduction of the allocation of funds to a county shall be imposed pursuant to this subdivision for failure to meet performance standards during any period of time in which the cost-of-doing-business increase is suspended.

(i) The department shall develop procedures, in collaboration with the counties and stakeholders, for developing instructions for the performance standards established under subparagraph (D) of paragraph (3) of subdivision (c), no later than September 1, 2005.

(j) No later than September 1, 2005, the department shall issue a revised annual redetermination form to allow a parent to indicate parental consent to forward the annual redetermination form to the Healthy Families Program if the child is determined to have a share of cost.

(k) The department, in coordination with the Managed Risk Medical Insurance Board, shall streamline the method of providing the Healthy Families Program with information necessary to determine Healthy Families eligibility for a child who is receiving services under the Medi-Cal-to-Healthy Families Bridge Benefits Program.

SEC. 53. Section 14154.5 of the Welfare and Institutions Code is amended to read:

14154.5. (a) Each county shall work, on a routine basis, any error alert from the department's Medi-Cal Eligibility Data System (MEDS). Any alert that affects eligibility or the share of cost that is received by

the 10th working day of the month shall be processed in time for the change to be effective the beginning of the following month. Any alert that affects eligibility or the share of cost that is received after the 10th working day of the month shall be processed in time for the change to be effective the beginning of the month after the following month. The department shall consult with the County Welfare Directors Association to define those alerts that affect eligibility or the share of cost.

(b) The county shall submit reconciliation files of its Medi-Cal eligible population to the department every three months, based upon a schedule determined by the department and in a format prescribed by the department, to identify any discrepancies between eligibility files in the county records and eligibility as reflected in MEDS. Counties shall be notified of any changes to the standard format for submitting reconciliation files sufficiently in advance to allow for budgeting, scheduling, development, testing, and implementation of any required change in county automated eligibility systems.

(c) For those records that are on the county's files, but not on MEDS, the county shall receive worker alerts from the department that identify these cases, and the county shall fix any data discrepancies. Any worker alert received by the 10th working day of the month shall be processed in time for the change to be effective the beginning of the following month. Any worker alert received after the 10th working day of the month shall be processed in time for the change to be effective the beginning of the month after the following month.

(d) In regard to any record that is on MEDS but not on the county's file, the county shall either correct the county record or MEDS, whichever is appropriate, within the same timeframes specified in subdivision (c).

(e) The department shall terminate a MEDS eligible record if the person is not eligible on the county's file when there has been no eligibility update on the MEDS record for six months.

(f) (1) If the department finds that a county is not performing all of the following activities, the county shall, within 60 days, submit a corrective action plan to the department for approval.

(A) Conducting reconciliations as required in subdivision (b).

(B) Processing 95 percent of worker alerts referred to in subdivisions (c) and (d), within the timeframes specified.

(C) Processing 90 percent of the error alerts referred to in subdivision (a) that affect eligibility or the share of cost, within the timeframes specified.

(2) The corrective action plan shall, at a minimum, include steps that the county shall take to improve its performance on the requirements with which the county is out of compliance. The plan shall establish

interim benchmarks for improvement that shall be expected to be met by the county in order to avoid sanctions.

(g) (1) If the county does not meet the interim benchmarks for improvement standards, the department may, in its sole discretion, reduce the allocation of funds to that county in the following year by 2 percent. Any funds so reduced may be restored by the department if, in the determination of the department, sufficient improvement has been made by the county in meeting the performance standards during the year for which the funds were reduced.

(2) No reduction of the allocation of funds to a county shall be imposed pursuant to this subdivision for failure to meet performance standards during any period of time in which the cost-of-doing-business increase is suspended.

(h) The department, in consultation with the County Welfare Directors Association, shall investigate features that could be installed in MEDS to reduce the number of alerts and streamline the reconciliation process.

(i) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all county letters, provider bulletins, or similar instructions. Thereafter, the department may adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 54. Section 14166.9 of the Welfare and Institutions Code is amended to read:

14166.9. (a) The department, in consultation with the designated public hospitals, shall determine the mix of sources of federal funds for payments to the designated public hospitals in a manner that provides baseline funding to hospitals and maximizes federal Medicaid funding to the state during the term of the demonstration project. Federal funds shall be claimed according to the following priorities:

(1) The certified public expenditures of the designated public hospitals for inpatient hospital services and physician and nonphysician practitioner services, as identified in subdivision (e) of Section 14166.4, rendered to Medi-Cal beneficiaries.

(2) Federal disproportionate share hospital allotment, subject to the federal-hospital specific limit, in the following order:

(A) Those hospital expenditures that are eligible for federal financial participation only from the federal disproportionate share hospital allotment.

(B) Payments funded with intergovernmental transfers, consistent with the requirements of the demonstration project, up to the hospital's

baseline funding amount or adjusted baseline funding amount, as appropriate, for the project year.

(C) Any other certified public expenditures for hospital services that are eligible for federal financial participation from the federal disproportionate share hospital allotment.

(3) Safety net care pool funds, using the optimal combination of hospital certified public expenditures and certified public expenditures of a hospital, or governmental entity with which the hospital is affiliated, that operates nonhospital clinics or provides physician, nonphysician practitioner, or other health care services that are not identified as hospital services under the Special Terms and Conditions for the demonstration project, except that certified public expenditures reported by the County of Los Angeles or its designated public hospitals shall be the exclusive source of certified public expenditures for claiming those federal funds deposited in the South Los Angeles Medical Services Preservation Fund under Section 14166.25.

(4) Health care expenditures of the state that represent alternate state funding mechanisms approved by the federal Centers for Medicare and Medicaid Services under the demonstration project as set forth in Section 14166.22.

(b) The department shall implement these priorities, to the extent possible, in a manner that minimizes the redistribution of federal funds that are based on the certified public expenditures of the designated public hospitals.

(c) The department may adjust the claiming priorities to the extent that these adjustments result in additional federal Medicaid funding during the term of the demonstration project or facilitate the objectives of subdivision (b).

(d) There is hereby established in the State Treasury the "Demonstration Disproportionate Share Hospital Fund." All federal funds received by the department with respect to the certified public expenditures claimed pursuant to subparagraphs (A) and (C) of paragraph (2) of subdivision (a) shall be transferred to the fund. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department solely for the purposes specified in Section 14166.6.

(e) (1) Except as provided in Section 14166.25, all federal safety net care pool funds claimed and received by the department based on health care expenditures incurred by the designated public hospitals, or other governmental entities, shall be transferred to the Health Care Support Fund, established pursuant to Section 14166.21.

(2) The department shall separately identify and account for federal safety net care pool funds claimed and received by the department under

the health care coverage initiative program authorized under Part 3.5 (commencing with Section 15900) and under paragraphs 43 and 44 of the Special Terms and Conditions for the demonstration project.

(3) With respect to those funds identified under paragraph (2), the department shall separately identify and account for federal safety net care pool funds claimed and received for inpatient hospital services rendered under the health care coverage initiative, including services rendered to enrollees of a managed care organization, by designated public hospitals, nondesignated public hospitals, and project year private DSH hospitals.

SEC. 55. Section 14166.12 of the Welfare and Institutions Code is amended to read:

14166.12. (a) The California Medical Assistance Commission shall negotiate payment amounts, in accordance with the selective provider contracting program established pursuant to Article 2.6 (commencing with Section 14081), from the Private Hospital Supplemental Fund established pursuant to subdivision (b) for distribution to private hospitals that satisfy the criteria of Section 14085.6, 14085.7, 14085.8, or 14085.9.

(b) The Private Hospital Supplemental Fund is hereby established in the State Treasury. For purposes of this section, "fund" means the Private Hospital Supplemental Fund.

(c) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(d) Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) One hundred eighteen million four hundred thousand dollars ($118,400,000), which shall be transferred annually from General Fund amounts appropriated in the annual Budget Act for the Medi-Cal program, except that for the 2008–09 fiscal year, this amount shall be reduced by thirteen million six hundred thousand dollars ($13,600,000) and by an amount equal to one-half of the difference between eighteen million three hundred thousand dollars ($18,300,000) and the amount of any reduction in the additional payments for distressed hospitals calculated pursuant to subparagraph (B) of paragraph (3) of subdivision (b) of Section 14166.20.

(2) Any additional moneys appropriated to the fund.

(3) All stabilization funding transferred to the fund pursuant to paragraph (2) of subdivision (a) of Section 14166.14.

(4) Any moneys that any county, other political subdivision of the state, or other governmental entity in the state may elect to transfer to the department for deposit into the fund, as permitted under Section

433.51 of Title 42 of the Code of Federal Regulations or any other applicable federal Medicaid laws.

(5) All private moneys donated by private individuals or entities to the department for deposit in the fund as permitted under applicable federal Medicaid laws.

(6) Any interest that accrues on amounts in the fund.

(e) Any public agency transferring moneys to the fund may, for that purpose, utilize any revenues, grants, or allocations received from the state for health care programs or purposes, unless otherwise prohibited by law. A public agency may also utilize its general funds or any other public moneys or revenues for purposes of transfers to the fund, unless otherwise prohibited by law.

(f) The department may accept or not accept moneys offered to the department for deposit in the fund. If the department accepts moneys pursuant to this section, the department shall obtain federal financial participation to the full extent permitted by law. With respect to funds transferred or donated from private individuals or entities, the department shall accept only those funds that are certified by the transferring or donating entity that qualify for federal financial participation under the terms of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (Public Law 102-234) or Section 433.51 of Title 42 of the Code of Federal Regulations, as applicable. The department may return any funds transferred or donated in error.

(g) Moneys in the fund shall be used as the source for the nonfederal share of payments to hospitals under this section.

(h) Any funds remaining in the fund at the end of a fiscal year shall be carried forward for use in the following fiscal year.

(i) Moneys shall be allocated from the fund by the department and shall be applied to obtain federal financial participation in accordance with customary Medi-Cal accounting procedures for purposes of payments under this section. Distributions from the fund shall be supplemental to any other Medi-Cal reimbursement received by the hospitals, including amounts that hospitals receive under the selective provider contracting program (Article 2.6 (commencing with Section 14081)), and shall not affect provider rates paid under the selective provider contracting program.

(j) Each private hospital that was a private hospital during the 2002–03 fiscal year, received payments for the 2002–03 fiscal year from any of the prior supplemental funds, and, during the project year, satisfies the criteria in Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections, shall receive no less from the Private Hospital Supplemental Fund for the project year than 100 percent of the amount the hospital received from the prior

supplemental funds for the 2002–03 fiscal year. Each private hospital described in this subdivision shall be eligible for additional payments from the fund pursuant to subdivision (k).

(k) All amounts that are in the fund for a project year in excess of the amount necessary to make the payments under subdivision (j) shall be available for negotiation by the California Medical Assistance Commission, along with corresponding federal financial participation, for supplemental payments to private hospitals, which for the project year satisfy the criteria under Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections, and paid for services rendered during the project year pursuant to the selective provider contracting program established under Article 2.6 (commencing with Section 14081).

(*l*) The amount of any stabilization funding transferred to the fund, or the amount of intergovernmental transfers deposited to the fund pursuant to subdivision (o), together with the associated federal reimbursement, with respect to a particular project year, may, in the discretion of the California Medical Assistance Commission, be paid for services furnished in the same project year regardless of when the stabilization funds or intergovernmental transfer funds, and the associated federal reimbursement, become available, provided the payment is consistent with other applicable federal or state law requirements and does not result in a hospital exceeding any applicable reimbursement limitations.

(m) The department shall pay amounts due to a private hospital from the fund for a project year, with the exception of stabilization funding, in up to four installment payments, unless otherwise provided in the hospital's contract negotiated with the California Medical Assistance Commission, except that hospitals that are not described in subdivision (j) shall not receive the first installment payment. The first payment shall be made as soon as practicable after the issuance of the tentative disproportionate share hospital list for the project year, and in no event later than January 1 of the project year. The second and subsequent payments shall be made after the issuance of the final disproportionate hospital list for the project year, and shall be made only to hospitals that are on the final disproportionate share hospital list for the project year. The second payment shall be made by February 1 of the project year or as soon as practicable after the issuance of the final disproportionate share hospital list for the project year. The third payment, if scheduled, shall be made by April 1 of the project year. The fourth payment, if scheduled, shall be made by June 30 of the project year. This subdivision does not apply to hospitals that are scheduled to receive payments from the fund because they meet the criteria under Section 14085.7 and do

not meet the criteria under Section 14085.6, 14085.8, or 14085.9, which shall be paid in accordance with the applicable contract or contract amendment negotiated by the California Medical Assistance Commission.

(n) The department shall pay stabilization funding transferred to the fund in amounts negotiated by the California Medical Assistance Commission and shall pay the scheduled payments in accordance with the applicable contract or contract amendment.

(o) Payments to private hospitals that are eligible to receive payments pursuant to Section 14085.6, 14085.7, 14085.8, or 14085.9 may be made using funds transferred from governmental entities to the state, at the option of the governmental entity. Any payments funded by intergovernmental transfers shall remain with the private hospital and shall not be transferred back to any unit of government. An amount equal to 25 percent of the amount of any intergovernmental transfer made in the project year that results in a supplemental payment made for the same project year to a project year private DSH hospital designated by the governmental entity that made the intergovernmental transfer shall be deposited in the fund for distribution as determined by the California Medical Assistance Commission. An amount equal to 75 percent shall be deposited in the fund and distributed to the private hospitals designated by the governmental entity.

(p) A private hospital that receives payment pursuant to this section for a particular project year shall not submit a notice for the termination of its participation in the selective provider contracting program established pursuant to Article 2.6 (commencing with Section 14081) until the later of the following dates:

(1) On or after December 31 of the next project year.

(2) The date specified in the hospital's contract, if applicable.

(q) (1) For the 2007–08, 2008–09, and 2009–10 project years, the County of Los Angeles shall make intergovernmental transfers to the state to fund the nonfederal share of increased Medi-Cal payments to those private hospitals that serve the South Los Angeles population formerly served by Los Angeles County Martin Luther King, Jr.-Harbor Hospital. The intergovernmental transfers required under this subdivision shall be funded by county tax revenues and shall total five million dollars ($5,000,000) per project year, except that, in the event that the director determines that any amount is due to the County of Los Angeles under the demonstration project for services rendered during the portion of a project year during which Los Angeles County Martin Luther King, Jr.-Harbor Hospital was operational, the amount of intergovernmental transfers required under this subdivision shall be reduced by a percentage determined by reducing 100 percent by the percentage reduction in Los Angeles County Martin Luther King, Jr.-Harbor Hospital's baseline, as

determined under subdivision (c) of Section 14166.5 for that project year.

(2) Notwithstanding subdivision (o), an amount equal to 100 percent of the county's intergovernmental transfers under this subdivision shall be deposited in the fund and, within 30 days after receipt of the intergovernmental transfer, shall be distributed, together with related federal financial participation, to the private hospitals designated by the county in the amounts designated by the county. The director shall disregard amounts received pursuant to this subdivision in calculating the OBRA 1993 payment limitation, as defined in paragraph (24) of subdivision (a) of Section 14105.98, for purposes of determining the amount of disproportionate share hospital replacement payments due a private hospital under Section 14166.11.

SEC. 56. Section 14166.20 of the Welfare and Institutions Code is amended to read:

14166.20. (a) With respect to each project year, the total amount of stabilization funding shall be the sum of the following:

(1) (A) Federal Medicaid funds available in the Health Care Support Fund, established pursuant to Section 14166.21, reduced by the amount necessary to meet the baseline funding amount, or the adjusted baseline funding amount, as appropriate, for project years after the 2005–06 project year for each designated public hospital, project year private DSH hospitals in the aggregate, and nondesignated public hospitals in the aggregate as determined in Sections 14166.5, 14166.13, and 14166.18, respectively, taking into account all other payments to each hospital under this article. This amount shall be not less than zero.

(B) For purposes of subparagraph (A), federal Medicaid funds available in the Health Care Support Fund shall not include health care coverage initiative amounts identified under paragraph (2) of subdivision (e) of Section 14166.9.

(2) The state general funds that were made available due to the receipt of federal funding for previously state-funded programs through the safety net care pool and any federal Medicaid hospital reimbursements resulting from these expenditures, unless otherwise recognized under paragraph (1), to the extent those funds are in excess of the amount necessary to meet the baseline funding amount, or the adjusted baseline funding amount, as appropriate, for project years after the 2005–06 project year for each designated public hospital, for project year private DSH hospitals in the aggregate, and for nondesignated public hospitals in the aggregate, as determined in Sections 14166.5, 14166.13, and 14166.18, respectively.

(3) To the extent not included in paragraph (1) or (2), the amount of the increase in state General Fund expenditures for Medi-Cal inpatient

hospital services for the project year for project year private DSH hospitals and nondesignated public hospitals, including amounts expended in accordance with paragraph (1) of subdivision (c) of Section 14166.23, that exceeds the expenditure amount for the same purpose and the same hospitals necessary to provide the aggregate baseline funding amounts applicable to the project determined pursuant to Sections 14166.13 and 14166.18, and any direct grants to designated public hospitals for services under the demonstration project.

(4) To the extent not included in paragraph (2), federal Medicaid funds received by the state as a result of the General Fund expenditures described in paragraph (3).

(5) The federal Medicaid funds received by the state as a result of federal financial participation with respect to Medi-Cal payments for inpatient hospital services made to project year private DSH hospitals and to nondesignated public hospitals for services rendered during the project year, the state share of which was derived from intergovernmental transfers or certified public expenditures of any public entity that does not own or operate a public hospital.

(6) Federal safety net care pool funds claimed and received for inpatient hospital services rendered under the health care coverage initiative identified under paragraph (3) of subdivision (e) of Section 14166.9.

(b) With respect to the 2005–06, 2006–07, and subsequent project years, the stabilization funding determined under subdivision (a) shall be allocated as follows:

(1) Eight million dollars ($8,000,000) shall be paid to San Mateo Medical Center. All or a portion of this amount may be paid as disproportionate share hospital payments in addition to the hospital's allocation that would otherwise be determined under Section 14166.6. The amount provided for in this paragraph shall be disregarded in the application of the limitations described in paragraph (3) of subdivision (a) of Section 14166.6, and in paragraph (1) of subdivision (a) of Section 14166.7.

(2) (A) Ninety-six million two hundred twenty-eight thousand dollars ($96,228,000) shall be allocated to designated public hospitals to be paid in accordance with Section 14166.75.

(B) Forty-two million two hundred twenty-eight thousand dollars ($42,228,000) shall be allocated to private DSH hospitals to be paid in accordance with Section 14166.14.

(C) Five hundred forty-four thousand dollars ($544,000) shall be allocated to nondesignated public hospitals to be paid in accordance with Section 14166.17.

(D) In the event that stabilization funding is less than one hundred forty-seven million dollars ($147,000,000), the amounts allocated to designated public hospitals, private DSH hospitals, and nondesignated public hospitals under this paragraph shall be reduced proportionately.

(3) (A) An amount equal to the lesser of 10 percent of the total amount determined under subdivision (a) or twenty-three million five hundred thousand dollars ($23,500,000), but at least fifteen million three hundred thousand dollars ($15,300,000), shall be made available for additional payments to distressed hospitals that participate in the selective provider contracting program under Article 2.6 (commencing with Section 14081), including designated public hospitals, in amounts to be determined by the California Medical Assistance Commission. The additional payments to designated public hospitals shall be negotiated by the California Medical Assistance Commission, but shall be paid by the department in the form of a direct grant rather than as Medi-Cal payments.

(B) Notwithstanding subparagraph (A) and solely for the 2006–07 fiscal year, if the amount that otherwise would be made available for additional payments to distressed hospitals under subparagraph (A) is equal to or greater than eighteen million three hundred thousand dollars ($18,300,000), that amount shall be reduced by eighteen million three hundred thousand dollars ($18,300,000) and the state's obligation to make these payments shall be reduced by this amount. In the event the amount that otherwise would be made available under subparagraph (A) is less than eighteen million three hundred thousand dollars ($18,300,000), but greater than or equal to the minimum amount of fifteen million three hundred thousand dollars ($15,300,000), then the amount available under this paragraph shall be zero and the state's obligation to make these payments shall be zero.

(4) An amount equal to 0.64 percent of the total amount determined under subdivision (a), to nondesignated public hospitals to be paid in accordance with Section 14166.19.

(5) The amount remaining after subtracting the amount determined in paragraphs (1) and (2), subparagraph (A) of paragraph (3), and paragraph (4), without taking into account subparagraph (B) of paragraph (3), shall be allocated as follows:

(A) Sixty percent to designated public hospitals to be paid in accordance with Section 14166.75.

(B) Forty percent to project year private DSH hospitals to be paid in accordance with Section 14166.14.

(c) By April 1 of the year following the project year for which the payment is made, and after taking into account final amounts otherwise paid or payable to hospitals under this article, the director shall calculate

in accordance with subdivision (a), allocate in accordance with subdivision (b), and pay to hospitals in accordance with Sections 14166.75, 14166.14, and 14166.19, as applicable, the stabilization funding.

(d) For purposes of determining amounts paid or payable to hospitals under subdivision (c), the department shall apply the following:

(1) In determining amounts paid or payable to designated public hospitals that are based on allowable costs incurred by the hospital, or the governmental entity with which it is affiliated, the following shall apply:

(A) If the final payment amount is based on the hospital's Medicare cost report, the department shall rely on the cost report filed with the Medicare fiscal intermediary for the project year for which the calculation is made, reduced by a percentage that represents the average percentage change from total reported costs to final costs for the three most recent cost reporting periods for which final determinations have been made, taking into account all administrative and judicial appeals. Protested amounts shall not be considered in determining the average percentage change unless the same or similar costs are included in the project year cost report.

(B) If the final payment amount is based on costs not included in subparagraph (A), the reported costs as of the date the determination is made under subdivision (c), shall be reduced by 10 percent.

(C) In addition to adjustments required in subparagraphs (A) and (B), the department shall adjust amounts paid or payable to designated public hospitals by any applicable deferrals or disallowances identified by the federal Centers for Medicare and Medicaid Services as of the date the determination is made under subdivision (c) not otherwise reflected in subparagraphs (A) and (B).

(2) Amounts paid or payable to project year private DSH hospitals and nondesignated public hospitals shall be determined by the most recently available Medi-Cal paid claims data increased by a percentage to reflect an estimate of amounts remaining unpaid.

(e) The department shall consult with hospital representatives regarding the appropriate calculation of stabilization funding before stabilization funds are paid to hospitals. The calculation may be comprised of multiple steps involving interim computations and assumptions as may be necessary to determine the total amount of stabilization funding under subdivision (a) and the allocations under subdivision (b). No later than 30 days after this consultation, the department shall establish a final determination of stabilization funding that shall not be modified for any reason other than mathematical errors or mathematical omissions on the part of the department.

(f) The department shall distribute 75 percent of the estimated stabilization funding on an interim basis throughout the project year.

(g) The allocation and payment of stabilization funding shall not reduce the amount otherwise paid or payable to a hospital under this article or any other provision of law, unless the reduction is required by the demonstration project's Special Terms and Conditions or by federal law.

(h) It is the intent of the Legislature that the amendments made to Sections 14166.12 and to this section by the act that added this subdivision in the 2007–08 Regular Session shall not be construed to amend or otherwise alter the ongoing structure of the department's Medicaid Demonstration Project and Waiver approved by the federal Centers for Medicare and Medicaid Services to begin on September 1, 2005.

SEC. 57. Section 14166.245 of the Welfare and Institutions Code is amended to read:

14166.245. (a) The Legislature finds and declares that the state faces a fiscal crisis that requires unprecedented measures to be taken to reduce General Fund expenditures to avoid reducing vital government services necessary for the protection of the health, safety, and welfare of the citizens of the State of California.

(b) (1) Notwithstanding any other provision of law, except as provided in Article 2.93 (commencing with Section 14091.3), for hospitals that receive Medi-Cal reimbursement from the State Department of Health Care Services and that are not under contract with the State Department of Health Care Services pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3 of Division 9, the amounts paid as interim payments for inpatient hospital services provided on and after July 1, 2008, shall be reduced by 10 percent.

(2) (A) Beginning on October 1, 2008, amounts paid that are calculated pursuant to paragraph (1) shall not exceed the applicable regional average per diem contract rate for tertiary hospitals and for all other hospitals established as specified in subparagraph (C), reduced by 5 percent, multiplied by the number of Medi-Cal covered inpatient days for which the interim payment is being made.

(B) This paragraph shall not apply to small and rural hospitals specified in Section 124840 of the Health and Safety Code, or to hospitals in open health facility planning areas that were open health facility planning areas on October 1, 2008, unless either of the following apply:

(i) The open health facility planning area at any time on or after July 1, 2005, was a closed health facility planning area as determined by the California Medical Assistance Commission.

(ii) The open health facility planning area has three or more hospitals with licensed general acute care beds.

(C) (i) For purposes of this subdivision and subdivision (c), the average regional per diem contract rates shall be derived from unweighted average contract per diem rates that are publicly available on June 1 of each year, trended forward based on the trends in the California Medical Assistance Commission's Annual Report to the Legislature. For tertiary hospitals, and for all other hospitals, the regional average per diem contract rates shall be based on the geographic regions in the California Medical Assistance Commission's Annual Report to the Legislature. The applicable average regional per diem contract rates for tertiary hospitals and for all other hospitals shall be published by the department on or before October 1, 2008, and these rates shall be updated annually for each state fiscal year and shall become effective each July 1, thereafter. Supplemental payments shall not be included in this calculation.

(ii) For purposes of clause (i), both the federal and nonfederal share of the designated public hospital cost-based rates shall be included in the determination of the average contract rates by multiplying the hospital's interim rate, established pursuant to Section 14166.4 and that is in effect on June 1 of each year, by two.

(iii) For the purposes of this section, a tertiary hospital is a children's hospital specified in Section 10727, or a hospital that has been designated as a Level I or Level II trauma center by the Emergency Medical Services Authority established pursuant to Section 1797.1 of the Health and Safety Code.

(D) For purposes of this section, the terms "open health facility planning area" and "closed health facility planning area" shall have the same meaning and be applied in the same manner as used by the California Medical Assistance Commission in the implementation of the hospital contracting program authorized in Article 2.6 (commencing with Section 14081).

(c) (1) Notwithstanding any other provision of law, for hospitals that receive Medi-Cal reimbursement from the State Department of Health Care Services and that are not under contract with the State Department of Health Care Services, pursuant to Article 2.6 (commencing with Section 14081), the reimbursement amount paid by the department for inpatient services provided to Medi-Cal recipients for dates of service on and after July 1, 2008, shall not exceed the amount determined pursuant to paragraph (3).

(2) For purposes of this subdivision, the reimbursement for inpatient services includes the amounts paid for all categories of inpatient services

allowable by Medi-Cal. The reimbursement includes the amounts paid for routine services, together with all related ancillary services.

(3) When calculating a hospital's cost report settlement for a hospital's fiscal period that includes any dates of service on and after July 1, 2008, the settlement for dates of service on and after July 1, 2008, shall be limited to the lesser of the following:

(A) Ninety percent of the hospital's audited allowable cost per day for those services multiplied by the number of Medi-Cal covered inpatient days in the hospital's fiscal year on or after July 1, 2008.

(B) Beginning for dates of service on and after October 1, 2008, the applicable average regional per diem contract rate established as specified in subparagraph (A) of paragraph (2) of subdivision (b), reduced by 5 percent, multiplied by the number of Medi-Cal covered inpatient days in the hospital's fiscal year, or portion thereof. This subparagraph shall not apply to small and rural hospitals specified in Section 124840 of the Health and Safety Code, or to hospitals in open health facility planning areas that were open health facility planning areas on July 1, 2008, unless either of the following apply:

(i) The open health facility planning area at any time on or after July 1, 2005, was a closed health facility planning area as determined by the California Medical Assistance Commission.

(ii) The open health facility planning area has more than three hospitals with licensed general acute care beds.

(d) Except as provided in Article 2.93 (commencing with Section 14091.3), hospitals that participate in the Selective Provider Contracting Program pursuant to Article 2.6 (commencing with Section 14081) and designated public hospitals under Section 14166.1, except Los Angeles County Martin Luther King, Jr./Charles R. Drew Medical Center and Tuolumne General Hospital, shall be exempt from the limitations required by this section.

(e) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the director may implement and administer this section by means of provider bulletins, or other similar instructions, without taking regulatory action.

(f) The director shall promptly seek all necessary federal approvals in order to implement this section, including necessary amendments to the state plan.

(g) Notwithstanding any other provision of this section, small and rural hospitals, as defined in Section 124840 of the Health and Safety Code, shall be exempt from the payment reductions set forth in this section for dates of service on and after November 1, 2008.

(h) For hospitals that are subject to clauses (i) and (ii) of subparagraph (B) of paragraph (2) of subdivision (b) and that choose to contract pursuant to Article 2.6 (commencing with Section 14081), the California Medical Assistance Commission shall negotiate rates taking into account factors specified in Section 14083.

(i) (1) In January 2010 and in January 2011, the department and the California Medical Assistance Commission shall submit a written report to the policy and fiscal committees of the Legislature on the implementation and impact of the changes made by this section, including, but not limited to, the impact of those changes on the number of hospitals that are contract and noncontract, patient access, and cost savings to the state.

(2) On or before January 1, 2012, the department, in consultation with the California Medical Assistance Commission, shall report on the implementation of this section. The report shall include, but not be limited to, information and analyses addressing patient access, capacity and needs within the health facility planning area, reimbursement of hospital costs, changes in the number of open and closed health facility planning areas, the impact of this section on the extent of hospital contracting, and fiscal impact on the state.

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

SEC. 58. Section 14166.245 is added to the Welfare and Institutions Code, to read:

14166.245. (a) The Legislature finds and declares that the state faces a fiscal crisis that requires unprecedented measures to be taken to reduce General Fund expenditures to avoid reducing vital government services necessary for the protection of the health, safety, and welfare of the citizens of the State of California.

(b) Notwithstanding any other provision of law, for acute care hospitals not under contract with the State Department of Health Care Services pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3 of Division 9, the amounts paid as interim payments for inpatient hospital services provided on and after July 1, 2008, shall be reduced by 10 percent.

(c) (1) Notwithstanding any other provision of law, for acute care hospitals not under contract with the State Department of Health Care Services, the reimbursement amount for inpatient services provided to Medi-Cal recipients for dates of service on and after July 1, 2008, shall not exceed the amount determined pursuant to paragraph (3).

(2) For purposes of this subdivision, the reimbursement for inpatient services includes the amounts paid for all categories of inpatient services

allowable by Medi-Cal. The reimbursement includes the amounts paid for routine services, together with all related ancillary services.

(3) When calculating a hospital's cost report settlement for a hospital's fiscal period that includes any dates of service on and after July 1, 2008, the settlement for dates of service on and after July 1, 2008, shall be limited to 90 percent of the hospital's audited allowable cost per day for those services multiplied by the number of Medi-Cal covered inpatient days in the hospital's fiscal year on or after July 1, 2008.

(d) Hospitals that participate in the Selective Provider Contracting Program pursuant to Article 2.6 (commencing with Section 14081) and designated public hospitals under Section 14166.1, except Los Angeles County Martin Luther King, Jr./Charles R. Drew Medical Center and Tuolumne General Hospital, shall be exempt from the 10 percent reduction required by this section.

(e) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the director may implement subdivision (b) by means of a provider bulletin, or other similar instruction, without taking regulatory action.

(f) The director shall promptly seek all necessary federal approvals in order to implement this section, including necessary amendments to the state plan.

(g) This section shall become operative on January 1, 2013.

SEC. 59. Section 14166.25 of the Welfare and Institutions Code is amended to read:

14166.25. (a) The Legislature finds and declares all of the following:

(1) In light of the closure of Los Angeles County Martin Luther King, Jr.-Harbor Hospital, there is a need to ensure adequate funding for continued health care services to the uninsured population of South Los Angeles, including, but not limited to, the Cities of Compton, Lynwood, South Gate, Huntington Park, the southern and central portions of the Cities of Los Angeles, Inglewood, Gardena, and surrounding unincorporated communities.

(2) The state, the County of Los Angeles, and all health care providers in the South Los Angeles community must work together to meet the health care needs of the community until the critical hospital services previously provided by Los Angeles County Martin Luther King, Jr.-Harbor Hospital can be restored at this location.

(3) The Medi-Cal Hospital/Uninsured Care Demonstration Project provides a critical source of funding for services to low-income communities throughout the state that are provided by California's safety net hospital systems.

(4) The special funding provided in this section is predicated on the express intent of the County of Los Angeles to restore hospital services on the hospital campus, to be operated by either a private or public entity. The county has undertaken a specific plan to do so as quickly as possible.

(5) The Legislature anticipates that demonstration project funds will be available to help fund the reopened hospital. The nature and amount of that funding cannot be determined until the new structure and operation of the hospital is known.

(6) As an interim response to the specific circumstances caused by the closure of this hospital, and until hospital services can be restored at this location, a special fund will be created to receive demonstration project funding to be available to the County of Los Angeles for expenditures to preserve health care services for the uninsured population of South Los Angeles, as defined above.

(b) The South Los Angeles Medical Services Preservation Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(c) Subject to the conditions in this section, a maximum amount of one hundred million dollars ($100,000,000) of the safety net care pool funds claimed and received by the state that are based on the certified public expenditures of the County of Los Angeles or its designated public hospitals shall be transferred to the South Los Angeles Medical Services Preservation Fund for each of the three project years, 2007–08, 2008–09, and 2009–10.

(1) In the event that the director determines that any amount is due to the County of Los Angeles under the demonstration project for services rendered during the portion of a project year during which Los Angeles County Martin Luther King, Jr.-Harbor Hospital was operational, the amount deposited in the fund under this subdivision shall be reduced by a percentage determined by reducing 100 percent by the percentage reduction in the hospital's baseline as determined under subdivision (c) of Section 14166.5 for that project year.

(2) If in the aggregate, the federal medical assistance percentage of the certified public expenditures reported by the County of Los Angeles and its designated public hospitals under Section 14166.8, excluding those certified public expenditures reported under paragraph (1) of subdivision (b) of Section 14166.8, in any project year do not exceed the amounts paid or payable to the county and its designated public hospitals in the aggregate under Section 14166.6, excluding disproportionate share payments funded with intergovernmental transfers, Section 14166.7, and subdivision (d) for the same project year, then the amount deposited in the fund under subdivision (c) shall be reduced by

the amount of excess payments over the federal medical assistance percentage of certified public expenditures.

(d) Moneys in the South Los Angeles Medical Services Preservation Fund shall be distributed to the County of Los Angeles in amounts equal to the costs incurred by the county, including indirect costs associated with adequately maintaining the hospital building so that it can be reopened, in providing, or compensating other providers for, health services rendered to the uninsured population of South Los Angeles, including all of the following:

(1) Services provided in the multiservice ambulatory care center operating on the former Los Angeles County Martin Luther King, Jr.-Harbor Hospital campus.

(2) Services rendered to patients in beds at other designated public hospitals operated by the County of Los Angeles that have been opened specifically for the purpose of serving patients that would have been served by the former Los Angeles County Martin Luther King, Jr.-Harbor Hospital.

(3) Services rendered in the county operated health center and the comprehensive health center formerly operated under Los Angeles County Martin Luther King, Jr.-Harbor Hospital.

(4) Services rendered to the uninsured by other public or private health care providers for which the County of Los Angeles has agreed to pay under a contract with the provider as a result of the downsizing or closure of Los Angeles County Martin Luther King, Jr.-Harbor Hospital.

(e) As a condition for receiving distributions from the South Los Angeles Medical Services Preservation Fund in any project year, the County of Los Angeles shall assure the director that it will not reduce the county's ongoing, systemwide financial contribution to the county department of health services during that project year for health care services to the uninsured.

(f) No funds shall be available from the South Los Angeles Medical Services Preservation Fund for services rendered when a hospital on the former Los Angeles County Martin Luther King, Jr.-Harbor Hospital campus is certified for Medi-Cal participation.

(g) If the full amount of the South Los Angeles Medical Services Preservation Fund for any project year is not distributed to the County of Los Angeles, based on the cost of services identified in subdivision (d) that were rendered during that project year, any remaining amounts shall revert to the Health Care Support Fund established pursuant to Section 14166.21.

(h) To the extent that the County of Los Angeles receives distributions from the South Los Angeles Medical Services Preservation Fund based on the cost of services rendered by county operated providers, or based

on payments made to private providers for services rendered to the uninsured population of South Los Angeles, the costs of the services rendered shall not be considered for purposes of any of the following determinations with respect to either the county or the private provider:

(1) Medi-Cal payments under the selective provider contracting program under Article 2.6 (commencing with Section 14081), including payments to distressed hospitals under Section 14166.23.

(2) Baseline amounts, or adjustments thereto, under Section 14166.5, 14166.13, or 14166.18.

(3) Any other payment under Medi-Cal or other health care program.

(i) This section shall be implemented only to the extent that the director determines that it will not result in the loss of federal funds under the demonstration project.

SEC. 60. Article 6.6 (commencing with Section 14199) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

## Article 6.6. HIV/AIDS Pharmacy Pilot Program

14199. The department shall continue the pilot program established on September 1, 2004, for the purpose of evaluating the provision of medication therapy management services for people with HIV/AIDS. The continuation of this program shall be effective July 1, 2008, for services rendered on or after that date.

14199.1. For purposes of this article, "medication therapy management" means a distinct service or group of services that optimize therapeutic outcomes for individual patients. Medication therapy management services are independent of, but can occur in conjunction with, the provision of a medication product.

14199.2. (a) The pilot program provided for under this article shall provide the necessary information to assess the effectiveness of pharmacist care in improving health outcomes for HIV/AIDS patients. If the department determines that the pilot program has shown that HIV/AIDS-related medication therapy management service is effective at improving the health outcomes of HIV/AIDS patients and is cost effective, then the department may seek federal authorization, through a state plan amendment or Medicaid waiver application, to receive federal financial participation for this service.

(b) The department shall implement an HIV/AIDS-related medication therapy management service pilot project in no more than 10 pharmacies.

(c) The selection of the pharmacy providers shall be based on all of the following:

(1) Percentage of HIV/AIDS patients serviced by the pharmacy. More than 90 percent of the total patients serviced by the pharmacy in the months of May, June, and July 2004, must have been HIV/AIDS patients.

(2) Ability of the pharmacy to immediately provide specialized services. The provider shall be required to establish specialized services with capability to implement all statutorily mandated services on the implementation date of the project. The pharmacy shall provide all the services listed in subdivision (e).

(3) All specialized services shall be rendered by a qualified pharmacist or other health care provider operating within his or her scope of practice. The department shall develop, in consultation with pharmacy providers, the appropriate professional qualifications needed by the pharmacists rendering services, including any continuing education requirements.

(d) The department shall select the first pharmacies that apply and meet the criteria specified in subdivision (c) for the pilot program.

(e) Pharmacies that participate in this pilot program shall provide the following services:

(1) Patient-specific and individualized services provided directly by a pharmacist to the patient, or in limited circumstances, the patient's caregiver. These services are distinct from generalized patient education and information activities already required by law and provided for in the professional fee for dispensing.

(2) Face-to-face interaction between the patient or caregiver and the pharmacist during delivery of medication therapy management services. When barriers to face-to-face communication exist, patients shall have equitable access to appropriate alternative delivery methods.

(3) Pharmacists and other qualified health care providers to identify patients who should receive medication therapy management services.

(f) The department shall consult with the pilot program pharmacies to establish appropriate outcome measures and the required timeframes for reporting those measures, which in no case shall be less than annually. The department shall retain the ability to require additional outcome measures during the course of the project.

(g) The medication therapy management services shall be based on the individual patient's needs and may include, but are not limited to, the following:

(1) Performing or obtaining necessary assessments of the patient's health status.

(2) Formulating a medication treatment plan.

(3) Selecting, initiating, modifying, or administering medication therapy.

(4) Monitoring and evaluating the patient's response to therapy, including safety and effectiveness.

(5) Performing a comprehensive medication review to identify, resolve, and prevent medication-related problems, including adverse drug events.

(6) Documenting the care delivered and communicating essential information to the patient's other primary care providers.

(7) Providing verbal education and training, beyond what is already required by law, that is designed to enhance patient understanding and appropriate use of the patient's medications.

(8) Providing information, support services, and resources, such as compliance packaging, designed to enhance patient adherence to his or her therapeutic regimens.

(9) Coordinating and integrating medication therapy management services within the broader health care management services being provided to the patient.

(10) Home delivery of medications.

(h) Participants in this pilot program shall be paid an additional dispensing fee of nine dollars and fifty cents ($9.50) per prescription for drug products added to or maintained on the Medi-Cal List of Contract Drugs pursuant to Section 14105.43 for services rendered on or after July 1, 2008.

(i) Notwithstanding any other provision of law, the department shall not make any payments for services listed in subdivision (g) that were rendered during any time period in which subdivision (b) of Section 14105.45 has been enjoined by a court order or is otherwise not in effect.

(j) Pilot project contracts under this section may be executed on a noncompetitive bid basis and shall be exempt from the requirements of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(k) Pharmacies shall maintain a sufficient quantity of HIV/AIDS medication in their inventories.

(*l*) Pharmacies shall purchase HIV medications from state licensed wholesalers.

14199.3. This article shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute that is enacted before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 61. Section 14301.1 of the Welfare and Institutions Code is amended to read:

14301.1. (a) For rates established on or after August 1, 2007, the department shall pay capitation rates to health plans participating in the Medi-Cal managed care program using actuarial methods and may establish health plan and county specific rates. The department shall utilize a county and model specific rate methodology to develop Medi-Cal

managed care capitation rates for contracts entered into between the department and any entity pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 that includes, but is not limited to, all of the following:

(1) Health plan specific encounter and claims data.

(2) Supplemental utilization and cost data submitted by the health plans.

(3) Fee-for-service data for the underlying county of operation or other appropriate counties as deemed necessary by the department.

(4) Department of Managed Health Care financial statement data specific to Medi-Cal operations.

(5) Other demographic factors, such as age, gender, or diagnostic-based risk adjustments, as the department deems appropriate.

(b) To the extent that the department is unable to obtain sufficient actual plan data, it may substitute plan model, similar plan, or county specific fee-for-service data.

(c) The department shall develop rates that include administrative costs, and may apply different administrative costs with respect to separate aid code groups.

(d) The department shall develop rates that shall include, but are not limited to, assumptions for underwriting, return on investment, risk, contingencies, changes in policy, and a detailed review of health plan financial statements to validate and reconcile costs for use in developing rates.

(e) The department may develop rates that pay plans based on performance incentives, including quality indicators, access to care, and data submission.

(f) The department may develop and adopt condition-specific payment rates for health conditions, including, but not limited to, childbirth delivery.

(g) (1) Prior to finalizing Medi-Cal managed care capitation rates, the department shall provide health plans with information on how the rates were developed, including rate sheets for that specific health plan, and provide the plans with the opportunity to provide additional supplemental information.

(2) For contracts entered into between the department and any entity pursuant to Article 2.8 (commencing with Section 14087.5) of Chapter 7, the department, by June 30 of each year, or if the budget has not passed by that date, no later than five working days after the budget is signed, shall provide preliminary rates for the upcoming fiscal year.

(h) For the purposes of developing capitation rates through implementation of this ratesetting methodology, Medi-Cal managed care

health plans shall provide the department with financial and utilization data in a form and substance as deemed necessary by the department to establish rates. This data shall be considered proprietary and shall be exempt from disclosure as official information pursuant to subdivision (k) of Section 6254 of the Government Code as contained in the California Public Records Act.

(i) The department shall report, upon request, to the fiscal and policy committees of the respective houses of the Legislature regarding implementation of this section.

SEC. 62. Section 14526.1 of the Welfare and Institutions Code is amended to read:

14526.1. (a) Initial and subsequent treatment authorization requests may be granted for up to six calendar months.

(b) Treatment authorization requests shall be initiated by the adult day health care center, and shall include all of the following:

(1) The signature page of the history and physical form that shall serve to document the request for adult day health care services. A complete history and physical form, including a request for adult day health care services signed by the participant's personal health care provider, shall be maintained in the participant's health record. This history and physical form shall be developed by the department and published in the inpatient/outpatient provider manual. The department shall develop this form jointly with the statewide association representing adult day health care providers.

(2) The participant's individual plan of care, pursuant to Section 54211 of Title 22 of the California Code of Regulations.

(c) Every six months, the adult day health care center shall initiate a request for an updated history and physical form from the participant's personal health care provider using a standard update form that shall be maintained in the participant's health record. This update form shall be developed by the department for that use and shall be published in the inpatient/outpatient provider manual. The department shall develop this form jointly with the statewide association representing adult day health care providers.

(d) Except for participants residing in an intermediate care facility/developmentally disabled-habilitative, authorization or reauthorization of an adult day health care treatment authorization request shall be granted only if the participant meets all of the following medical necessity criteria:

(1) The participant has one or more chronic or post acute medical, cognitive, or mental health conditions that are identified by the participant's personal health care provider as requiring one or more of the following, without which the participant's condition will likely

deteriorate and require emergency department visits, hospitalization, or other institutionalization:

(A) Monitoring.

(B) Treatment.

(C) Intervention.

(2) The participant has a condition or conditions resulting in both of the following:

(A) Limitations in the performance of two or more activities of daily living or instrumental activities of daily living, as those terms are defined in Section 14522.3, or one or more from each category.

(B) A need for assistance or supervision in performing the activities identified in subparagraph (A) as related to the condition or conditions specified in paragraph (1) of subdivision (d). That assistance or supervision shall be in addition to any other nonadult day health care support the participant is currently receiving in his or her place of residence.

(3) The participant's network of non-adult day health care center supports is insufficient to maintain the individual in the community, demonstrated by at least one of the following:

(A) The participant lives alone and has no family or caregivers available to provide sufficient and necessary care or supervision.

(B) The participant resides with one or more related or unrelated individuals, but they are unwilling or unable to provide sufficient and necessary care or supervision to the participant.

(C) The participant has family or caregivers available, but those individuals require respite in order to continue providing sufficient and necessary care or supervision to the participant.

(4) A high potential exists for the deterioration of the participant's medical, cognitive, or mental health condition or conditions in a manner likely to result in emergency department visits, hospitalization, or other institutionalization if adult day health care services are not provided.

(5) The participant's condition or conditions require adult day health care services specified in subdivisions (a) to (d), inclusive, of Section 14550.5, on each day of attendance, that are individualized and designed to maintain the ability of the participant to remain in the community and avoid emergency department visits, hospitalizations, or other institutionalization.

(e) Reauthorization of an adult day health care treatment authorization request shall be granted when the criteria specified in subdivision (d) or (f), as appropriate, have been met and the participant's condition would likely deteriorate if the adult day health care services were denied.

(f) For individuals residing in an intermediate care facility/developmentally disabled-habilitative, authorization or

reauthorization of an adult day health care treatment authorization request shall be granted only if the resident has disabilities and a level of functioning that are of such a nature that, without supplemental intervention through adult day health care, placement to a more costly institutional level of care would be likely to occur.

SEC. 63. 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 and Section 17605.051, shall not be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(2) (A) All interest or other increment resulting from the investment shall be deposited in the program account, notwithstanding Section 16305.7 of the Government Code.

(B) All interest deposited pursuant to subparagraph (A) shall be available to reimburse program-covered services, governing board expenses, and program administrative costs.

(h) The governing board shall establish a reserve account for the purpose of depositing funds for the payment of claims and unexpected contingencies. Funds in the reserve account in excess of the amounts the governing board determines necessary for these purposes shall be available for expenditures in years when program expenditures exceed program funds, and to augment the rates, benefits, or eligibility criteria under the program.

(i) (1) Counties shall pay participation fees as established by the governing board and their jurisdictional risk amount in a method that is consistent with that established in the 1993–94 fiscal year.

(2) A county may request, due to financial hardship, the payments under paragraph (1) be delayed. The request shall be subject to approval by the governing board.

(3) Payments made pursuant to this subdivision shall be deposited in the program account, unless otherwise directed by the governing board.

(4) Payments may be made as part of the deposits authorized by the county pursuant to Sections 17603.05 and 17604.05.

(j) (1) (A) Beginning in the 1992–93 fiscal year and for each fiscal year thereafter, counties and the state shall share the risk for cost increases of the County Medical Services Program not funded through other sources. The state shall be at risk for any cost that exceeds the cumulative annual growth in dedicated sales tax and vehicle license fee revenue, up to the amount of twenty million two hundred thirty-seven thousand four hundred sixty dollars ($20,237,460) per fiscal year, except for the 1999–2000, 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, 2007–08 fiscal years, and all fiscal years thereafter. 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, 2006–07, 2007–08 fiscal years, and all fiscal years thereafter.

(B) For the 1999–2000, 2000–01, 2001–02, 2002–03, 2003–04, 2004–05, 2005–06, 2006–07, 2007–08 fiscal years, and all fiscal years thereafter, 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, 2006–07, 2007–08 fiscal years, and all fiscal years thereafter.

(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. 64. Section 17605.051 is added to the Welfare and Institutions Code, to read:

17605.051. (a) Notwithstanding any other provision of law, upon request of the County Medical Services Program Governing Board, the Controller shall deposit amounts received pursuant to Sections 16809.3, 17603.05, 17604.05, 17605.07, and 17606.20 into the County Medical Services Subaccount in lieu of depositing these amounts into the County Medical Services Program Account of the County Health Services Fund.

(b) Deposits made pursuant to this section shall be treated in the same manner as deposits that are made into the County Medical Services Program Account of the County Health Services Fund.

(c) Upon request of the County Medical Services Program Governing Board, the Controller shall transfer amounts deposited into the County Medical Services Subaccount to the County Medical Services Program Governing Board for the purposes described in subdivision (f) of Section 16809.

SEC. 65. (a) Of the funds appropriated in Item 4265-111-0001 of Section 2.00 of the Budget Act of 2008 from the Cigarette and Tobacco Products Surtax Fund, twenty-four million eight hundred three thousand dollars ($24,803,000) shall be allocated in accordance with subdivision (b) for the 2008–09 fiscal year from the following accounts:

(1) Twenty-two million six hundred fifty-one thousand dollars ($22,651,000) from the Hospital Services Account.

(2) Two million one hundred fifty-two thousand dollars ($2,152,000) from the Physician Services Account.

(b) The funds specified in subdivision (a) shall be allocated proportionately as follows:

(1) Twenty-two million three hundred twenty-four thousand dollars ($22,324,000) shall be administered and allocated for distribution through the California Healthcare for Indigents Program (CHIP) provided for pursuant to Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(2) Two million four hundred seventy-nine thousand dollars ($2,479,000) shall be administered and allocated through the Rural Health Services Program provided for pursuant to Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(c) (1) Funds allocated pursuant to this section from the Physician Services Account and the Hospital Services Account in the Cigarette and Tobacco Products Surtax Fund shall be used only for the reimbursement of physicians for losses incurred in providing uncompensated emergency services in general acute care hospitals providing basic, comprehensive, or standby emergency services, as defined in Section 16953 of the Welfare and Institutions Code. Funds shall be transferred to the Physician Services Account in the county Emergency Medical Services Fund established pursuant to Sections 16951 and 16952 of the Welfare and Institutions Code, and shall be paid only to physicians who directly provide emergency medical services to patients, based on claims submitted or a subsequent reconciliation of claims. Payments shall be made as provided in Sections 16951 to 16959, inclusive, of the Welfare and Institutions Code, and payments shall be made on an equitable basis, without preference to any particular physician or group of physicians.

(2) If a county has an Emergency Medical Services Fund Advisory Committee that includes both emergency physicians and emergency department on-call backup panel physicians, and if the committee unanimously approves, the administrator of the Emergency Medical Services Fund may create a special fee schedule and claims submission criteria for reimbursement for services rendered to uninsured trauma patients, provided that no more than 15 percent of the tobacco tax revenues allocated to the county's Emergency Medical Services Fund is distributed through this special fee schedule, that all physicians who render trauma services are entitled to submit claims for reimbursement under this special fee schedule, and that no physician's claim may be reimbursed at greater than 50 percent of losses under the special fee schedule.

SEC. 66. The State Department of Mental Health shall provide the Mental Health Services Oversight and Accountability Commission

(OAC) with data, as specified and requested by the OAC, for the purpose of the OAC to utilize in its oversight, review, and evaluation capacity regarding projects and programs funded with the mental health services funds.

SEC. 67. The State Department of Mental Health, in collaboration with the California Housing Finance Agency, shall provide the fiscal and policy committees of the Legislature with semiannual updates regarding key results and funding for the capital costs associated with development, acquisition, construction, and rehabilitation of permanent supportive housing for individuals with mental illness, as provided for under the Housing Initiatives Program as administered by the state. The semiannual updates shall commence as of July 1, 2008, and shall be provided to the Legislature as described in this section within 30 days after the end of the first and third quarters of each fiscal year thereafter.

SEC. 68. The State Department of Mental Health shall confer with the County of San Mateo, relevant constituency groups, and with the State Department of Health Care Services to appropriately craft a transition plan to ensure the continuity of care for mental health clients in the event that the state's contract for the services provided under the San Mateo Pharmacy and Laboratory Project are substantially modified or transitioned to the State Department of Health Care Services. The State Department of Mental Health shall provide the fiscal and policy committees of the Legislature with a status update regarding the development of a transition plan by no later than December 31, 2008.

SEC. 69. By no later than January 10 and May 14 of each year, the State Department of Mental Health shall provide the fiscal committees of the Legislature with an estimate package for the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. This estimate package shall include all assumptions underlying the estimate for the EPSDT's current-year and budget-year proposals and shall contain concise information identifying applicable estimate components, such as caseload, client utilization, policy changes, all funding information, and other assumptions necessary to support the estimate. The submittal shall include a projection of the fiscal impact of any assumptions related to regulatory, statutory, or policy change, a detailed explanation of any changes to the base estimate projections from the previous estimate, and a projection of the fiscal impact of that change to the base estimate. Other supporting data, such as fiscal charts, client utilization, or other data may also be provided.

SEC. 70. The State Department of Developmental Services shall provide an update to the appropriate policy and fiscal committees of the Legislature during the fall legislative interim on an annual basis, beginning in the 2008–09 fiscal year, regarding the impact of the adopted

freezes and various cost containment measures on clients and service levels. The policy committees of the Legislature may choose to hold informational hearings on these issues to further review and explore the prioritization and levels at which a cost containment measure or measures may be proposed for modification or elimination and shall report these findings for consideration in the annual subcommittee budget process or in legislation, where appropriate.

SEC. 72. In an effort to more comprehensively clarify issues regarding the state's responsibilities and oversight of small water systems, including the payment structure, the State Department of Public Health shall provide the fiscal and policy committees of the Legislature with a synopsis of key issues regarding the program and options for addressing the sustainability of the program to meet safe drinking water quality standards.

SEC. 73. The State Department of Public Health shall prepare a Fund Condition statement for federal Maternal and Child Health Title V funds, and approved by the Department of Finance, for inclusion in the annual budget process and to be published in the Governor's budget documents provided to the Legislature by no later than January 10 of each year.

SEC. 74. By no later than January 10 and May 14 of each year, the State Department of Public Health shall provide the fiscal committees of the Legislature with an estimate package for the AIDS Drug Assistance Program (ADAP) authorized by Chapter 6 (commencing with Section 120950) of Part 4 of Division 105 of the Health and Safety Code. This estimate package shall include all significant assumptions underlying the estimate for the ADAP's current-year and budget-year proposals, and shall contain concise information identifying applicable estimate components, such as caseload, client utilization, drug rebate information, policy changes, federal fund information, and other assumptions necessary to support the estimate. The submittal shall include a projection of the fiscal impact of any assumptions related to regulatory, statutory, or policy changes, a detailed explanation of any changes to the base estimate projections from the previous estimate, and a projection of the fiscal impact of those changes to the base estimate. Other supporting data, such as fiscal charts, client utilization, or data provided by the pharmacy benefit manager who administers the program at the local level may also be provided.

SEC. 75. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 76. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement the Budget Act of 2008 at the earliest possible time, it is necessary that this act take effect immediately.

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## CHAPTER 759

An act to amend Sections 8206.1, 8222, 8223, 8357, and 8447 of, and to add Section 8275.5 to, the Education Code, to amend Sections 9205, 17560, and 17706 of, and to amend, repeal, and add Sections 8807, 8808, 8810, and 8820 of, the Family Code, to amend Sections 1522, 1596.871, 11758.42, 11758.421, and 11758.46 of the Health and Safety Code, and to amend Sections 10082, 10823, 11320.32, 11402.6, 11453, 12201, 12305.82, 12317, 14021.6, 14124.93, and 18939 of, to add Sections 10080.5 and 10553.15 to, to add Chapter 10.1 (commencing with Section 15525) to Part 3 of Division 9 of, and to repeal Section 10083 of, the Welfare and Institutions Code, relating to human services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 8206.1 of the Education Code is amended to read:

8206.1. (a) The Superintendent of Public Instruction shall collaborate with the Secretary for Education and the Secretary of Health and Human Services, with the advice and assistance of the Child Development Programs Advisory Committee, in the development of the state plan required pursuant to the federal Child Care and Development Fund, prior to submitting or reporting on that plan to the federal Secretary of Health and Human Services.

(b) (1) For purposes of this section, "Child Care and Development Fund" has the same meaning as in Section 98.2 of Title 45 of the Code of Federal Regulations.

(2) For the purposes of this section, "collaborate" means to cooperate with and to consult with.

(c) As required by federal law, the State Department of Education shall develop an expenditure plan that sets forth the final priorities for child care. The department shall coordinate with the State Department of Social Services, the California Children and Families Commission, and other stakeholders, including the Department of Finance, to develop the Child Care and Development Fund (CCDF) Plan. On or before February 1 of the year that the CCDF Plan is due to the federal government, the department shall release a draft of the plan. The department shall then commence a 30-day comment period that shall include at least one hearing and the opportunity for written comments. Prior to the May budget revision, the department shall provide the revised CCDF Plan to the chairs of the committees of each house of the Legislature that consider appropriations, and shall provide a report on the plan to the committees in each house of the Legislature that consider the annual Budget Act appropriation.

SEC. 2. Section 8222 of the Education Code is amended to read:

8222. (a) Payments made by alternative payment programs shall not exceed the applicable market rate ceiling. Alternative payment programs may expend more than the standard reimbursement rate for a particular child. However, the aggregate payments for services purchased by the agency during the contract year shall not exceed the assigned reimbursable amount as established by the contract for the year. No agency may make payments in excess of the rate charged to full-cost families. This section does not preclude alternative payment programs from using the average daily enrollment adjustment factor for children with exceptional needs as provided in Section 8265.5.

(b) Alternative payment programs shall reimburse licensed child care providers in accordance with a biennial market rate survey pursuant to Section 8447, at a rate not to exceed the ceilings established pursuant to Section 8357.

(c) An alternative payment program shall reimburse a licensed provider for child care of a subsidized child based on the rate charged by the provider to nonsubsidized families, if any, for the same services, or the rates established by the provider for prospective nonsubsidized families. A licensed child care provider shall submit to the alternative payment program a copy of the provider's rate sheet listing the rates charged, and the provider's discount or scholarship policies, if any, along with a statement signed by the provider confirming that the rates charged for a subsidized child are equal to or less than the rates charged for a nonsubsidized child.

(d) An alternative payment program shall maintain a copy of the rate sheet and the confirmation statement.

(e) A licensed child care provider shall submit to the local resource and referral agency a copy of the provider's rate sheet listing rates charged, and the provider's discount or scholarship policies, if any, and shall self-certify that the information is correct.

(f) Each licensed child care provider may alter rate levels for subsidized children once per year and shall provide the alternative payment program and resource and referral agency with the updated information pursuant to subdivisions (c) and (e), to reflect any changes.

(g) A licensed child care provider shall post in a prominent location adjacent to the provider's license at the child care facility the provider's rates and discounts or scholarship policies, if any.

(h) An alternative payment program shall verify provider rates no less frequently than once a year by randomly selecting 10 percent of licensed child care providers serving subsidized families. The purpose of this verification process is to confirm that rates reported to the alternative payment programs reasonably correspond to those reported to the resource and referral agency and the rates actually charged to nonsubsidized families for equivalent levels of services. It is the intent of the Legislature that the privacy of nonsubsidized families shall be protected in implementing this subdivision.

(i) The department shall develop regulations for addressing discrepancies in the provider rate levels identified through the rate verification process in subdivision (h).

SEC. 3. Section 8223 of the Education Code is amended to read:

8223. The reimbursement for alternative payment programs shall include the cost of child care paid to child care providers plus the administrative and support services costs of the alternative payment program. The total cost for administration and support services shall not exceed an amount equal to 19 percent of the total contract amount. The administrative costs shall not exceed the costs allowable for administration under federal requirements.

SEC. 4. Section 8275.5 is added to the Education Code, to read:

8275.5. The State Department of Education shall promote full utilization of child care and development funds and match available unused funds with identified service needs. Notwithstanding the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, the department shall arrange interagency adjustments between different contractors with the same type of contract when both agencies mutually agree to a temporary transfer of funds for the balance of the fiscal year.

SEC. 5. Section 8357 of the Education Code is amended to read:

8357. (a) The cost of child care services provided under this article shall be governed by regional market rates. Recipients of child care

services provided pursuant to this article shall be allowed to choose the child care services of licensed child care providers or child care providers who are, by law, not required to be licensed, and the cost of that child care shall be reimbursed by counties or agencies that contract with the State Department of Education if the cost is within the regional market rate. For purposes of this section, "regional market rate" means care costing no more than 1.5 market standard deviations above the mean cost of care for that region. Beginning March 1, 2009, the regional market rate ceilings shall be established at the 85th percentile of the 2007 regional market rate survey for that region. For the 2008–09 and 2009–10 fiscal years, the 85th percentile ceilings of the 2007 regional market rate survey for that region shall remain in effect.

(b) Reimbursement to child care providers shall not exceed the fee charged to private clients for the same service.

(c) Reimbursement shall not be made for child care services when care is provided by parents, legal guardians, or members of the assistance unit.

(d) A child care provider located on an Indian reservation or rancheria and exempted from state licensing requirements shall meet applicable tribal standards.

(e) For purposes of this section, "reimbursement" means a direct payment to the provider of child care services, including license exempt-providers. If care is provided in the home of the recipient, payment may be made to the parent as the employer, and the parent shall be informed of his or her concomitant legal and financial reporting requirements. To allow time for the development of the administrative systems necessary to issue direct payments to providers, for a period not to exceed six months from the effective date of this article, a county or an alternative payment agency contracting with the State Department of Education may reimburse the cost of child care services through a direct payment to a recipient of aid rather than to the child care provider.

(f) Counties and alternative payment programs shall not be bound by the rate limits described in subdivision (a) when there are, in the region, no more than two child care providers of the type needed by the recipient of child care services provided under this article.

SEC. 6. Section 8447 of the Education Code is amended to read:

8447. (a) The Legislature hereby finds and declares that greater efficiencies may be achieved in the execution of state subsidized child care and development program contracts with public and private agencies by the timely approval of contract provisions by the Department of Finance, the Department of General Services, and the State Department of Education and by authorizing the State Department of Education to establish a multiyear application, contract expenditure, and service review

as may be necessary to provide timely service while preserving audit and oversight functions to protect the public welfare.

(b) (1) The Department of Finance and the Department of General Services shall approve or disapprove annual contract funding terms and conditions, including both family fee schedules and regional market rate schedules that are required to be adhered to by contract, and contract face sheets submitted by the State Department of Education not more than 30 working days from the date of submission, unless unresolved conflicts remain between the Department of Finance, the State Department of Education, and the Department of General Services. The State Department of Education shall resolve conflicts within an additional 30 working day time period. Contracts and funding terms and conditions shall be issued to child care contractors no later than June 1. Applications for new child care funding shall be issued not more than 45 working days after the effective date of authorized new allocations of child care moneys.

(2) Notwithstanding paragraph (1), for the 2008–09 fiscal year, the State Department of Education shall implement the regional market rate schedules based upon the county aggregates, as determined by the Regional Market survey conducted in 2007.

(3) Notwithstanding paragraph (1), for the 2006–07 fiscal year, the State Department of Education shall update the family fee schedules by family size, based on the 2005 state median income survey data for a family of four. The family fee schedule used during the 2005–06 fiscal year shall remain in effect. However, the department shall adjust the family fee schedule for families that are newly eligible to receive or will continue to receive services under the new income eligibility limits. The family fees shall not exceed 10 percent of the family's monthly income.

(4) It is the intent of the Legislature to fully fund the third stage of child care for former CalWORKs recipients.

(c) With respect to subdivision (b), it is the intent of the Legislature that the Department of Finance annually review contract funding terms and conditions for the primary purpose of ensuring consistency between child care contracts and the child care budget. This review, shall include evaluating any proposed changes to contract language or other fiscal documents to which the contractor is required to adhere, including those changes to terms or conditions that authorize higher reimbursement rates, that modify related adjustment factors, that modify administrative or other service allowances, or that diminish fee revenues otherwise available for services, to determine if the change is necessary or has the potential effect of reducing the number of full-time equivalent children that may be served.

(d) Alternative payment child care systems, as set forth in Article 3 (commencing with Section 8220), shall be subject to the rates established in the Regional Market Rate Survey of California Child Care Providers for provider payments. The State Department of Education shall contract to conduct and complete a Regional Market Rate Survey no more frequently than once every two years, consistent with federal regulations, with a goal of completion by March 1.

(e) By March 1 of each year, the Department of Finance shall provide to the State Department of Education the State Median Income amount for a four-person household in California based on the best available data. The State Department of Education shall adjust its fee schedule for child care providers to reflect this updated state median income.

(f) Notwithstanding the June 1 date specified in subdivision (b), changes to the regional market rate schedules and fee schedules may be made at any other time to reflect the availability of accurate data necessary for their completion, provided these documents receive the approval of the Department of Finance. The Department of Finance shall review the changes within 30 working days of submission and the State Department of Education shall resolve conflicts within an additional 30 working day period. Contractors shall be given adequate notice prior to the effective date of the approved schedules. It is the intent of the Legislature that contracts for services not be delayed by the timing of the availability of accurate data needed to update these schedules.

(g) Notwithstanding any other provision of law, no family receiving CalWORKs cash aid may be charged a family fee.

SEC. 7. Section 8807 of the Family Code is amended to read:

8807. (a) Except as provided in subdivisions (b) and (c), within 180 days after the filing of the petition, the department or delegated county adoption agency shall investigate the proposed independent adoption and submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition.

(b) If the investigation establishes that there is a serious question concerning the suitability of the petitioners or the care provided the child or the availability of the consent to adoption, the report shall be filed immediately.

(c) In its discretion, the court may allow additional time for the filing of the report, after at least five days' notice to the petitioner or petitioners and an opportunity for the petitioner or petitioners to be heard with respect to the request for additional time.

(d) If a petitioner is a resident of a state other than California, an updated and current homestudy report, conducted and approved by a licensed adoption agency or other authorized resource in the state in which the petitioner resides, shall be reviewed and endorsed by the

department or delegated county adoption agency, if the standards and criteria established for a homestudy report in the other state are substantially commensurate with the homestudy standards and criteria established in California adoption regulations.

(e) This section shall remain in effect only until October 1, 2008, and as of that date is repealed.

SEC. 8. Section 8807 is added to the Family Code, to read:

8807. (a) Except as provided in subdivisions (b) and (c), within 180 days after receiving 50 percent of the fee, the department or delegated county adoption agency shall investigate the proposed independent adoption and, after the remaining balance of the fee is paid, submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition.

(b) If the investigation establishes that there is a serious question concerning the suitability of the petitioners, the care provided to the child, or the availability of the consent to adoption, the report shall be filed immediately.

(c) In its discretion, the court may allow additional time for the filing of the report, after at least five days' notice to the petitioner or petitioners and an opportunity for the petitioner or petitioners to be heard with respect to the request for additional time.

(d) If a petitioner is a resident of a state other than California, an updated and current homestudy report, conducted and approved by a licensed adoption agency or other authorized resource in the state in which the petitioner resides, shall be reviewed and endorsed by the department or delegated county adoption agency, if the standards and criteria established for a homestudy report in the other state are substantially commensurate with the homestudy standards and criteria established in California adoption regulations.

(e) This section shall become operative on October 1, 2008.

SEC. 9. Section 8808 of the Family Code is amended to read:

8808. The department or delegated county adoption agency shall interview the petitioners and all persons from whom consent is required and whose addresses are known as soon as possible and, in the case of residents of this state, within 45 working days, excluding legal holidays, after the filing of the adoption petition. The interview with the placing parent or parents shall include, but not be limited to, discussion of any concerns or problems that the parent has with the placement and, if the placing parent was not interviewed as provided in Section 8801.7, the content required in that interview. At the interview, the agency shall give the parent an opportunity to sign either a statement revoking the consent, or a waiver of the right to revoke consent, as provided in Section 8814.5. In order to facilitate these interviews, at the same time the petition

is filed with the court, the petitioners shall file with the district office of the department or with the delegated county adoption agency responsible for the investigation of the adoption, a copy of the petition together with the names, addresses, and telephone numbers of all parties to be interviewed, if known.

This section shall remain in effect only until October 1, 2008, and as of that date is repealed.

SEC. 10. Section 8808 is added to the Family Code, to read:

8808. (a) The department or delegated county adoption agency shall interview the petitioners within 45 working days, excluding legal holidays, after the filing of the adoption petition.

(b) The department or delegated county adoption agency shall interview all persons from whom consent is required and whose addresses are known as soon as 50 percent of the fee has been paid to the department or delegated county adoption agency. The interview with the placing parent or parents shall include, but not be limited to, discussion of any concerns or problems that the parent has with the placement and, if the placing parent was not interviewed as provided in Section 8801.7, the content required in that interview. At the interview, the agency shall give the parent an opportunity to sign either a statement revoking the consent, or a waiver of the right to revoke consent, as provided in Section 8814.5.

(c) In order to facilitate the interview described in this section, at the same time the petition is filed with the court, the petitioners shall file with the district office of the department or with the delegated county adoption agency responsible for the investigation of the adoption, a copy of the petition together with 50 percent of the fee, and the names, addresses, and telephone numbers of all parties to be interviewed, if known.

(d) This section shall become operative on October 1, 2008.

SEC. 11. Section 8810 of the Family Code is amended to read:

8810. (a) Except as otherwise provided in this section, whenever a petition is filed under this chapter for the adoption of a child, the petitioner shall pay a nonrefundable fee to the department or to the delegated county adoption agency for the cost of investigating the adoption petition. Payment shall be made to the department or delegated county adoption agency, within 40 days of the filing of the petition, for an amount as follows:

(1) For petitions filed on and after July 1, 2003, two thousand nine hundred fifty dollars ($2,950).

(2) For petitioners who have a valid preplacement evaluation at the time of filing a petition pursuant to Section 8811.5, seven hundred

seventy-five dollars ($775) for a postplacement evaluation pursuant to Sections 8806 and 8807.

(b) Revenues produced by fees collected by the department pursuant to subdivision (a) shall be used, when appropriated by the Legislature, to fund only the direct costs associated with the state program for independent adoptions. Revenues produced by fees collected by the delegated county adoption agency pursuant to subdivision (a) shall be used by the county to fund the county program for independent adoptions.

(c) The department or delegated county adoption agency may only waive, or reduce the fee when the prospective adoptive parents are low income, according to the income limits published by the Department of Housing and Community Development, and making the required payment would be detrimental to the welfare of an adopted child. The department shall develop additional guidelines to determine the financial criteria for waiver or reduction of the fee under this subdivision.

(d) This section shall remain in effect only until October 1, 2008, and as of that date is repealed.

SEC. 12. Section 8810 is added to the Family Code, to read:

8810. (a) Except as otherwise provided in this section, whenever a petition is filed under this chapter for the adoption of a child, the petitioner shall pay a nonrefundable fee to the department or to the delegated county adoption agency for the cost of investigating the adoption petition. Fifty percent of the payment shall be made to the department or delegated county adoption agency at the time the adoption petition is filed, and the remaining balance shall be paid no later than the date determined by the department or the delegated county adoption agency in an amount as follows:

(1) For petitions filed on and after October 1, 2008, four thousand five hundred dollars ($4,500).

(2) For petitioners who have a valid preplacement evaluation at the time of filing a petition pursuant to Section 8811.5, one thousand five hundred fifty dollars ($1,550) for a postplacement evaluation pursuant to Sections 8806 and 8807.

(b) Revenues produced by fees collected by the department pursuant to subdivision (a) shall be used, when appropriated by the Legislature, to fund only the direct costs associated with the state program for independent adoptions. Revenues produced by fees collected by the delegated county adoption agency pursuant to subdivision (a) shall be used by the county to fund the county program for independent adoptions.

(c) The department or delegated county adoption agency may reduce the fee, to no less than five hundred dollars ($500) when the prospective adoptive parents are very low income, according to the income limits published by the Department of Housing and Community Development,

and making the required payment would be detrimental to the welfare of an adopted child. The department shall develop additional guidelines regarding income and assets to determine the financial criteria for reduction of the fee under this subdivision.

(d) This section shall become operative on October 1, 2008.

SEC. 13. Section 8820 of the Family Code is amended to read:

8820. (a) The birth parent or parents or the petitioner may appeal in either of the following cases:

(1) If for a period of 180 days from the date of filing the adoption petition or upon the expiration of any extension of the period granted by the court, the department or delegated county adoption agency fails or refuses to accept the consent of the birth parent or parents to the adoption.

(2) In a case where the consent of the department or delegated county adoption agency is required by this chapter, if the department or agency fails or refuses to file or give its consent to the adoption.

(b) The appeal shall be filed in the court in which the adoption petition is filed. The court clerk shall immediately notify the department or delegated county adoption agency of the appeal and the department or agency shall, within 10 days, file a report of its findings and the reasons for its failure or refusal to consent to the adoption or to accept the consent of the birth parent or parents.

(c) After the filing of the report by the department or delegated county adoption agency, the court may, if it deems that the welfare of the child will be promoted by that adoption, allow the signing of the consent by the birth parent or parents in open court or, if the appeal is from the refusal of the department or delegated county adoption agency to consent thereto, grant the petition without the consent.

(d) This section shall remain in effect only until October 1, 2008, and as of that date is repealed.

SEC. 14. Section 8820 is added to the Family Code, to read:

8820. (a) The birth parent or parents or the petitioner may appeal in either of the following cases:

(1) If for a period of 180 days from the date of paying 50 percent of the fee, or upon the expiration of any extension of the period granted by the court, the department or delegated county adoption agency fails or refuses to accept the consent of the birth parent or parents to the adoption.

(2) In a case where the consent of the department or delegated county adoption agency is required by this chapter, if the department or agency fails or refuses to file or give its consent to the adoption after full payment has been received.

(b) The appeal shall be filed in the court in which the adoption petition is filed. The court clerk shall immediately notify the department or

delegated county adoption agency of the appeal and the department or agency shall, within 10 days, file a report of its findings and the reasons for its failure or refusal to consent to the adoption or to accept the consent of the birth parent or parents.

(c) After the filing of the report by the department or delegated county adoption agency, the court may, if it deems that the welfare of the child will be promoted by that adoption, allow the signing of the consent by the birth parent or parents in open court or, if the appeal is from the refusal of the department or delegated county adoption agency to consent thereto, grant the petition without the consent.

(d) This section shall become operative on October 1, 2008.

SEC. 15. 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.

(i) Implementation of the amendments made to this section by Chapter 386 of the Statutes of 2006 shall be delayed until July 1, 2010. It is the intent of the Legislature that counties that are already implementing some or all of the changes made to Section 9205 of the Family Code by Chapter 386 of the Statutes of 2006 shall continue to implement these provisions, to the extent possible.

SEC. 16. Section 17560 of the Family Code is amended to read:

17560. (a) The department shall establish and operate a statewide compromise of arrears program pursuant to which the department may accept offers in compromise of child support arrears and interest accrued thereon owed to the state for reimbursement of aid paid pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code. The program shall operate uniformly across California and shall take into consideration the needs of the children subject to the child support order and the obligor's ability to pay.

(b) If the obligor owes current child support, the offer in compromise shall require the obligor to be in compliance with the current support order for a set period of time before any arrears and interest accrued thereon may be compromised.

(c) Absent a finding of good cause, or a determination by the director that it is in the best interest of the state to do otherwise, any offer in compromise entered into pursuant to this section shall be rescinded, all compromised liabilities shall be reestablished notwithstanding any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise may be refunded, if either of the following occurs:

(1) The department or local child support agency determines that the obligor did any of the following acts regarding the offer in compromise:

(A) Concealed from the department or local child support agency any income, assets, or other property belonging to the obligor or any reasonably anticipated receipt of income, assets, or other property.

(B) Intentionally received, withheld, destroyed, mutilated, or falsified any information, document, or record, or intentionally made any false statement, relating to the financial conditions of the obligor.

(2) The obligor fails to comply with any of the terms and conditions of the offer in compromise.

(d) Pursuant to subdivision (k) of Section 17406, in no event may the administrator, director, or director's designee within the department, accept an offer in compromise of any child support arrears owed directly to the custodial party unless that party consents to the offer in compromise in writing and participates in the agreement. Prior to giving consent, the custodial party shall be provided with a clear written explanation of the rights with respect to child support arrears owed to the custodial party and the compromise thereof.

(e) Subject to the requirements of this section, the director shall delegate to the administrator of a local child support agency the authority to compromise an amount of child support arrears up to five thousand dollars ($5,000), and may delegate additional authority to compromise up to an amount determined by the director to support the effective administration of the offers in compromise program.

(f) For an amount to be compromised under this section, the following conditions shall exist:

(1) (A) The administrator, director or director's designee within the department determines that acceptance of an offer in compromise is in the best interest of the state and that the compromise amount equals or exceeds what the state can expect to collect for reimbursement of aid paid pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code in the absence of the compromise, based on the obligor's ability to pay.

(B) Acceptance of an offer in compromise shall be deemed to be in the best interest of the state, absent a finding of good cause to the contrary, with regard to arrears that accrued as a result of a decrease in income when an obligor was a reservist or member of the National Guard, was activated to United States military service, and failed to modify the support order to reflect the reduction in income. Good cause to find that the compromise is not in the best interest of the state shall include circumstances in which the service member's failure to seek, or delay in seeking, the modification were not reasonable under the circumstances faced by the service member. The director, no later than 90 days after

the effective date of the act adding this subparagraph, shall establish rules that compromise, at a minimum, the amount of support that would not have accrued had the order been modified to reflect the reduced income earned during the period of active military service.

(2) Any other terms and conditions that the director establishes that may include, but may not be limited to, paying current support in a timely manner, making lump-sum payments, and paying arrears in exchange for compromise of interest owed.

(3) The obligor shall provide evidence of income and assets, including, but not limited to, wage stubs, tax returns, and bank statements as necessary to establish all of the following:

(A) That the amount set forth in the offer in compromise of arrears owed is the most that can be expected to be paid or collected from the obligor's present assets or income.

(B) That the obligor does not have reasonable prospects of acquiring increased income or assets that would enable the obligor to satisfy a greater amount of the child support arrears than the amount offered, within a reasonable period of time.

(C) That the obligor has not withheld payment of child support in anticipation of the offers in compromise program.

(g) A determination by the administrator, director or the director's designee within the department that it would not be in the best interest of the state to accept or rescind an offer in compromise in satisfaction of child support arrears shall be final and not subject to the provisions of Chapter 5 (commencing with Section 17800) of Division 17, or subject to judicial review.

(h) Any offer in compromise entered into pursuant to this section shall be filed with the appropriate court. The local child support agency shall notify the court if the compromise is rescinded pursuant to subdivision (c).

(i) Any compromise of child support arrears pursuant to this section shall maximize to the greatest extent possible the state's share of the federal performance incentives paid pursuant to the Child Support Performance and Incentive Act of 1998 and shall comply with federal law.

(j) The department shall ensure uniform application of this section across the state.

SEC. 17. Section 17706 of the Family Code is amended to read:

17706. (a) It is the intent of the Legislature to encourage counties to elevate the visibility and significance of the child support enforcement program in the county. To advance this goal, effective July 1, 2000, the counties with the 10 best performance standards pursuant to clause (ii) of subparagraph (B) of paragraph (2) of subdivision (b) of Section 17704

shall receive an additional 5 percent of the state's share of those counties' collections that are used to reduce or repay aid that is paid pursuant to Article 6 (commencing with Section 11450) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code. The counties shall use the increased recoupment for child support-related activities that may not be eligible for federal child support funding under Part D of Title IV of the Social Security Act, including, but not limited to, providing services to parents to help them better support their children financially, medically, and emotionally.

(b) The operation of subdivision (a) shall be suspended for the 2002–03, 2003–04, 2004–05, 2005–06, 2006–07,2007–08, 2008–09, 2009–10, 2010–11, and 2011–12 fiscal years.

SEC. 18. Section 1522 of the Health and Safety Code is amended to read:

1522. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a community care facility, foster family home, or a certified family home of a licensed foster family agency. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a community care facility.

(a) (1) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the State Department of Social Services shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, of the Penal Code, subdivision (b) of Section 273a of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) Except during the 2003–04 through the 2009–10 fiscal years, inclusive, neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section.

(4) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (g).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) meet all of the conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal offender record information search response for the applicant or any of the persons described in subdivision (b), the department may issue a license if the applicant and each person described in subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or any other person specified in subdivision (b) has a criminal record, the license may be

revoked pursuant to Section 1550. The department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.

(F) The State Department of Social Services shall develop procedures to provide the individual's state and federal criminal history information with the written notification of his or her exemption denial or revocation based on the criminal record. Receipt of the criminal history information shall be optional on the part of the individual, as set forth in the agency's procedures. The procedure shall protect the confidentiality and privacy of the individual's record, and the criminal history information shall not be made available to the employer.

(G) Notwithstanding any other provision of law, the department is authorized to provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in their written request. The department shall retain a copy of the individual's written request and the response and date provided.

(b) (1) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility.

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of his or her current certification, prior to providing care, to the community care facility. The facility shall maintain the copy of the certification on file as long as care is being provided by the certified nurse assistant or certified home health aide at the facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility pursuant to Section 1558.

(D) Any staff person, volunteer, or employee who has contact with the clients.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(F) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(2) The following persons are exempt from the requirements applicable under paragraph (1):

(A) A medical professional as defined in department regulations who holds a valid license or certification from the person's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee if all of the following apply:

(i) The criminal record of the person has been cleared as a condition of licensure or certification by the person's governing California medical care regulatory entity.

(ii) The person is providing time-limited specialized clinical care or services.

(iii) The person is providing care or services within the person's scope of practice.

(iv) The person is not a community care facility licensee or an employee of the facility.

(B) A third-party repair person or similar retained contractor if all of the following apply:

(i) The person is hired for a defined, time-limited job.

(ii) The person is not left alone with clients.

(iii) When clients are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(C) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client or resident of the facility and are in the facility at the request of that client or resident's legal decisionmaker. The exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(D) Clergy and other spiritual caregivers who are performing services in common areas of the community care facility or who are advising an individual client at the request of, or with the permission of, the client or legal decisionmaker, are exempt from fingerprint and criminal background check requirements imposed by community care licensing.

This exemption does not apply to a person who is a community care licensee or employee of the facility.

(E) Members of fraternal, service, or similar organizations who conduct group activities for clients if all of the following apply:

(i) Members are not left alone with clients.

(ii) Members do not transport clients off the facility premises.

(iii) The same organization does not conduct group activities for clients more often than defined by the department's regulations.

(3) In addition to the exemptions in paragraph (2), the following persons in foster family homes, certified family homes, and small family homes are exempt from the requirements applicable under paragraph (1):

(A) Adult friends and family of the licensed or certified foster parent, who come into the home to visit for a length of time no longer than defined by the department in regulations, provided that the adult friends and family of the licensee are not left alone with the foster children. However, the licensee, acting as a reasonable and prudent parent, as defined in paragraph (2) of subdivision (a) of Section 362.04 of the Welfare and Institutions Code, may allow his or her adult friends and family to provide short-term care to the foster child and act as an appropriate occasional short-term babysitter for the child.

(B) Parents of a foster child's friends when the foster child is visiting the friend's home and the friend, licensed or certified foster parent, or both are also present. However, the licensee, acting as a reasonable and prudent parent, may allow the parent of the foster child's friends to act as an appropriate short-term babysitter for the child without the friend being present.

(C) Individuals who are engaged by any licensed or certified foster parent to provide short-term care to the child for periods not to exceed 24 hours. Caregivers shall use a reasonable and prudent parent standard in selecting appropriate individuals to act as appropriate occasional short-term babysitters.

(4) In addition to the exemptions specified in paragraph (2), the following persons in adult day care and adult day support centers are exempt from the requirements applicable under paragraph (1):

(A) Unless contraindicated by the client's individualized program plan (IPP) or needs and service plan, a spouse, significant other, relative, or close friend of a client, or an attendant or a facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the licensee. This exemption applies only if the person is visiting the client or providing direct care and supervision to the client.

(B) A volunteer if all of the following applies:

(i) The volunteer is supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(ii) The volunteer is never left alone with clients.

(iii) The volunteer does not provide any client assistance with dressing, grooming, bathing, or personal hygiene other than washing of hands.

(5) (A) In addition to the exemptions specified in paragraph (2), the following persons in adult residential and social rehabilitation facilities, unless contraindicated by the client's individualized program plan (IPP) or needs and services plan, are exempt from the requirements applicable under paragraph (1): a spouse, significant other, relative, or close friend of a client, or an attendant or a facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the licensee. This exemption applies only if the person is visiting the client or providing direct care and supervision to that client.

(B) Nothing in this subdivision shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

(6) Any person similar to those described in this subdivision, as defined by the department in regulations.

(c) (1) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a community care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (h), prior to the person's employment, residence, or initial presence in the community care facility. These fingerprint images and related information shall be sent by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice for the purpose of obtaining a permanent set of fingerprints, and shall be submitted to the Department of Justice by the licensee. A licensee's failure to submit fingerprints to the Department of Justice or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency and the immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a

maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548. The fingerprint images and related information shall then be submitted to the Department of Justice for processing. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(2) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in subdivision (a). If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. Documentation of the individual's clearance or exemption shall be maintained by the licensee and be available for inspection. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible, the Department of Justice shall notify the State Department of Social Services, as required by Section 1522.04, and shall also notify the licensee by mail, within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal history recorded. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548.

(3) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprint images and related information submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or

bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (g). If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (A) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (B) seek an exemption pursuant to subdivision (g). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall be grounds for disciplining the licensee pursuant to Section 1550.

(4) The department may issue an exemption on its own motion pursuant to subdivision (g) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (g). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d) (1) Before issuing a license, special permit, or certificate of approval to any person or persons to operate or manage a foster family home or certified family home as described in Section 1506, the State Department of Social Services or other approving authority shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons.

(3) Neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant

for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant.

(4) The following shall apply to the criminal record information:

(A) If the applicant or other persons specified in subdivision (b) have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, or certificate of approval shall be denied.

(B) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services or other approving authority may cease processing the application until the conclusion of the trial.

(C) For the purposes of this subdivision, a criminal record clearance provided under Section 8712 of the Family Code may be used by the department or other approving agency.

(D) To the extent required by federal law, an applicant for a foster family home license or for certification as a family home, and any other person specified in subdivision (b), shall submit a set of fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the criminal records search required by subdivision (a).

(5) Any person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions or arrests for any crime against a child, spousal or cohabitant abuse or, any crime for which the department cannot grant an exemption if the person was convicted and shall submit these fingerprints to the licensing agency or other approving authority.

(6) (A) The foster family agency shall obtain fingerprint images and related information from certified home applicants and from persons specified in subdivision (b) and shall submit them directly to the Department of Justice by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice. A foster family home licensee or foster family agency shall submit these fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (b) prior to the person's employment, residence, or initial presence in the foster family home or certified family home. A foster family agency's failure to submit fingerprint images and related information to the Department of Justice,

or comply with paragraph (1) of subdivision (h), as required in this section, shall result in a citation of a deficiency, and the immediate civil penalties of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. A violation of the regulation adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the foster family agency pursuant to Section 1550. A licensee's failure to submit fingerprint images and related information to the Department of Justice, or comply with paragraph (1) of subdivision (h), as required in this section, may result in the citation of a deficiency and immediate civil penalties of one hundred dollars ($100) per violation. A licensee's violation of regulations adopted pursuant to Section 1522.04 may result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation. The State Department of Social Services may assess penalties for continued violations, as permitted by Section 1548. The fingerprint images shall then be submitted to the Department of Justice for processing.

(B) Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the Department of Justice shall verify receipt of the fingerprints. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the applicant of any criminal arrests or convictions. If no arrests or convictions are recorded, the Department of Justice shall provide the foster family home licensee or the foster family agency with a statement of that fact concurrent with providing the information to the State Department of Social Services.

(7) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

(8) If the State Department of Social Services finds after licensure or the granting of the certificate of approval that the licensee, certified foster parent, or any other person specified in paragraph (2) of subdivision (b),

has been convicted of a crime other than a minor traffic violation, the license or certificate of approval may be revoked by the department or the foster family agency, whichever is applicable, unless the director grants an exemption pursuant to subdivision (g). A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by paragraph (3) of subdivision (c) shall be grounds for disciplining the licensee pursuant to Section 1550.

(e) The State Department of Social Services may not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the State Department of Social Services is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(g) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraphs (1) and (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4) and (5) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, an exemption may not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) (i) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (c) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(ii) Notwithstanding clause (i), the director may grant an exemption regarding the conviction for an offense described in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, if the employee or prospective employee has been rehabilitated as provided in Section 4852.03 of the Penal Code, has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years, and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

(2) The department may not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1558.

(h) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a

state licensing district office. The request shall be in writing to the State Department of Social Services, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the State Department of Social Services shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

(3) The following shall apply to a criminal record clearance or exemption from the department or a county office with department-delegated licensing authority:

(A) A county office with department-delegated licensing authority may accept a clearance or exemption from the department.

(B) The department may accept a clearance or exemption from any county office with department-delegated licensing authority.

(C) A county office with department-delegated licensing authority may accept a clearance or exemption from any other county office with department-delegated licensing authority.

(4) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code concerning an individual whose criminal record clearance was originally processed by the department or a county office with department-delegated licensing authority, all of the following shall apply:

(A) The Department of Justice shall process a request from the department or a county office with department-delegated licensing authority to receive the notice only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department of Justice.

(B) (i) On or before January 7, 2005, the department shall notify the Department of Justice of all county offices that have department-delegated licensing authority.

(ii) The department shall notify the Department of Justice within 15 calendar days of the date on which a new county office receives

department-delegated licensing authority or a county's delegated licensing authority is rescinded.

(C) The Department of Justice shall charge the department, a county office with department-delegated licensing authority, or a county child welfare agency with criminal record clearance and exemption authority, a fee for each time a request to substitute the recipient agency is received for purposes of this paragraph. This fee shall not exceed the cost of providing the service.

(5) (A) A county child welfare agency with authority to secure clearances pursuant to Section 16504.5 of the Welfare and Institutions Code and to grant exemptions pursuant to Section 361.4 of the Welfare and Institutions Code may accept a clearance or exemption from another county with criminal record and exemption authority pursuant to these sections.

(B) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code concerning an individual whose criminal record clearance was originally processed by a county child welfare agency with criminal record clearance and exemption authority, the Department of Justice shall process a request from a county child welfare agency with criminal record and exemption authority to receive the notice only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the State Department of Social Services and the Department of Justice.

(i) The full criminal record obtained for purposes of this section may be used by the department or by a licensed adoption agency as a clearance required for adoption purposes.

(j) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1558, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(k) The State Department of Social Services may charge a fee for the costs of processing electronic fingerprint images and related information.

(*l*) Amendments to this section made in the 1999 portion of the 1999–2000 Regular Session shall be implemented commencing 60 days after the effective date of the act amending this section in the 1999 portion of the 1999–2000 Regular Session, except that those provisions

for the submission of fingerprints for searching the records of the Federal Bureau of Investigation shall be implemented 90 days after the effective date of that act.

SEC. 19. Section 1596.871 of the Health and Safety Code is amended to read:

1596.871. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a child care center or family child care home. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety. An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a child day care facility.

(a) (1) Before issuing a license or special permit to any person to operate or manage a day care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) Except during the 2003–04 through 2009–10 fiscal years, inclusive, neither the Department of Justice nor the department may charge a fee for the fingerprinting of an applicant who will serve six or fewer children or any family day care applicant for a license, or for obtaining a criminal record of an applicant pursuant to this section.

(4) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), is awaiting trial for a crime other than a minor traffic violation, the State Department of Social

Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1596.885. The department may also suspend the license pending an administrative hearing pursuant to Section 1596.886.

(b) (1) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a child, residing in the facility.

(C) Any person who provides care and supervision to the children.

(D) Any staff person, volunteer, or employee who has contact with the children.

(i) A volunteer providing time-limited specialized services shall be exempt from the requirements of this subdivision if this person is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption, the volunteer spends no more than 16 hours per week at the facility, and the volunteer is not left alone with children in care.

(ii) A student enrolled or participating at an accredited educational institution shall be exempt from the requirements of this subdivision if

the student is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption, the facility has an agreement with the educational institution concerning the placement of the student, the student spends no more than 16 hours per week at the facility, and the student is not left alone with children in care.

(iii) A volunteer who is a relative, legal guardian, or foster parent of a client in the facility shall be exempt from the requirements of this subdivision.

(iv) A contracted repair person retained by the facility, if not left alone with children in care, shall be exempt from the requirements of this subdivision.

(v) Any person similar to those described in this subdivision, as defined by the department in regulations.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility, as designated by the applicant agency.

(F) If the applicant is a local educational agency, the president of the governing board, the school district superintendent, or a person designated to administer the operation of the facility, as designated by the local educational agency.

(G) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(H) This section does not apply to employees of child care and development programs under contract with the State Department of Education who have completed a criminal record clearance as part of an application to the Commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission, including employees of child care and development programs that serve both children subsidized under, and children not subsidized under, a State Department of Education contract. The Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a child care and development program under contract with the State Department of Education.

(I) This section does not apply to employees of a child care and development program operated by a school district, county office of education, or community college district under contract with the State Department of Education who have completed a criminal record clearance as a condition of employment. The school district, county office of

education, or community college district upon receiving information that the status of an employee's criminal record clearance has changed shall submit that information to the department.

(2) Nothing in this subdivision shall prevent a licensee from requiring a criminal record clearance of any individuals exempt from the requirements under this subdivision.

(c) (1) (A) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, or to comply with paragraph (1) of subdivision (h), prior to the person's employment, residence, or initial presence in the child day care facility.

(B) These fingerprint images for the purpose of obtaining a permanent set of fingerprints shall be electronically submitted to the Department of Justice in a manner approved by the State Department of Social Services and to the Department of Justice, or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency, and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1596.885 or Section 1596.886. The State Department of Social Services may assess civil penalties for continued violations permitted by Sections 1596.99 and 1597.62. The fingerprint images and related information shall then be submitted to the department for processing. Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprint images, notify the licensee that the fingerprints were illegible.

(C) Documentation of the individual's clearance or exemption shall be maintained by the licensee, and shall be available for inspection. When live-scan technology is operational, as defined in Section 1522.04,

the Department of Justice shall notify the department, as required by that section, and notify the licensee by mail within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal record. Any violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1596.885 or Section 1596.886. The department may assess civil penalties for continued violations, as permitted by Sections 1596.99 and 1597.62.

(2) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility; or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall result in a citation of deficiency and an immediate assessment of civil penalties by the department against the licensee, in the amount of one hundred dollars ($100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1596.885 or 1596.886.

(3) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(4) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(e) The State Department of Social Services may not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law

enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a child day care facility as specified in paragraphs (3), (4), and (5) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character so as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, an exemption may not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (c) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) or (b) of Section 451 of the Penal Code.

(2) The department may not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1596.8897.

(g) Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprint images.

(h) (1) For the purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for

this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearances to be transferred.

(3) The following shall apply to a criminal record clearance or exemption from the department or a county office with department-delegated licensing authority:

(A) A county office with department-delegated licensing authority may accept a clearance or exemption from the department.

(B) The department may accept a clearance or exemption from any county office with department-delegated licensing authority.

(C) A county office with department-delegated licensing authority may accept a clearance or exemption from any other county office with department-delegated licensing authority.

(4) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code concerning an individual whose criminal record clearance was originally processed by the department or a county office with department-delegated licensing authority, all of the following shall apply:

(A) The Department of Justice shall process a request from the department or a county office with department-delegated licensing authority to receive the notice, only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department of Justice.

(B) (i) On or before January 7, 2005, the department shall notify the Department of Justice of all county offices that have department-delegated licensing authority.

(ii) The department shall notify the Department of Justice within 15 calendar days of the date on which a new county office receives department-delegated licensing authority or a county's delegated licensing authority is rescinded.

(C) The Department of Justice shall charge the department or a county office with department-delegated licensing authority a fee for each time a request to substitute the recipient agency is received for purposes of this paragraph. This fee shall not exceed the cost of providing the service.

(i) Notwithstanding any other provision of law, the department may provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 20. Section 11758.42 of the Health and Safety Code is amended to read:

11758.42. (a) For purposes of this chapter, "LAAM" means levoalphacetylmethadol.

(b) (1) The department shall establish a narcotic replacement therapy dosing fee for methadone and LAAM.

(2) In addition to the narcotic replacement therapy dosing fee provided for pursuant to paragraph (1), narcotic treatment programs shall be reimbursed for the ingredient costs of methadone or LAAM dispensed to Medi-Cal beneficiaries. These costs may be determined on an average daily dose of methadone or LAAM, as set forth by the department, in consultation with the State Department of Health Care Services.

(c) Reimbursement for narcotic replacement therapy dosing and ancillary services provided by narcotic treatment programs shall be based on a per capita uniform statewide daily reimbursement rate for each individual patient, as established by the department, in consultation with the State Department of Health Care Services. The uniform statewide daily reimbursement rate for narcotic replacement therapy dosing and ancillary services shall be based upon, where available and appropriate, all of the following:

(1) The outpatient rates for the same or similar services under the fee-for-service Medi-Cal program.

(2) Cost report data.

(3) Other data deemed reliable and relevant by the department.

(4) The rate studies completed pursuant to Section 54 of Assembly Bill 3483 of the 1995–96 Regular Session of the Legislature.

(d) The uniform statewide daily reimbursement rate for ancillary services shall not exceed, for individual services or in the aggregate, the outpatient rates for the same or similar services under the fee-for-service Medi-Cal program.

(e) The uniform statewide daily reimbursement rate shall be established after consultation with narcotic treatment program providers and county alcohol and drug program administrators.

(f) Reimbursement for narcotic treatment program services shall be limited to those services specified in state law and state and federal regulations governing the licensing and administration of narcotic treatment programs. These services shall include, but are not limited to, all of the following:

(1) Admission, physical evaluation, and diagnosis.

(2) Drug screening.

(3) Pregnancy tests.

(4) Narcotic replacement therapy dosing.

(5) Intake assessment, treatment planning, and counseling services. Frequency of counseling or medical psychotherapy, outcomes, and rates shall be addressed through regulations adopted by the department. For purposes of this paragraph, these services include, but are not limited to, substance abuse services to pregnant and postpartum Medi-Cal beneficiaries.

(g) Reimbursement under this section shall be limited to claims for narcotic treatment program services at the uniform statewide daily reimbursement rate for these services. These rates shall be exempt from the requirements of Section 14021.6 of the Welfare and Institutions Code.

(h) (1) Reimbursement to narcotic treatment program providers shall be limited to the lower of either the uniform statewide daily reimbursement rate, pursuant to subdivision (c), or the provider's usual and customary charge to the general public for the same or similar service.

(2) (A) Reimbursement paid by a county to a narcotic treatment program provider for services provided to any person subject to Section 1210.1 or 3063.1 of the Penal Code, and for which the individual client is not liable to pay, does not constitute a usual and customary charge to the general public for the purposes of this section.

(B) Subparagraph (A) does not constitute a change in, but is declaratory of, existing law.

(i) No program shall be reimbursed for services not rendered to or received by a patient of a narcotic treatment program.

(j) Reimbursement for narcotic treatment program services provided to substance abusers shall be administered by the department and counties electing to participate in the program. Utilization and payment for these services shall be subject to federal Medicaid and state utilization and audit requirements.

SEC. 21. Section 11758.421 of the Health and Safety Code is amended to read:

11758.421. (a) (1) The Legislature finds and declares all of the following:

(A) Medical treatment for indigent patients who are not eligible for Medi-Cal is essential to protecting the public health.

(B) The Legislature supports the adoption of standardized and simplified forms and procedures in order to promote the drug treatment of indigent patients who are not eligible for Medi-Cal.

(C) Providers should not be required by the state to subsidize the medical treatment provided to indigent patients who are not eligible for Medi-Cal.

(D) The Legislature supports the therapeutic value of indigent patients who are not eligible for Medi-Cal contributing some level of fees for drug treatment services in order to support the goals of those drug treatment services.

(2) It is the intent of the Legislature in enacting this section to encourage narcotic treatment program providers to serve indigent patients who are not eligible for Medi-Cal. It is also the intent of the Legislature that the State Department of Alcohol and Drug Programs allow narcotic treatment program providers to charge therapeutic fees for providing drug treatment to indigent patients who are not eligible for Medi-Cal if the providers establish a fee scale that complies with the documentation requirements established pursuant to this section and federal law.

(b) (1) The Legislature recognizes that narcotic treatment program providers are reimbursed for controlled substances provided under the Medi-Cal Drug Treatment Program, also known as Drug Medi-Cal (Chapter 3.4 (commencing with Section 11758.40)), and pursuant to federal law at a rate that is the lower of the per capita uniform statewide daily reimbursement or Drug Medi-Cal rate, or the provider's usual and customary charge to the general public for the same or similar services.

(2) It furthers the intent of the Legislature to ensure that narcotic treatment programs in the state are able to serve indigent clients and that there is an exception to the reimbursement requirements described in paragraph (1), as the federal law has been interpreted by representatives with the Centers for Medicare and Medicaid Services. Pursuant to this exception, if a narcotic treatment program provider who is serving low-income non-Drug Medi-Cal clients complies with a federal requirement for the application of a sliding indigency scale, the reduced charges under the sliding indigency scale shall not lower the provider's usual and customary charge determination for purposes of Medi-Cal reimbursement.

(c) A licensed narcotic treatment program provider that serves low-income non-Drug Medi-Cal clients shall be deemed in compliance with federal and state law, for purposes of the application of the exception described in paragraph (2) of subdivision (b), and avoid audit disallowances, if the provider implements a sliding indigency scale that meets all of the following requirements:

(1) The maximum fee contained in the scale shall be the provider's full nondiscounted, published charge and shall be at least the rate that Drug Medi-Cal would pay for the same or similar services provided to Drug Medi-Cal clients.

(2) The sliding indigency scale shall provide for an array of different charges, based upon a client's ability to pay, as measured by identifiable variables. These variables may include, but need not be limited to, financial information and the number of dependents of the client.

(3) Income ranges shall be in increments that result in a reasonable distribution of clients paying differing amounts for services based on differing abilities to pay.

(4) A provider shall obtain written documentation that supports an indigency allowance under the sliding indigency scale established pursuant to this section, including a financial determination. In cases where this written documentation cannot be obtained, the provider shall document at least three attempts to obtain this written documentation from a client.

(5) The provider shall maintain all written documentation that supports an indigency allowance under this section, including, if used, the financial evaluation form set forth in Section 11758.425.

(6) Written policies shall be established and maintained that set forth the basis for determining whether an indigency allowance may be granted under this section and establish what documentation shall be requested from a client.

(d) In developing the sliding indigency scale, a narcotic treatment program provider shall consider, but need not include, any or all of the following components:

(1) Vertically, the rows would reflect increments of family or household income. There would be a sufficient number of increments to allow for differing charges, such as a six hundred dollar ($600) increase per interval.

(2) Horizontally, the columns would provide for some other variable, such as family size, in which case, the columns would reflect the number of people dependent on the income, including the client.

(3) Each row, except the first and last rows, would contain at least two different fee amounts and each of the columns, four or more in number, would contain at least six different fee amounts.

(4) The cells would contain an array of fees so that no fee would be represented in more than 25 percent of the cells.

(e) A narcotic treatment program provider that uses the financial evaluation form instructions and financial form set forth in Section 11758.425 in obtaining written documentation that supports an indigency allowance as required under paragraph (4) of subdivision (c) shall be deemed in compliance with that paragraph.

SEC. 22. Section 11758.46 of the Health and Safety Code is amended to read:

11758.46. (a) For purposes of this section, "Drug Medi-Cal services" means all of the following services, administered by the department, and to the extent consistent with state and federal law:

(1) Narcotic treatment program services, as set forth in Section 11758.42.

(2) Day care rehabilitative services.

(3) Perinatal residential services for pregnant women and women in the postpartum period.

(4) Naltrexone services.

(5) Outpatient drug-free services.

(b) Upon federal approval of a federal Medicaid state plan amendment authorizing federal financial participation in the following services, and subject to appropriation of funds, "Drug Medi-Cal services" shall also include the following services, administered by the department, and to the extent consistent with state and federal law:

(1) Notwithstanding subdivision (a) of Section 14132.90 of the Welfare and Institutions Code, day care habilitative services, which, for purposes of this paragraph, are outpatient counseling and rehabilitation services provided to persons with alcohol or other drug abuse diagnoses.

(2) Case management services, including supportive services to assist persons with alcohol or other drug abuse diagnoses in gaining access to medical, social, educational, and other needed services.

(3) Aftercare services.

(c) (1) Annually, the department shall publish procedures for contracting for Drug Medi-Cal services with certified providers and for claiming payments, including procedures and specifications for electronic data submission for services rendered.

(2) The department, county alcohol and drug program administrators, and alcohol and drug service providers shall automate the claiming process and the process for the submission of specific data required in connection with reimbursement for Drug Medi-Cal services, except that this requirement applies only if funding is available from sources other than those made available for treatment or other services.

(d) A county or a contractor for the provision of Drug Medi-Cal services shall notify the department, within 30 days of the receipt of the county allocation, of its intent to contract, as a component of the single state-county contract, and provide certified services pursuant to Section 11758.42, for the proposed budget year. The notification shall include an accurate and complete budget proposal, the structure of which shall be mutually agreed to by county alcohol and drug program administrators and the department, in the format provided by the department, for specific services, for a specific time period, and including estimated units of service, estimated rate per unit consistent with law and regulations, and total estimated cost for appropriate services.

(e) (1) Within 30 days of receipt of the proposal described in subdivision (d), the department shall provide, to counties and contractors proposing to provide Drug Medi-Cal services in the proposed budget year, a proposed multiple-year contract, as a component of the single state-county contract, for these services, a current utilization control plan, and appropriate administrative procedures.

(2) A county contracting for alcohol and drug services shall receive a single state-county contract for the net negotiated amount and Drug Medi-Cal services.

(3) Contractors contracting for Drug Medi-Cal services shall receive a Drug Medi-Cal contract.

(f) (1) Upon receipt of a contract proposal pursuant to subdivision (d), a county and a contractor seeking to provide reimbursable Drug Medi-Cal services and the department may begin negotiations and the process for contract approval.

(2) If a county does not approve a contract by July 1 of the appropriate fiscal year, in accordance with subdivisions (c) to (e), inclusive, the county shall have 30 additional days in which to approve a contract. If the county has not approved the contract by the end of that 30-day period, the department shall contract directly for services within 30 days.

(3) Counties shall negotiate contracts only with providers certified to provide reimbursable Drug Medi-Cal services and that elect to participate in this program. Upon contract approval by the department, a county shall establish approved contracts with certified providers within 30 days following enactment of the annual Budget Act. A county may establish contract provisions to ensure interim funding pending the execution of final contracts, multiple-year contracts pending final annual approval by the department, and, to the extent allowable under the annual Budget Act, other procedures to ensure timely payment for services.

(g) (1) For counties and contractors providing Drug Medi-Cal services, pursuant to approved contracts, and that have accurate and complete claims, reimbursement for services from state General Fund

moneys shall commence no later than 45 days following the enactment of the annual Budget Act for the appropriate state fiscal year.

(2) For counties and contractors providing Drug Medi-Cal services, pursuant to approved contracts, and that have accurate and complete claims, reimbursement for services from federal Medicaid funds shall commence no later than 45 days following the enactment of the annual Budget Act for the appropriate state fiscal year.

(3) The State Department of Health Care Services and the department shall develop methods to ensure timely payment of Drug Medi-Cal claims.

(4) The State Department of Health Care Services, in cooperation with the department, shall take steps necessary to streamline the billing system for reimbursable Drug Medi-Cal services, to assist the department in meeting the billing provisions set forth in this subdivision.

(h) The department shall submit a proposed interagency agreement to the State Department of Health Care Services by May 1 for the following fiscal year. Review and interim approval of all contractual and programmatic requirements, except final fiscal estimates, shall be completed by the State Department of Health Care Services by July 1. The interagency agreement shall not take effect until the annual Budget Act is enacted and fiscal estimates are approved by the State Department of Health Care Services. Final approval shall be completed within 45 days of enactment of the Budget Act.

(i) (1) A county or a provider certified to provide reimbursable Drug Medi-Cal services, that is contracting with the department, shall estimate the cost of those services by April 1 of the fiscal year covered by the contract, and shall amend current contracts, as necessary, by the following July 1.

(2) A county or a provider, except for a provider to whom subdivision (j) applies, shall submit accurate and complete cost reports for the previous state fiscal year by November 1, following the end of the state fiscal year. The department may settle cost for Drug Medi-Cal services, based on the cost report as the final amendment to the approved single state-county contract.

(j) Certified narcotic treatment program providers, that are exclusively billing the state or the county for services rendered to persons subject to Section 1210.1 of the Penal Code, Section 3063.1 of the Penal Code, or Section 11758.42 shall submit accurate and complete performance reports for the previous state fiscal year by November 1 following the end of that state fiscal year. A provider to which this subdivision applies shall estimate its budgets using the uniform state daily reimbursement rate. The format and content of the performance reports shall be mutually agreed to by the department, the County Alcohol and Drug Program

Administrators Association of California, and representatives of the treatment providers.

SEC. 23. Section 10080.5 is added to the Welfare and Institutions Code, to read:

10080.5. All duties and authority of the Franchise Tax Board under this chapter are hereby transferred to the department. The department shall succeed to and replace the Franchise Tax Board in any agreement entered into by the board as the agent of the department. Any agency between the department and the Franchise Tax Board created by any other provision of this chapter is hereby terminated. However, the department and the Franchise Tax Board shall enter into an interagency agreement pursuant to this section to continue any services necessary to be provided by the Franchise Tax Board for the ongoing support of the California Child Support Automation System. The interagency agreement may provide for the transfer of staff from the Franchise Tax Board upon federal notification that the single, statewide California Child Support Automation System is implemented in all jurisdictions, or on January 1, 2009, whichever is later.

SEC. 24. Section 10082 of the Welfare and Institutions Code is amended to read:

10082. (a) The department, through the Franchise Tax Board as its agent, shall be responsible for procuring, developing, implementing, and maintaining the operation of the California Child Support Automation System in all California counties. This project shall, to the extent feasible, use the same sound project management practices that the Franchise Tax Board has developed in successful tax automation efforts. The single statewide system shall be operative in all California counties and shall also include the State Case Registry, the State Disbursement Unit and all other necessary data bases and interfaces. The system shall provide for the sharing of all data and case files, standardized functions across all of the counties, timely and accurate payment processing and centralized payment disbursement from a single location in the state. The system may be built in phases with payments contingent on acceptance of agreed upon deliverables. As appropriate, additional payments may be made to the vendors for predefined levels of higher performance once the system is in operation.

(b) All ongoing interim automation activities apart from the procurement, development, implementation, and maintenance of the California Child Support Automation System, including Year 2000 remediation efforts and system conversions, shall remain with the department, and shall not be the responsibility of the Franchise Tax Board. However, the department shall ensure that all interim automation activities are consistent with the procurement, development,

implementation, and maintenance of the California Child Support Automation System by the Franchise Tax Board through continuous consultation.

(c) The department shall seek, at the earliest possible date, all federal approvals and waivers necessary to secure financial participation and system design approval of the California Child Support Automation System.

(d) The department shall seek federal funding for the maintenance and operation of all county child support automation systems until the time that the counties transition to the California Child Support Automation System.

(e) The department shall direct local child support agencies, if it determines it is necessary, to modify their current automation systems or change to a different system, in order to meet the goal of statewide automation.

(f) Notwithstanding any state policies, procedures, or guidelines, including those set forth in state manuals, all state agencies shall cooperate with the department to expedite the procurement, development, implementation, and operation of the California Child Support Automation System. All state agencies shall give review processes affecting the single statewide automation system priority and expedite these review processes.

(g) The Franchise Tax Board shall employ the expertise needed for the successful and efficient implementation of the single statewide child support automation system and, therefore, shall be provided three Career Executive Assignment Level 2 positions, and may enter into personal services agreements with one or more persons, at the prevailing market rates for the kind or quality of services furnished, provided the agreements do not cause the net displacement of civil service employees.

(h) All funds appropriated to the Franchise Tax Board for purposes of this chapter shall be used in a manner consistent with the authorized budget without any other limitations.

(i) The department and the Franchise Tax Board shall consult with local child support agencies and child support advocates on the implementation of the single statewide child support automation system.

(j) (1) Notwithstanding the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), through December 31, 2000, the department may implement the applicable provisions of this chapter through family support division letters or similar instructions from the director.

(2) The department may adopt regulations to implement this chapter in accordance with the Administrative Procedure Act, Chapter 3.5

(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of any emergency regulation filed with the Office of Administrative Law on or before January 1, 2003, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare. These emergency regulations shall remain in effect for no more than 180 days.

SEC. 25. Section 10083 of the Welfare and Institutions Code is repealed.

SEC. 26. Section 10553.15 is added to the Welfare and Institutions Code, to read:

10553.15. Notwithstanding any other provision of law, the director may provide funding to Indian health clinics to provide substance abuse and mental health treatment services, and other related services authorized under the CalWORKs program to CalWORKs applicants and recipients and Tribal Temporary Assistance for Needy Families (TANF) applicants and recipients living in California.

SEC. 27. Section 10823 of the Welfare and Institutions Code, as amended by Section 22 of Chapter 78 of the Statutes of 2005, is amended to read:

10823. (a) (1) The Office of Systems Integration shall implement a statewide automated welfare system for the following public assistance programs:

(A) The CalWORKs program.

(B) The Food Stamp Program.

(C) The Medi-Cal Program.

(D) The foster care program.

(E) The refugee program.

(F) County medical services programs.

(2) Statewide implementation of the statewide automated welfare system for the programs listed in paragraph (1) shall be achieved through no more than four county consortia, including the Interim Statewide Automated Welfare System Consortium, and the Los Angeles Eligibility, Automated Determination, Evaluation, and Reporting System.

(3) Notwithstanding paragraph (2), the Office of Systems Integration shall migrate the 35 counties that currently use the Interim Statewide Automated Welfare System into the C-IV system within the following timeline:

(A) Complete Migration System Test and begin User Acceptance Testing on or before June 30, 2009.

(B) Complete implementation in at least five counties by February 28, 2010.

(C) Complete implementation in at least 14 additional counties on or before May 31, 2010.

(D) Complete implementation in all 35 counties on or before August 31, 2010.

(E) Decommission the Interim Statewide Automated Welfare System on or before January 31, 2011.

(b) Nothing in subdivision (a) transfers program policy responsibilities related to the public assistance programs specified in subdivision (a) from the State Department of Social Services or the State Department of Health Services to the Office of Systems Integration.

(c) On February 1 of each year, the Office of Systems Integration shall provide an annual report to the appropriate committees of the Legislature on the statewide automated welfare system implemented under this section. The report shall address the progress of state and consortia activities and any significant schedule, budget, or functionality changes in the project.

SEC. 28. Section 11320.32 of the Welfare and Institutions Code is amended to read:

11320.32. (a) The department shall administer a voluntary Temporary Assistance Program (TAP) for current and future CalWORKs recipients who meet the exemption criteria for work participation activities set forth in Section 11320.3, and are not single parents who have a child under the age of one year. Temporary Assistance Program recipients shall be entitled to the same assistance payments and other benefits as recipients under the CalWORKs program. The purpose of this program is to provide cash assistance and other benefits to eligible families without any federal restrictions or requirements and without any adverse impact on recipients. The Temporary Assistance Program shall commence no later than April 1, 2010.

(b) CalWORKs recipients who meet the exemption criteria for work participation activities set forth in subdivision (b) of Section 11320.3, and are not single parents with a child under the age of one year, shall have the option of receiving grant payments, child care, and transportation services from the Temporary Assistance Program. The department shall notify all CalWORKs recipients and applicants meeting the exemption criteria specified in subdivision (b) of Section 11320.3, except for single parents with a child under the age of one year, of their option to receive benefits under the Temporary Assistance Program. Absent written indication that these recipients or applicants choose not to receive assistance from the Temporary Assistance Program, the department shall enroll CalWORKs recipients and applicants into the program. However, exempt volunteers shall remain in the CalWORKs program unless they affirmatively indicate, in writing, their interest in enrolling in the

Temporary Assistance Program. A Temporary Assistance Program recipient who no longer meets the exemption criteria set forth in Section 11320.3 shall be enrolled in the CalWORKs program.

(c) Funding for grant payments, child care, transportation, and eligibility determination activities for families receiving benefits under the Temporary Assistance Program shall be funded with General Fund resources that do not count toward the state's maintenance of effort requirements under clause (i) of subparagraph (B) of paragraph (7) of subdivision (a) of Section 609 of Title 42 of the United States Code, up to the caseload level equivalent to the amount of funding provided for this purpose in the annual Budget Act.

(d) It is the intent of the Legislature that recipients shall have and maintain access to the hardship exemption and the services necessary to begin and increase participation in welfare-to-work activities, regardless of their county of origin, and that the number of recipients exempt under subdivision (b) of Section 11320.3 not significantly increase due to factors other than changes in caseload characteristics. All relevant state law applicable to CalWORKs recipients shall also apply to families funded under this section. Nothing in this section modifies the criteria for exemption in Section 11320.3.

(e) To the extent that this section is inconsistent with federal regulations regarding implementation of the Deficit Reduction Act of 2005, the department may amend the funding structure for exempt families to ensure consistency with these regulations, not later than 30 days after providing written notification to the chair of the Joint Legislative Budget Committee and the chairs of the appropriate policy and fiscal committees of the Legislature.

SEC. 29. Section 11402.6 of the Welfare and Institutions Code is amended 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.

(g) Notwithstanding subdivision (d) or any other provision of law, this section shall not be implemented before July 1, 2010.

SEC. 30. Section 11453 of the Welfare and Institutions Code is amended to read:

11453. (a) Except as provided in subdivision (c), the amounts set forth in Section 11452 and subdivision (a) of Section 11450 shall be adjusted annually by the department to reflect any increases or decreases in the cost of living. These adjustments shall become effective July 1 of each year, unless otherwise specified by the Legislature. For the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, these adjustments shall become effective October 1 of each year. The cost-of-living adjustment shall be calculated by the Department of Finance based on the changes in the California Necessities Index, which as used in this section means the weighted average changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(1) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

| | |
|---|---|
| Food | $ 3,027 |
| Clothing (apparel and upkeep) | 406 |
| Fuel and other utilities | 529 |
| Rent, residential | 4,883 |
| Transportation | 1,757 |
| Total | $10,602 |

(2) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period ending with the December preceding the year for which the cost-of-living adjustment will take effect, for each expenditure category specified in subdivision (a) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(3) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting

factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(4) Calculate a category adjustment factor for each expenditure category in subdivision (a) by (1) adding 100 to the applicable weighted percentage change as determined in paragraph (2) and (2) dividing the sum by 100.

(5) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in paragraph (4).

(6) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in paragraph (4) for the current year by (2) the sum of the expenditure amounts as determined in subdivision (d) for the prior year.

(b) The overall adjustment factor determined by the preceding computation steps shall be multiplied by the schedules established pursuant to Section 11452 and subdivision (a) of Section 11450 as are in effect during the month of June preceding the fiscal year in which the adjustments are to occur and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules which shall be filed with the Secretary of State.

(c) (1) No adjustment to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section for the purpose of increasing the benefits under this chapter for the 1990–91, 1991–92, 1992–93, 1993–94, 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years, and through October 31, 1998, to reflect any change in the cost of living. For the 1998–99 fiscal year, the cost of living adjustment that would have been provided on July 1, 1998, pursuant to subdivision (a) shall be made on November 1, 1998. No adjustment to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section for the purpose of increasing the benefits under this chapter for the 2005–06 and 2006–07 fiscal years to reflect any change in the cost-of-living. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 11453.05, and no further reduction shall be made pursuant to that section.

(2) No adjustment to the minimum basic standard of adequate care set forth in Section 11452 shall be made under this section for the purpose of increasing the benefits under this chapter for the 1990–91 and 1991–92 fiscal years to reflect any change in the cost of living.

(3) In any fiscal year commencing with the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, when there is any increase in tax relief pursuant to the applicable paragraph of subdivision (a) of Section 10754 of the Revenue and Taxation Code, then the increase pursuant to subdivision (a) of this section shall occur. In any fiscal year commencing

with the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, when there is no increase in tax relief pursuant to the applicable paragraph of subdivision (a) of Section 10754 of the Revenue and Taxation Code, then any increase pursuant to subdivision (a) of this section shall be suspended.

(4) Notwithstanding paragraph (3), an adjustment to the maximum aid payments set forth in subdivision (a) of Section 11450 shall be made under this section for the 2002–03 fiscal year, but the adjustment shall become effective June 1, 2003.

(5) No adjustment to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section for the purpose of increasing benefits under this chapter for the 2007–08 and 2008–09 fiscal years.

(d) For the 2004–05 fiscal year, the adjustment to the maximum aid payment set forth in subdivision (a) shall be suspended for three months commencing on the first day of the first month following the effective date of the act adding this subdivision.

(e) Adjustments for subsequent fiscal years pursuant to this section shall not include any adjustments for any fiscal year in which the cost of living was suspended pursuant to subdivision (c).

SEC. 31. Section 12201 of the Welfare and Institutions Code is amended to read:

12201. (a) Except as provided in subdivision (d), the payment schedules set forth in Section 12200 shall be adjusted annually to reflect any increases or decreases in the cost of living. Except as provided in subdivision (e), these adjustments shall become effective January 1 of each year. The cost-of-living adjustment shall be based on the changes in the California Necessities Index, which as used in this section shall be the weighted average of changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(1) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

| | |
|---|---|
| Food | $ 3,027 |
| Clothing (apparel and upkeep) | 406 |
| Fuel and other utilities | 529 |
| Rent, residential | 4,883 |
| Transportation | 1,757 |
| Total | $10,602 |

(2) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period which ends 12 months prior to the January in which the cost-of-living adjustment will take effect, for each expenditure category specified in paragraph (1) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(3) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(4) Calculate a category adjustment factor for each expenditure category in paragraph (1) by (1) adding 100 to the applicable weighted percentage change as determined in paragraph (2) and (2) dividing the sum by 100.

(5) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in paragraph (4).

(6) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in paragraph (4) for the current year by (2) the sum of the expenditure amounts as determined in paragraph (4) for the prior year.

(b) The overall adjustment factor determined by the preceding computational steps shall be multiplied by the payment schedules established pursuant to Section 12200 as are in effect during the month of December preceding the calendar year in which the adjustments are to occur, and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules for the categories given under subdivisions (a), (b), (c), (d), (e), (f), and (g) of Section 12200, and shall be filed with the Secretary of State. The amount as set forth in subdivision (h) of Section 12200 shall be adjusted annually pursuant to this section in the event that the secretary agrees to administer payment under that subdivision. The payment schedule for subdivision (i) of Section 12200 shall be computed as specified, based on the new payment schedules for subdivisions (a), (b), (c), and (d) of Section 12200.

(c) The department shall adjust any amounts of aid under this chapter to insure that the minimum level required by the Social Security Act in order to maintain eligibility for funds under Title XIX of that act is met.

(d) (1) No adjustment shall be made under this section for the 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 2004, 2006, 2007, 2008, and 2009 calendar years to reflect any change in the cost of living. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 12201.05, and no further reduction shall be made pursuant to that section.

(2) Any cost-of-living adjustment granted under this section for any calendar year shall not include adjustments for any calendar year in which the cost of living was suspended pursuant to paragraph (1).

(e) For the 2003 calendar year, the adjustment required by this section shall become effective June 1, 2003.

(f) For the 2005 calendar year, the adjustment required by this section shall become effective April 1, 2005.

(g) (1) Commencing with the 2010 calendar year and in each calendar year thereafter, the annual adjustment required by this section shall be effective June 1 of that calendar year.

(2) Notwithstanding paragraph (1), the pass along of federal benefits provided for in Section 12201.05 shall be effective on January 1 of each calendar year.

SEC. 32. Section 12305.82 of the Welfare and Institutions Code is amended to read:

12305.82. (a) In addition to its existing authority under the Medi-Cal program, the State Department of Health Care Services shall have the authority to investigate fraud in the provision or receipt of supportive services. Except as provided in subdivision (c), a county shall refer instances of suspected fraud in the provision or receipt of supportive services to the State Department of Health Care Services, which shall investigate all suspected fraud. The department, the State Department of Health Care Services, and county quality assurance staff shall work together as appropriate to coordinate activities to detect and prevent fraud by supportive services providers and recipients in accordance with federal and state laws and regulations, including applicable due process requirements, to take appropriate administrative action relating to suspected fraud in the provision or receipt of supportive services, and to refer suspected criminal offenses to appropriate law enforcement agencies for prosecution.

(b) If the State Department of Health Care Services concludes that there is reliable evidence that a supportive services provider has engaged in fraud in connection with the provision or receipt of supportive services, the State Department of Health Care Services shall notify the department, the county, and the county's public authority or nonprofit consortium, if any, of that conclusion.

(c) Notwithstanding any other provision of law, a county may investigate suspected fraud in connection with the provision or receipt of supportive services, with respect to an overpayment of five hundred dollars ($500) or less.

SEC. 33. Section 12317 of the Welfare and Institutions Code is amended to read:

12317. (a) The State Department of Social Services shall be responsible for procuring and implementing a new Case Management Information and Payroll System (CMIPS) for the In-Home Supportive Services Program and Personal Care Services Program (IHSS/PCSP). This section shall not be interpreted to transfer any of the IHSS/PCSP policy responsibilities from the State Department of Social Services or the State Department of Health Care Services.

(b) At a minimum, the new system shall provide case management, payroll, and management information in order to support the IHSS/PCSP, and shall do all of the following:

(1) Provide current and accurate information in order to manage the IHSS/PCSP caseload.

(2) Calculate accurate wage and benefit deductions.

(3) Provide management information to monitor and evaluate the IHSS/PCSP.

(4) Coordinate benefits information and processing with the California Medicaid Management Information System.

(c) The new system shall be consistent with current state and federal laws, shall incorporate technology that can be readily enhanced and modernized for the expected life of the system, and, to the extent possible, shall employ open architectures and standards.

(d) By August 31, 2004, the State Department of Social Services shall begin a fair and open competitive procurement for the new CMIPS. All state agencies shall cooperate with the State Department of Social Services and the California Health and Human Services Agency Data Center to expedite the procurement, design, development, implementation, and operation of the new CMIPS.

(e) The State Department of Social Services, with any necessary assistance from the State Department of Health Care Services, shall seek all federal approvals and waivers necessary to secure federal financial participation and system design approval of the new system.

(f) The new CMIPS shall include features to strengthen fraud prevention and detection, as well as to reduce overpayments. Program requirements shall include, but shall not be limited to, the ability to readily identify out-of-state providers, recipient hospital stays that are five days or longer, and excessive hours paid to a single provider, and to match recipient information with death reports. This functionality

shall be available by April 1, 2010, and implemented statewide by July 1, 2011.

SEC. 34. Section 14021.6 of the Welfare and Institutions Code is amended to read:

14021.6. (a) For the fiscal years prior to fiscal year 2004–05, and subject to the requirements of federal law, the maximum allowable rates for the Medi-Cal Drug Treatment Program shall be determined by computing the median rate from available cost data by modality from the fiscal year that is two years prior to the year for which the rate is being established.

(b) (1) For the fiscal year 2007–08, and subsequent fiscal years, and subject to the requirements of federal law, the maximum allowable rates for the Medi-Cal Drug Treatment Program shall be determined by computing the median rate from the most recently completed cost reports, by specific service codes that are consistent with the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg).

(2) For the fiscal years 2005–06 and 2006–07, if the State Department of Health Care Services and the State Department of Alcohol and Drug Programs determine that reasonably reliable and complete cost report data are available, the methodology specified in this subdivision shall be applied to either or both of those years. If reasonably reliable and complete cost report data are not available, the State Department of Health Care Services and the State Department of Alcohol and Drug Programs shall establish rates for either or both of those years based upon the usual, customary, and reasonable charge for the services to be provided, as these two departments may determine in their discretion. This subdivision is not intended to modify subdivision (k) of Section 11758.46 of the Health and Safety Code, that requires certain providers to submit performance reports.

(c) Notwithstanding subdivision (a), for the 1996–97 fiscal year, the rates for nonperinatal outpatient methadone maintenance services shall be set at the rate established for the 1995–96 fiscal year.

(d) Notwithstanding subdivision (a), the maximum allowable rate for group outpatient drug free services shall be set on a per person basis. A group shall consist of a minimum of four and a maximum of 10 individuals, at least one of which shall be a Medi-Cal eligible beneficiary.

(e) The department shall develop individual and group rates for extensive counseling for outpatient drug free treatment, based on a 50-minute individual or a 90-minute group hour, not to exceed the total rate established for subdivision (d).

(f) The department may adopt regulations as necessary to implement subdivisions (a), (b), and (c), or to implement cost containment

procedures. These regulations may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these emergency regulations shall be deemed an emergency necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 35. Section 14124.93 of the Welfare and Institutions Code is amended to read:

14124.93. (a) The Department of Child Support Services shall provide payments to the local child support agency of fifty dollars ($50) per case for obtaining third-party health coverage or insurance of beneficiaries, to the extent that funds are appropriated in the annual Budget Act.

(b) A county shall be eligible for a payment if the county obtains third-party health coverage or insurance for applicants or recipients of Title IV-D services not previously covered, or for whom coverage has lapsed, and the county provides all required information on a form approved by both the Department of Child Support Services and the State Department of Health Care Services.

(c) Payments to the local child support agency under this section shall be suspended for the 2003–04, 2004–05, 2005–06, 2006–07, 2007–08, 2008–09, 2009–10, 2010–11, and 2011–12 fiscal years.

SEC. 36. Chapter 10.1 (commencing with Section 15525) is added to Part 3 of Division 9 of the Welfare and Institutions Code, to read:

## Chapter 10.1. Work Incentive Nutritional Supplement

15525. (a) The State Department of Social Services shall establish a Work Incentive Nutritional Supplement (WINS) program pursuant to this section.

(b) Under the WINS program established pursuant to subdivision (a), each county shall provide a forty dollar ($40) per month additional food assistance benefit for each eligible food stamp household, as defined in subdivision (d).

(c) The state shall pay to the counties 100 percent of the cost of WINS benefits, using funds that qualify for the state's maintenance of effort requirements under Section 609(a)(7)(B)(i) of Title 42 of the United States Code.

(d) For purposes of this section, an "eligible food stamp household" is a household that meets all of the following criteria:

(1) Receives benefits pursuant to Chapter 10 (commencing with Section 18900) of Part 6.

(2) Has no household member receiving CalWORKs benefits pursuant to Chapter 2 (commencing with Section 11200).

(3) Contains at least one child under 18 years of age, unless the household contains a child who meets the requirements of Section 11253.

(4) Has at least one parent or caretaker relative determined to be "work eligible" as defined in Section 261.2(n) of Title 45 of the Code of Federal Regulations and Section 607 of Title 42 of the United States Code.

(5) Meets the federal work participation hours requirement set forth in Section 607 of Title 42 of the United States Code for subsidized or unsubsidized employment, and provides documentation that the household has met the federal work requirements.

(e) (1) In accordance with federal law, federal food stamp benefits (Chapter 10 (commencing with Section 18900) of Part 6), federal supplemental security income benefits, state supplemental security program benefits, public social services, as defined in Section 10051, and county aid benefits (Part 5 (commencing with Section 17000)), shall not be reduced as a consequence of the receipt of the WINS benefit paid under this chapter.

(2) Benefits paid under this chapter shall not count toward the federal 60-month time limit on aid as set forth in Section 608(a)(7)(A) of Title 42 of the United States Code. Payment of WINS benefits shall not commence before October 1, 2009, and full implementation of the program shall be achieved on or before April 1, 2010.

(f) (1) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and Section 10554), until emergency regulations are filed with the Secretary of State pursuant to paragraph (2), the State Department of Social Services may implement this section through all-county letters or similar instructions from the director. The director may provide for individual county phase-in of this section to allow for the orderly implementation based upon standards established by the director, including the operational needs and requirements of the counties. Implementation of the automation process changes shall include issuance of an all-county letter or similar instructions to counties by March 1, 2009.

(2) The department may adopt regulations to implement this chapter. The initial adoption, amendment, or repeal of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption, amendment, or repeal of an emergency regulation pursuant to this paragraph, the department may request approval from

the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code.

(g) (1) The department shall not fully implement this section until the department convenes a workgroup of advocates, legislative staff, county representatives, and other stakeholders to consider the progress of the WINS automation effort in tandem with a pre-assistance employment readiness system (PAERS) program and any other program options that may provide offsetting benefits to the caseload reduction credit in the CalWORKs program. The department shall convene this workgroup on or before December 1, 2008.

(2) A PAERS program shall be considered in light of current and potential federal Temporary Assistance for Needy Families (TANF) statutes and regulations and how other states with pre-assistance or other caseload offset options are responding to federal changes.

(3) The consideration of program options shall include, but not necessarily be limited to, the potential impacts on helping clients to obtain self-sufficiency, increasing the federal work participation rate, increasing the caseload reduction credit, requirements and efficiency of county administration, and the well-being of CalWORKs recipients.

(4) If the workgroup concludes that adopting a PAERS program or other program option pursuant to this section would, on balance, be favorable for California and its CalWORKs recipients, the department, in consultation with the workgroup, shall prepare a proposal by March 31, 2009, for consideration during the regular legislative budget subcommittee process in 2009.

(5) To meet the requirements of this subdivision, the department may use its TANF reauthorization workgroups.

SEC. 37. Section 18939 of the Welfare and Institutions Code is amended to read:

18939. (a) Any person who is found to be eligible for federally funded SSI by the department shall be required to apply for SSI benefits. An individual may continue to receive benefits under this article if he or she fully cooperates in the application and administrative appeal process of the Social Security Administration. An individual shall continue to be eligible to receive benefits under this article if he or she receives an unfavorable decision from the Social Security Administration.

(b) (1) The State Department of Social Services shall require counties with a base caseload of recipients of aid under this chapter of 70 or more to establish an advocacy program to assist applicants and recipients of aid under this chapter in the application process for the SSI program. The department shall encourage counties with a base caseload of recipients of aid under this chapter of 69 or less to establish a similar

advocacy program. Counties may, at their option, contract to provide any or all of the required advocacy services.

(2) The department shall provide assistance to counties in their efforts to implement an SSI advocacy program (SSIAP) for applicants and recipients of aid under this chapter.

(c) The State Department of Social Services shall ensure that its Disability Evaluation Division (DED) expedites the disability evaluations for applicants and recipients of aid under this chapter by utilizing its existing case records sharing procedures to ensure that information from previous DED evaluations for the Medi-Cal program are shared expeditiously with the federal component of the division that is adjudicating the SSI disability application.

(d) The State Department of Social Services shall reimburse counties for legal fees incurred by attorneys or other authorized representatives during the appeals phase of the SSI application process only when the county demonstrates that the legal representative successfully secures approval of SSI benefits. The legal fees for each case shall not exceed twice the difference between the maximum monthly individual payment under this chapter and the maximum monthly SSP payment.

(e) The department shall report to the Legislature, by July 1, 2007, on the outcomes of county SSI advocacy programs, including the numbers of cases that transitioned to SSI and the amount of savings realized through the transfers.

(f) Subdivisions (b) to (e), inclusive, of this section shall become inoperative on July 1, 2011.

SEC. 38. (a) On or before January 10, 2009, the Department of Child Support Services shall provide to the Legislature both of the following:

(1) More comprehensive data from the state hearing pilot project that demonstrates that the pilot project has reduced state hearings.

(2) A breakdown of how the pilot project's revised hearing process results in the estimated savings to state hearing costs.

(b) On or before February 1, 2009, the Department of Child Support Services shall provide the appropriate committees of the Legislature with trailer bill language to codify the new state hearing process.

SEC. 39. Clause (ii) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 1534 of, paragraph (2) of subdivision (c) of Section 1569.33 of, paragraph (2) of subdivision (c) of Section 1597.09 of, and paragraph (2) of subdivision (c) of Section 1597.55a of, the Health and Safety Code shall be suspended for the 2008–09 and 2009–10 fiscal years. The State Department of Social Services shall submit trailer bill language to the Legislature on or before February 1, 2010, that reflects appropriate indicators to trigger an increase in the number of facilities for which the department conducts annual unannounced random

sample visits. The department shall work with legislative staff, the Legislative Analyst's Office, and interested stakeholders to develop the indicators. The department shall provide an update to the Legislature on its progress pursuant to this section at the 2009–10 budget hearings.

SEC. 40. The State Department of Social Services shall do both of the following:

(a) Meet with stakeholders prior to legislative budget subcommittee hearings in 2009 to determine ways that the process for the Independent Adoptions Program can be simplified and streamlined, including whether the fee amounts are appropriate, and provide an update on those discussions, with any recommendations from the department, during the 2009 subcommittee hearings.

(b) Provide an update during the 2009 legislative budget subcommittee hearings regarding the degree to which fee collections have improved as a result of the statutory changes made by Section 8808 of the Family Code, as added by this act, and the impact of the new fees on the number of independent adoptions.

SEC. 41. (a) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and Section 10554), until emergency regulations are filed with the Secretary of State pursuant to subdivision (b), the State Department of Social Services may implement Sections 8807, 8808, 8810, and 8820 of the Family Code, as amended and added by this act through all-county letters or similar instructions from the Director of Social Services.

(b) The department may adopt regulations to implement Sections 8807, 8808, 8810, and 8820 of the Family Code, as amended and added by this act. The initial adoption, amendment, or repeal of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption, amendment, or repeal of an emergency regulation pursuant to this section, the department may request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code.

SEC. 42. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 43. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of

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

In order to implement the necessary statutory changes to implement the Budget Act of 2008 at the earliest possible time, it is necessary for this act to take effect immediately.

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## CHAPTER 760

An act to add Section 12841.3 to the Food and Agricultural Code, to amend Section 12892 of the Government Code, to amend Section 85.2 of the Harbors and Navigation Code, to amend Sections 13138, 13146.1, 13146.2, 25173.6, 25174, 39625.1, and 39626 of, to add Sections 43022.5 and 44274.7 to, and to add Article 8.6 (commencing with Section 25395.35) to Chapter 6.8 of Division 20 of, the Health and Safety Code, to amend Sections 3258, 6217.3, 30620, and 37036 of, and to add Sections 30620.1 and 30620.2 to, the Public Resources Code, to add Section 326.5 to, and to add and repeal Section 343 of, the Public Utilities Code, and to amend Sections 12561, 13385.1, and 79441 of the Water Code, relating to public resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 12841.3 is added to the Food and Agricultural Code, to read:

12841.3. (a) Notwithstanding Sections 2282, 12784, and 12841, the director shall pay from the revenue collected from the mill assessment in the Department of Pesticide Regulation Fund an amount not to exceed the revenue derived from 0.5 mill ($0.0005) per dollar of sales for all pesticide sales for use in this state to counties in nonattainment areas to assist those counties in the administration and enforcement of restrictions on the use of field fumigants pursuant to Chapter 3 (commencing with Section 14001) and the regulations issued pursuant to it. These funds shall be in addition to the funds distributed pursuant to Section 12841 and shall be distributed to the counties in accordance with the criteria set forth in subdivisions (c) and (d).

(b) As used in this section, “nonattainment area” means an area designated in Section 81.305 of Title 40 of the Code of Federal

Regulations for the purpose of air quality planning within the chart titled "California - Ozone (1-Hour Standard)."

(c) The funds available for payment pursuant to subdivision (a) shall be apportioned based on the following criteria:

(1) A minimum of fifty thousand dollars ($50,000) shall be apportioned to each county in a nonattainment area.

(2) The remaining amount shall be apportioned to the counties based on fumigant related workload, which may include, but is not limited to, both of the following:

(3) The number of restricted use material permits issued for fumigants.

(4) The number of field fumigant applications in each county to the total for all counties within all nonattainment areas during the previous fiscal year.

(d) Only counties within a nonattainment area for which the Department of Pesticide Regulation has established a fumigant emission limit pursuant to Chapter 3 (commencing with Section 14001), and the regulations issued pursuant to it, in the current or the previous fiscal year shall receive payment of the amount apportioned pursuant to the criteria set forth in subdivision (c).

SEC. 2. Section 12892 of the Government Code is amended to read:

12892. (a) On or before October 1 of each year, each state agency shall prepare and submit to the secretary in a standardized format as determined by the agency all of the following:

(1) A list of those measures that have been adopted and implemented by the state agency to meet GHG emission reduction targets and a status report on actual GHG emissions reduced as a result of these measures.

(2) A list and timetable for adoption of any additional measures needed to meet GHG emission reduction targets.

(3) An estimate of the department's own greenhouse gas emissions, as well as an explanation of any increase or decrease compared to the previous year's emissions.

(b) In order to reduce paperwork and workload, information required to be submitted pursuant to this section may be submitted in a standardized electronic format as determined by the agency.

(c) On or before January 1 of each year, the agency shall compile and organize the information submitted pursuant to this section into a clear, standardized format, and shall provide that information on the agency's Internet Web site in the form of a state agency greenhouse gas emission reduction report card.

(d) The report card shall compare the actions taken and proposed to be taken by individual state agencies and their projected annual GHG emission reductions against the state agency GHG emission reduction targets and statewide GHG emission reduction limits.

(e) Where appropriate, the report card shall include a statement regarding the independent audits required by Section 12893.

(f) In conjunction with the Governor's Budget submitted pursuant to subdivision (a) of Section 12 of Article IV of the California Constitution, on or before January 10 of each year, the agency shall submit to the Legislature a comprehensive budget display that includes both of the following:

(1) Funding proposals and base funding in the proposed Governor's Budget for state agencies implementing climate solutions to meet the greenhouse gas emissions reduction targets as specified in the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(2) A five-year work plan summary for each department included in the comprehensive budget display that shows how staff and contracting resources will be allocated to achieve specified climate solution deliverables.

SEC. 3. Section 85.2 of the Harbors and Navigation Code is amended to read:

85.2. (a) All moneys in the Harbors and Watercraft Revolving Fund are available, upon appropriation by the Legislature, for expenditure by the department for boating facilities development, boating safety, and boating regulation programs, and for the purposes of Section 656.4, including refunds, and for expenditure for construction of small craft harbor and boating facilities planned, designed, and constructed by the department, as specified in subdivision (c) of Section 50, at sites owned or under the control of the state.

(b) (1) The money in the fund is also available, upon appropriation by the Legislature, to the Department of Parks and Recreation for the operation and maintenance of units of the state park system that have boating-related activities. Funds appropriated to the Department of Parks and Recreation may also be used for boating safety and enforcement programs for waters under its jurisdiction.

(2) The Department of Parks and Recreation shall submit to the Legislature, on or before January 1 of each year, a report describing the allocation and expenditure of funds made available to the Department of Parks and Recreation from the Harbors and Watercraft Revolving Fund and from the Motor Vehicle Fuel Account in the Transportation Tax Fund attributable to taxes imposed on the distribution of motor vehicle fuel used or usable in propelling vessels during the previous fiscal year. The report shall list the special project or use, project location, amount of money allocated or expended, the source of funds allocated or expended, and the relation of the project or use to boating activities.

(c) The money in the fund shall also be available, upon appropriation by the Legislature, to the State Water Resources Control Board for boating-related water quality regulatory activities.

(d) The money in the fund is also available, upon appropriation by the Legislature, to the Department of Fish and Game for activities addressing the boating-related spread of invasive species.

(e) The money in the fund is also available, upon appropriation by the Legislature, to the Department of Food and Agriculture for activities addressing the boating-related spread of invasive species.

SEC. 4. Section 13138 of the Health and Safety Code is amended to read:

13138. (a) For state agencies, local agencies, or private entities that are charged for the costs of fire and life safety building code inspections and related fire and life safety activities rendered by the State Fire Marshal, such as plan review, construction consulting, fire watch, and investigation, the State Fire Marshal shall charge an amount sufficient to recover the costs incurred for the fire and life safety building code inspections and those related fire and life safety activities.

(b) Upon the request of the State Fire Marshal, in the form prescribed by the Controller, the Controller shall transfer the amount of the charges for services rendered from the agency's appropriation to the appropriation for the support of the State Fire Marshal's office. The State Fire Marshal shall charge local agencies and private entities for the amount sufficient to recover the costs of the services provided.

(c) A state agency that has a dispute regarding charges for fire and life safety building code inspections provided by the State Fire Marshal shall notify the State Fire Marshal, in writing, of the dispute and the basis therefor. The State Fire Marshal shall immediately provide a credit to the state agency in the subsequent billing or billings for the amount of the charges in dispute. No further transfer of funds shall occur with respect to the services for which charges are disputed until the dispute is resolved by the State Fire Marshal, subject to the approval of the Department of Finance.

SEC. 5. Section 13146.1 of the Health and Safety Code is amended to read:

13146.1. (a) Notwithstanding the provisions of Section 13146, the State Fire Marshal, or the State Fire Marshal's authorized representative, shall inspect every jail or place of detention for persons charged with or convicted of a crime, unless the chief of any city or county fire department or fire protection district, or that chief's authorized representative, indicates in writing to the State Fire Marshal that inspections of jails or places of detention, therein, shall be conducted by

the chief, or the chief's authorized representative and submits the reports as required in subdivision (c).

(b) The inspections shall be made at least once every two years for the purpose of enforcing the regulations adopted by the State Fire Marshal, pursuant to Section 13143, and the minimum standards pertaining to fire and life safety adopted by the Board of Corrections, pursuant to Section 6030 of the Penal Code.

(c) Reports of the inspections shall be submitted to the official in charge of the facility, the local governing body, the State Fire Marshal, and the Board of Corrections within 30 days of the inspections.

(d) The State Fire Marshal, or his or her authorized representative, who performs an inspection pursuant to subdivision (a) may charge and collect a fee for the inspection from the local government. Any fee collected pursuant to this subdivision shall be in an amount, as determined by the State Fire Marshal, sufficient to pay the costs of that inspection or those related fire and life safety activities.

SEC. 6. Section 13146.2 of the Health and Safety Code is amended to read:

13146.2. (a) Every city or county fire department or district providing fire protection services required by Sections 13145 and 13146 to enforce building standards adopted by the State Fire Marshal and other regulations of the State Fire Marshal shall, annually, inspect all structures subject to subdivision (b) of Section 17921, except dwellings, for compliance with building standards and other regulations of the State Fire Marshal.

(b) A city, county, or district that inspects a structure pursuant to subdivision (a) may charge and collect a fee for the inspection from the owner of the structure in an amount, as determined by the city, county, or district, sufficient to pay the costs of that inspection. A city, county, or district that provides related fire and life safety activities may charge and collect a fee for the inspection from the owner of the structure in an amount, as determined by the city, county, or district, sufficient to pay the costs of that inspection.

(c) The State Fire Marshal, or his or her authorized representative, who inspects a structure subject to subdivision (b) of Section 17921, except dwellings, for compliance with building standards and other regulations of the State Fire Marshal, may charge and collect a fee for the inspection from the owner of the structure. The State Fire Marshal may also charge and collect a fee from the owner of the structure for related fire and life safety activities, such as plan review, construction consulting, fire watch, and investigation. Any fee collected pursuant to this subdivision shall be in an amount, as determined by the State Fire

Marshal, sufficient to pay the costs of that inspection or those related fire and life safety activities.

SEC. 7. Section 25173.6 of the Health and Safety Code is amended to read:

25173.6. (a) There is in the General Fund the Toxic Substances Control Account, which shall be administered by the director. In addition to any other money that may be appropriated by the Legislature to the Toxic Substances Control Account, all of the following shall be deposited in the account:

(1) The fees collected pursuant to Section 25205.6.

(2) The fees collected pursuant to Section 25187.2, to the extent that those fees are for oversight of a removal or remedial action taken under Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396).

(3) Fines or penalties collected pursuant to this chapter, Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396), except as directed otherwise by Section 25192.

(4) Interest earned upon money deposited in the Toxic Substances Control Account.

(5) All money recovered pursuant to Section 25360, except any amount recovered on or before June 30, 2006, that was paid from the Hazardous Substance Cleanup Fund.

(6) All money recovered pursuant to Section 25380.

(7) Reimbursements for funds expended from the Toxic Substances Control Account for services provided by the department, including, but not limited to, reimbursements required pursuant to Sections 25201.9 and 25343.

(8) Money received from the federal government pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(9) Money received from responsible parties for remedial action or removal at a specific site, except as otherwise provided by law.

(b) The funds deposited in the Toxic Substances Control Account may be appropriated to the department for the following purposes:

(1) The administration and implementation of the following:

(A) Chapter 6.8 (commencing with Section 25300), except that funds shall not be expended from the Toxic Substances Control Account for purposes of Section 25354.5.

(B) Chapter 6.85 (commencing with Section 25396).

(C) Article 10 (commencing with Section 7710) of Chapter 1 of Division 4 of the Public Utilities Code, to the extent the department has been delegated responsibilities by the secretary for implementing that article.

(2) The administration of the following units within the department:

(A) The Human and Ecological Risk Division.

(B) The Hazardous Materials Laboratory.

(C) The Office of Pollution Prevention and Technology Development.

(3) For allocation to the Office of Environmental Health Hazard Assessment, pursuant to an interagency agreement, to assist the department as needed in administering the programs described in subparagraphs (A) and (B) of paragraph (1).

(4) For allocation to the State Board of Equalization to pay refunds of fees collected pursuant to Section 43054 of the Revenue and Taxation Code.

(5) For the state share mandated pursuant to paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(c)(3)).

(6) For the purchase by the state, or by a local agency with the prior approval of the director, of hazardous substance response equipment and other preparations for response to a release of hazardous substances. However, all equipment shall be purchased in a cost-effective manner after consideration of the adequacy of existing equipment owned by the state or the local agency, and the availability of equipment owned by private contractors.

(7) For payment of all costs of removal and remedial action incurred by the state, or by any local agency with the approval of the director, in response to a release or threatened release of a hazardous substance, to the extent the costs are not reimbursed by the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(8) For payment of all costs of actions taken pursuant to subdivision (b) of Section 25358.3, to the extent that these costs are not paid by the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(9) For all costs incurred by the department in cooperation with the Agency for Toxic Substances and Disease Registry established pursuant to subsection (i) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(i)) and all costs of health effects studies undertaken regarding specific sites or specific substances at specific sites. Funds appropriated for this purpose shall not exceed five hundred thousand dollars ($500,000) in any single fiscal year. However, these actions shall not duplicate reasonably available federal actions and studies.

(10) For repayment of the principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385) of Chapter 6.8.

(11) For the reasonable and necessary administrative costs and expenses of the Hazardous Substance Cleanup Arbitration Panel created pursuant to Section 25356.2.

(12) Direct site remediation costs.

(13) For the department's expenses for staff to perform oversight of investigations, characterizations, removals, remediations, or long-term operation and maintenance.

(14) For the administration and collection of the fees imposed pursuant to Section 25205.6.

(15) For allocation to the office of the Attorney General, pursuant to an interagency agreement or similar mechanism, for the support of the Toxic Substance Enforcement Program in the office of the Attorney General, in carrying out the purposes of Chapter 6.8 (commencing with Section 25300) and Chapter 6.85 (commencing with Section 25396).

(16) For funding the California Environmental Contaminant Biomonitoring Program established pursuant to Chapter 8 (commencing with Section 105440) of Part 5 of Division 103.

(c) The funds deposited in the Toxic Substances Control Account may be appropriated by the Legislature to the Office of Environmental Health Hazard Assessment and the State Department of Public Health for the purposes of carrying out their duties pursuant to the California Environmental Contaminant Biomonitoring Program (Chapter 8 (commencing with Section 105440) of Part 5 of Division 103).

(d) The director shall expend federal funds in the Toxic Substances Control Account consistent with the requirements specified in Section 114 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9614), upon appropriation by the Legislature, for the purposes for which they were provided to the state.

(e) Money in the Toxic Substances Control Account shall not be expended to conduct removal or remedial actions if any significant portion of the hazardous substances to be removed or remedied originated from a source outside the state.

(f) The Director of Finance, upon request of the director, may make a loan from the General Fund to the Toxic Substances Control Account to meet cash needs. The loan shall be subject to the repayment provisions of Section 16351 of the Government Code and the interest provisions of Section 16314 of the Government Code.

(g) The Toxic Substances Control Account established pursuant to subdivision (a) is the successor fund of all of the following:

(1) The Hazardous Substance Account established pursuant to Section 25330, as that section read on June 30, 2006.

(2) The Hazardous Substance Clearing Account established pursuant to Section 25334, as that section read on June 30, 2006.

(3) The Hazardous Substance Cleanup Fund established pursuant to Section 25385.3, as that section read on June 30, 2006.

(4) The Superfund Bond Trust Fund established pursuant to Section 25385.8, as that section read on June 30, 2006.

(h) On and after July 1, 2006, all assets, liabilities, and surplus of the accounts and funds listed in subdivision (g), shall be transferred to, and become a part of, the Toxic Substances Control Account, as provided by Section 16346 of the Government Code. All existing appropriations from these accounts, to the extent encumbered, shall continue to be available for the same purposes and periods from the Toxic Substances Control Account.

(i) The department, on or before February 1 of each year, shall report to the Governor and the Legislature on the prior fiscal year's expenditure of funds within the Toxic Substances Control Account for the purposes specified in subdivision (b).

SEC. 8. Section 25174 of the Health and Safety Code is amended to read:

25174. (a) There is in the General Fund the Hazardous Waste Control Account, which shall be administered by the director. In addition to any other money that may be deposited in the Hazardous Waste Control Account, pursuant to statute, all of the following amounts shall be deposited in the account:

(1) The fees collected pursuant to Sections 25174.1, 25205.2, 25205.5, 25205.15, and 25205.16.

(2) The fees collected pursuant to Section 25187.2, to the extent that those fees are for the oversight of corrective action taken under this chapter.

(3) Any interest earned upon the money deposited in the Hazardous Waste Control Account.

(4) Any money received from the federal government pursuant to the federal act.

(5) Any reimbursements for funds expended from the Hazardous Waste Control Account for services provided by the department pursuant to this chapter, including, but not limited to, the reimbursements required pursuant to Sections 25201.9 and 25205.7.

(b) The funds deposited in the Hazardous Waste Control Account may be appropriated by the Legislature, for expenditure as follows:

(1) To the department for the administration and implementation of this chapter.

(2) To the department for allocation to the State Board of Equalization to pay refunds of fees collected pursuant to Sections 43051 and 43053 of the Revenue and Taxation Code and for the administration and collection of the fees imposed pursuant to Article 9.1 (commencing with Section 25205.1) that are deposited into the Hazardous Waste Control Account.

(3) To the department for the costs of performance or review of analyses of past, present, or potential environmental public health effects related to toxic substances, including extremely hazardous waste, as defined in Section 25115, and hazardous waste, as defined in Section 25117.

(4) (A) To the department for allocation to the office of the Attorney General for the support of the Toxic Substance Enforcement Program in the office of the Attorney General, in carrying out the purposes of this chapter.

(B) On or before October 1 of each year, the Attorney General shall report to the Legislature on the expenditure of any funds allocated to the office of the Attorney General for the preceding fiscal year pursuant to this paragraph and paragraph (15) of subdivision (b) of Section 25173.6. The report shall include all of the following:

(i) A description of cases resolved by the office of the Attorney General through settlement or court order, including the monetary benefit to the department and the state.

(ii) A description of injunctions or other court orders benefiting the people of the state.

(iii) A description of any cases in which the Attorney General's Toxic Substance Enforcement Program is representing the department or the state against claims by defendants or responsible parties.

(iv) A description of other pending litigation handled by the Attorney General's Toxic Substance Enforcement Program.

(C) Nothing in subparagraph (C) shall require the Attorney General to report on any confidential or investigatory matter.

(5) To the department for administration and implementation of Chapter 6.11 (commencing with Section 25404).

(c) (1) Expenditures from the Hazardous Waste Control Account for support of state agencies other than the department shall, upon appropriation by the Legislature to the department, be subject to an interagency agreement or similar mechanism between the department and the state agency receiving the support.

(2) The department shall, at the time of the release of the annual Governor's Budget, describe the budgetary amounts proposed to be allocated to the State Board of Equalization, as specified in paragraph

(2) of subdivision (b) and in paragraph (3) of subdivision (b) of Section 25173.6, for the upcoming fiscal year.

(3) It is the intent of the Legislature that moneys appropriated in the annual Budget Act each year for the purpose of reimbursing the State Board of Equalization, a private party, or other public agency, for the administration and collection of the fees imposed pursuant to Article 9.1 (commencing with Section 25205.1) and deposited in the Hazardous Waste Control Account, shall not exceed the costs incurred by the State Board of Equalization, the private party, or other public agency, for the administration and collection of those fees.

(d) With respect to expenditures for the purposes of paragraphs (1) and (3) of subdivision (b) and paragraphs (1) and (2) of subdivision (b) of Section 25173.6, the department shall, at the time of the release of the annual Governor's Budget, also make available the budgetary amounts and allocations of staff resources of the department proposed for the following activities:

(1) The department shall identify, by permit type, the projected allocations of budgets and staff resources for hazardous waste facilities permits, including standardized permits, closure plans, and postclosure permits.

(2) The department shall identify, with regard to surveillance and enforcement activities, the projected allocations of budgets and staff resources for the following types of regulated facilities and activities:

(A) Hazardous waste facilities operating under a permit or grant of interim status issued by the department, and generator activities conducted at those facilities. This information shall be reported by permit type.

(B) Transporters.

(C) Response to complaints.

(3) The department shall identify the projected allocations of budgets and staff resources for both of the following activities:

(A) The registration of hazardous waste transporters.

(B) The operation and maintenance of the hazardous waste manifest system.

(4) The department shall identify, with regard to site mitigation and corrective action, the projected allocations of budgets and staff resources for the oversight and implementation of the following activities:

(A) Investigations and removal and remedial actions at military bases.

(B) Voluntary investigations and removal and remedial actions.

(C) State match and operation and maintenance costs, by site, at joint state and federally funded National Priority List Sites.

(D) Investigation, removal and remedial actions, and operation and maintenance at the Stringfellow Hazardous Waste Site.

(E) Investigation, removal and remedial actions, and operation and maintenance at the Casmalia Hazardous Waste Site.

(F) Investigations and removal and remedial actions at nonmilitary, responsible party lead National Priority List Sites.

(G) Preremedial activities under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).

(H) Investigations, removal and remedial actions, and operation and maintenance at state-only orphan sites.

(I) Investigations and removal and remedial actions at nonmilitary, non-National Priority List responsible party lead sites.

(J) Investigations, removal and remedial actions, and operation and maintenance at Expedited Remedial Action Program sites pursuant to Chapter 6.85 (commencing with Section 25396).

(K) Corrective actions at hazardous waste facilities.

(5) The department shall identify, with regard to the regulation of hazardous waste, the projected allocation of budgets and staff resources for the following activities:

(A) Determinations pertaining to the classification of hazardous wastes.

(B) Determinations for variances made pursuant to Section 25143.

(C) Other determinations and responses to public inquiries made by the department regarding the regulation of hazardous waste and hazardous substances.

(6) The department shall identify projected allocations of budgets and staff resources needed to do all of the following:

(A) Identify, remove, store, and dispose of, suspected hazardous substances or hazardous materials associated with the investigation of clandestine drug laboratories.

(B) Respond to emergencies pursuant to Section 25354.

(C) Create, support, maintain, and implement the railroad accident prevention and immediate deployment plan developed pursuant to Section 7718 of the Public Utilities Code.

(7) The department shall identify projected allocations of budgets and staff resources for the administration and implementation of the unified hazardous waste and hazardous materials regulatory program established pursuant to Chapter 6.11 (commencing with Section 25404).

(8) The department shall identify the total cumulative expenditures of the Regulatory Structure Update and Site Mitigation Update projects since their inception, and shall identify the total projected allocations of budgets and staff resources that are needed to continue these projects.

(9) The department shall identify the total projected allocations of budgets and staff resources that are necessary for all other activities proposed to be conducted by the department.

(e) Notwithstanding this chapter, or Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, for any fees, surcharges, fines, penalties, and funds that are required to be deposited into the Hazardous Waste Control Account or the Toxic Substances Control Account, the department, with the approval of the Secretary for Environmental Protection, may take any of the following actions:

(1) Assume responsibility for, or enter into a contract with a private party or with another public agency, other than the State Board of Equalization, for the collection of any fees, surcharges, fines, penalties and funds described in subdivision (a) or otherwise described in this chapter or Chapter 6.8 (commencing with Section 25300), for deposit into the Hazardous Waste Control Account or the Toxic Substances Control Account.

(2) Administer, or by mutual agreement, contract with a private party or another public agency, for the making of those determinations and the performance of functions that would otherwise be the responsibility of the State Board of Equalization pursuant to this chapter, Chapter 6.8 (commencing with Section 25300), or Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, if those activities and functions for which the State Board of Equalization would otherwise be responsible become the responsibility of the department or, by mutual agreement, the contractor selected by the department.

(f) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall be responsible for ensuring that persons who are subject to the fees specified in subdivision (e) have equivalent rights to public notice and comment, and procedural and substantive rights of appeal, as afforded by the procedures of the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Final responsibility for the administrative adjustment of fee rates and the administrative appeal of any fees or penalty assessments made pursuant to this section may only be assigned by the department to a public agency.

(g) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall have equivalent authority to make collections and enforce judgments as

provided to the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Unpaid amounts, including penalties and interest, shall be a perfected and enforceable state tax lien in accordance with Section 43413 of the Revenue and Taxation Code.

(h) The department, with the concurrence of the Secretary for Environmental Protection, shall determine which administrative functions should be retained by the State Board of Equalization, administered by the department, or assigned to another public agency or private party pursuant to subdivisions (e), (f), and (g).

(i) The department may adopt regulations to implement subdivisions (e) to (h), inclusive.

(j) The Director of Finance, upon request of the director, may make a loan from the General Fund to the Hazardous Waste Control Account to meet cash needs. The loan shall be subject to the repayment provisions of Section 16351 of the Government Code and the interest provisions of Section 16314 of the Government Code.

(k) The department shall establish, within the Hazardous Waste Control Account, a reserve of at least one million dollars ($1,000,000) each year to ensure that all programs funded by the Hazardous Waste Control Account will not be adversely affected by any revenue shortfalls.

SEC. 9. Article 8.6 (commencing with Section 25395.35) is added to Chapter 6.8 of Division 20 of the Health and Safety Code, to read:

Article 8.6. Revolving Loans Fund

25395.35. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) "Brownfield site" has the same meaning as defined in Section 9601 of Title 42 of the United States Code.

(b) "Brownfield law" means the Small Business Liability Relief and Brownfields Revitalization Act of 2002 (Public Law 107-117) as amending the federal act.

(c) "Federal Trust Fund" means the Federal Trust Fund established pursuant to Section 16360 of the Government Code.

(d) "Fund" means the Revolving Loans Fund established pursuant to this article.

25395.36. (a) The Revolving Loans Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated, without regard to fiscal year, to the department for expenditure in accordance with this chapter. The department is the state agency responsible for administering the fund.

(b) All of the following moneys shall be deposited in the fund:

(1) Notwithstanding Section 25173.6, moneys received pursuant to the brownfield law and transferred to the fund from the Federal Trust Fund.

(2) The amounts collected for loan services.

(3) Interest payments.

(4) Principal repayments.

(5) Notwithstanding Section 16475 of the Government Code, any interest earned upon the moneys deposited in the fund.

(c) The department may expend the moneys in the fund only for the purposes authorized by the brownfield law, as specified in subsection (k) of Section 9604 of Title 42 of the United States Code, including providing financial assistance for both of the following:

(1) Issuing loans for response actions to eligible brownfield sites.

(2) Making subgrants for response actions to eligible brownfield sites.

(d) Any repayment of fund moneys, including interest payments, and all interest earned on, or accruing to, any moneys in the fund, that are deposited in the fund, as provided in subdivision (b), shall be available, in perpetuity, for expenditure for the purposes and uses authorized by the brownfield law.

SEC. 10. Section 39625.1 of the Health and Safety Code is amended to read:

39625.1. As used in this chapter, the following terms have the following meanings:

(a) "Applicant" means any local public entity involved in the movement of freight through trade corridors of the state or involved in air quality improvements associated with goods movement. For the purposes of administering a loan or loan guarantee program only, an applicant may include any state agency.

(b) "Emission" or "emissions" means emissions including, but not limited to, diesel particulate matter, oxides of nitrogen, oxides of sulfur, and reactive organic gases.

(c) "Emission sources" means one of the following categories of sources of air pollution associated with the movement of freight through California's trade corridors: heavy-duty trucks, locomotives, commercial harbor craft, ocean-going vessels related to freight, and cargo-handling equipment.

(d) "Goods movement facility" means airports, seaports, land ports of entry, freight distribution warehouses and logistic centers, freight rail systems, and highways that have a high volume of truck traffic related to the movement of goods, as determined by the state board.

(e) "Trade corridors" means any of the following areas: the Los Angeles/Inland Empire region, the Central Valley region, the Bay Area region, and the San Diego/border region.

SEC. 11. Section 39626 of the Health and Safety Code is amended to read:

39626. (a) (1) The state board shall develop guidelines by December 31, 2007, consistent with the requirements of this chapter, to implement Section 39625.5, in consultation with stakeholders, including, but not limited to, local air quality management and air pollution control districts, metropolitan planning organizations, port authorities, shipping lines, railroad companies, trucking companies, harbor craft owners, freight distributers, terminal operators, local port community advisory groups, community interest groups, and airports. The guidelines shall, at a minimum, include all of the following:

(A) An application process for the funds, and any limits on administrative costs for the recipient agency, including an administrative cost limit of up to 5 percent.

(B) A requirement for a contribution of a specified percentage of funds leveraged from other sources or in-kind contributions toward the project.

(C) Project selection criteria.

(D) The method by which the state board will consider the air basin's status in maintaining and achieving state and federal ambient air quality standards and the public health risk associated with goods movement-related emissions and toxic air contaminants.

(E) Accountability and auditing requirements to ensure that expenditure of bond proceeds, less administrative costs, meets quantifiable emission reduction objectives in a timely manner, and to ensure that the emission reductions will continue in California for the project lifetime.

(F) Requirements for agreements between applicants and recipients of funds executed by the state board related to the identification of project implementation milestones and project completion that ensure that if a recipient fails to accomplish project milestones within a specified time period, the state board may modify or terminate the agreement and seek other remedies as it deems necessary.

(2) Prior to the adoption of the guidelines, the state board shall hold no less than one public workshop in northern California, one public workshop in the Central Valley, and one public workshop in southern California.

(b) For each fiscal year in which funds are appropriated for the purposes of this chapter, the state board shall issue a notice of funding availability no later than November 30. For the 2007–08 fiscal year, if

funds are appropriated for the purposes of this chapter, the state board shall issue a notice of funding upon adoption of the guidelines described in subdivision (a).

(c) (1) After applications have been submitted and reviewed for consistency with the requirements of this chapter and the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, the state board shall compile and release to the public a preliminary list of all projects that the state board is considering for funding and provide adequate opportunity for public input and comment.

(2) The state board shall hold no less than one public workshop in northern California, one public workshop in the Central Valley, and one public workshop in southern California to discuss the preliminary list. This requirement shall not apply to the funds appropriated in the 2007–08 fiscal year.

(3) After the requirements of paragraphs (1) and (2) are met, the state board shall adopt a final list of projects that will receive funding at a regularly scheduled public hearing.

(d) Nothing in this chapter authorizes the state board to program funds not appropriated by the Legislature.

SEC. 12. Section 43022.5 is added to the Health and Safety Code, to read:

43022.5. The state board shall select projects for zero-emission vehicle leases or purchases and zero-emission vehicle infrastructure for the purpose of implementing any program to encourage the use of zero-emission vehicles through a competitive grant process that includes a public bidding process.

SEC. 13. Section 44274.7 is added to the Health and Safety Code, to read:

44274.7. (a) Notwithstanding any other provision of this chapter, funds appropriated by the Legislature to the state board from the Air Quality Improvement Fund in the Budget Act of 2008, not used to implement the Air Quality Improvement Program, shall be expended by the state board to provide financial assistance to owners and operators of on-road heavy-duty diesel-fueled motor vehicles for costs associated with early compliance with both of the following regulations:

(1) Regulations to reduce emissions of diesel particulate matter, oxides of nitrogen, and other criteria pollutants, and greenhouse gases from in-use heavy-duty diesel-fueled vehicles.

(2) Regulations to reduce greenhouse gas emissions from heavy-duty tractors and 53-foot box-type trailers that transport freight on state highways.

(b) Funds shall be expended for low- or zero-interest loans or grants.

(c) Priority for funding shall be provided to both of the following:

(1) Owners of less than three on-road heavy-duty diesel-fueled motor vehicles and to those owners and operators most heavily impacted by the regulations described in subdivision (a) who demonstrate financial hardship as determined by the state board.

(2) On-road heavy-duty diesel-fueled motor vehicles that are used for short-haul trucking, including short-haul trucking that crosses state or federal borders where there are significant air pollution impacts in the state.

(d) The state board may contract with the Treasurer for assistance in expending funds through programs implemented by the Treasurer.

(e) The state board shall maximize use of the funds described in this section with other funds that may be available for on-road heavy-duty diesel-fueled motor vehicle pollution reduction, including, but not limited to, the Goods Movement Emission Reduction Program (Chapter 3.2 (commencing with Section 39625) of Part 2) and the Carl Moyer Memorial Air Quality Standards Attainment Program (Chapter 9 (commencing with Section 44275)).

(f) By January 1, 2010, and each January 1 thereafter until all funds are expended, the state board shall report to the Legislature on the implementation of this section, including, but not limited to, the types of financial assistance provided.

SEC. 14. Section 3258 of the Public Resources Code is amended to read:

3258. (a) The division shall not make expenditures pursuant to this article that exceed the following sum in any one fiscal year:

(1) Two million dollars ($2,000,000) commencing on July 1, 2008, for the 2008–09 fiscal year, and continuing for three fiscal years thereafter.

(2) One million dollars ($1,000,000), commencing with the 2012–13 fiscal year.

(b) On October 1, 2011, the department shall report to the Legislature on the number of orphan wells remaining, the estimated costs of abandoning those orphan wells, and a timeline for future orphan well abandonment with a specific schedule of goals.

SEC. 15. Section 6217.3 of the Public Resources Code is amended to read:

6217.3. (a) The Legislature finds and declares all of the following:

(1) The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative approved by the voters at the November 7, 2006, statewide general election, makes available the sum of one hundred eighty million dollars ($180,000,000) in bond funds for bay-delta and coastal fishery restoration projects.

(2) Of the funds made available, up to forty-five million dollars ($45,000,000) is available for coastal salmon and steelhead fishery restoration projects that support the development and implementation of species recovery plans and strategies for salmonid species listed as threatened or endangered under state or federal law.

(b) From the forty-five million dollars ($45,000,000) available for coastal salmon and steelhead fishery restoration projects pursuant to subdivision (a) of Section 75050, five million two hundred ninety-three thousand dollars ($5,293,000) is appropriated to the Department of Fish and Game for the purposes of coastal salmon and steelhead fishery restoration projects, including the Coastal Salmonid Monitoring Plan. The Department of Fish and Game shall not allocate more than two million five hundred twenty thousand dollars ($2,520,000) of these funds for the Coastal Salmonid Monitoring Plan.

(c) (1) Except for the funds annually appropriated for the Coastal Salmonid Monitoring Plan, and as provided in paragraph (3), the process governing the expenditure of funds described in Section 6217.1 shall be applied to the expenditure of funds available for coastal salmon and steelhead fishery restoration projects pursuant to subdivision (a) of Section 75050 that are allocated by the Department of Fish and Game pursuant to subdivision (b).

(2) The funds annually allocated to the Coastal Salmonid Monitoring Plan are exempt from the requirements of Section 6217.1.

(3) If there is a conflict between a provision of this section and a provision of Division 43 (commencing with Section 75001), the provision of Division 43 shall govern.

SEC. 16. Section 30620 of the Public Resources Code is amended to read:

30620. (a) By January 30, 1977, the commission shall, consistent with this chapter, prepare interim procedures for the submission, review, and appeal of coastal development permit applications and of claims of exemption. These procedures shall include, but are not limited to, all of the following:

(1) Application and appeal forms.

(2) Reasonable provisions for notification to the commission and other interested persons of any action taken by a local government pursuant to this chapter, in sufficient detail to ensure that a preliminary review of that action for conformity with this chapter can be made.

(3) Interpretive guidelines designed to assist local governments, the commission, and persons subject to this chapter in determining how the policies of this division shall be applied in the coastal zone prior to the certification of local coastal programs. However, the guidelines shall

not supersede, enlarge, or diminish the powers or authority of the commission or any other public agency.

(b) Not later than May 1, 1977, the commission shall, after public hearing, adopt permanent procedures that include the components specified in subdivision (a) and shall transmit a copy of those procedures to each local government within the coastal zone and make them readily available to the public. The commission may thereafter, from time to time, and, except in cases of emergency, after public hearing, modify or adopt additional procedures or guidelines that the commission determines to be necessary to better carry out the purposes of this division.

(c) (1) The commission may require a reasonable filing fee and the reimbursement of expenses for the processing by the commission of any application for a coastal development permit under this division and, except for local coastal program submittals, for any other filing, including, but not limited to, a request for revocation, categorical exclusion, or boundary adjustment, submitted for review by the commission.

(2) Any coastal development permit fees collected by the commission under paragraph (1) shall be deposited in the Coastal Act Services Fund established pursuant to Section 30620.1. This paragraph does not authorize an increase in fees or create any new authority on the part of the commission.

(d) With respect to an appeal of an action taken by a local government pursuant to Section 30602 or 30603, the executive director shall, within five working days of receipt of an appeal from a person other than a member of the commission or a public agency, determine whether the appeal is patently frivolous. If the executive director determines that an appeal is patently frivolous, the appeal shall not be filed unless a filing fee in the amount of three hundred dollars ($300) is deposited with the commission within five working days of the receipt of the executive director's determination. If the commission subsequently finds that the appeal raises a substantial issue, the filing fee shall be refunded.

SEC. 17. Section 30620.1 is added to the Public Resources Code, to read:

30620.1. (a) The Coastal Act Services Fund is hereby created in the State Treasury, to be administered by the commission. The moneys in the fund, upon appropriation by the Legislature in the annual Budget Act, shall be expended by the commission in accordance with this chapter to enforce the California Coastal Act and to provide services to local government, permit applicants, public agencies, and the public participating in the implementation of this division.

(b) Five hundred thousand dollars ($500,000), adjusted annually by the application of the California Consumer Price Index for Urban

Consumers as determined by the Department of Industrial Relations pursuant to Section 2212 of the Revenue and Taxation Code, shall be transferred annually from the Coastal Act Services Fund to the Coastal Access Account established pursuant to Section 30620.2.

SEC. 18. Section 30620.2 is added to the Public Resources Code, to read:

30620.2. The Coastal Access Account is hereby created in the State Coastal Conservancy Fund. The money in the account shall be available, upon appropriation by the Legislature in the annual Budget Act, to the State Coastal Conservancy for grants to public agencies and private nonprofit entities or organizations for the development, maintenance, and operation of new or existing facilities that provide public access to the shoreline of the sea, as defined in Section 30115. Any grant funds that are not expended for those purposes shall revert to the account.

SEC. 19. Section 37036 of the Public Resources Code is amended to read:

37036. (a) The Natural Heritage Preservation Tax Credit Reimbursement Account is established in the General Fund to receive moneys paid pursuant to this chapter.

(b) Moneys in the Natural Heritage Preservation Tax Credit Reimbursement Account shall be used only to reimburse the General Fund as determined by the departments pursuant to paragraph (1) of subdivision (b) of Section 37034.

(c) Upon receipt of funds in the Natural Heritage Preservation Tax Credit Reimbursement Account and notification to the Legislature, the Controller shall transfer, within 60 days of the notification, the balance of the Natural Heritage Preservation Tax Credit Reimbursement Account to the General Fund.

(d) The moneys in the Natural Heritage Preservation Tax Credit Reimbursement Account may not be loaned to another fund and may not accrue interest.

SEC. 20. Section 326.5 is added to the Public Utilities Code, to read:

326.5. By January 10, 2009, and by January 10 of each year thereafter, the commission shall report to the Joint Legislative Budget Committee and appropriate fiscal and policy committees of the Legislature, on all sources and amounts of funding and actual and proposed expenditures, both in the two prior fiscal years and for the proposed fiscal year, including any costs to ratepayers, related to both of the following:

(a) Entities or programs established by the commission by order, decision, motion, settlement, or other action, including, but not limited to, the California Clean Energy Fund, the California Emerging Technology Fund, and the Pacific Forest and Watershed Lands

Stewardship Council. The report shall contain descriptions of relevant issues, including, but not limited to, all of the following:

(1) Any governance structure established for an entity or program.

(2) Any staff or employees hired by or for the entity or program and their salaries and expenses.

(3) Any staff or employees transferred or loaned internally or interdepartmentally for the entity or program and their salaries and expenses.

(4) Any contracts entered into by the entity or program, the funding sources for those contracts, and the legislative authority under which the commission entered into the contract.

(5) The public process and oversight governing the entity or program's activities.

(b) Entities or programs established by the commission, other than those expressly authorized by statute, under the following sections:

(1) Section 379.6.

(2) Section 399.8.

(3) Section 739.1.

(4) Section 2790.

(5) Section 2851.

SEC. 21. Section 343 is added to the Public Utilities Code, to read:

343. (a) The Attorney General shall represent the Department of Finance and shall succeed to, and may exercise, all rights, claims, powers, and entitlements of the Electricity Oversight Board in any litigation or settlement to obtain ratepayer recovery for the effects of the 2000–02 energy crisis. Nothing in this section requires the Attorney General to litigate any claim, or take any other action, as successor to the Electricity Oversight Board.

(b) The Attorney General shall not distribute or expend the proceeds of any settlements of claims described in subdivision (a), except in accordance with Article 9.5 (commencing with Section 16428.1) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code and Division 27 (commencing with Section 80000) of the Water Code.

(c) The Attorney General shall not distribute or expend the proceeds of any settlements of claims allocated to the Electricity Oversight Board.

(d) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 22. Section 12561 of the Water Code is amended to read:

12561. There is hereby created the Colorado River Management Account in the General Fund. Moneys in the account are available, upon appropriation by the Legislature, for use in accordance with this chapter.

SEC. 23. Section 13385.1 of the Water Code is amended to read:

13385.1. (a) (1) For the purposes of subdivision (h) of Section 13385, a "serious violation" also means a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.

(2) Paragraph (1) applies only to violations that occur on or after January 1, 2004.

(b) (1) Notwithstanding any other provision of law, moneys collected pursuant to this section for a failure to timely file a report, as described in subdivision (a), shall be deposited in the State Water Pollution Cleanup and Abatement Account.

(2) Notwithstanding Section 13340 of the Government Code, the funds described in paragraph (1) are continuously appropriated, without regard to fiscal years, to the state board for expenditure by the state board to assist regional boards, and other public agencies with authority to clean up waste or abate the effects of the waste, in responding to significant water pollution problems.

(c) For the purposes of this section, paragraph (2) of subdivision (f) of Section 13385, and subdivisions (h), (i), and (j) of Section 13385 only, "effluent limitation" means a numeric restriction or a numerically expressed narrative restriction, on the quantity, discharge rate, concentration, or toxicity units of a pollutant or pollutants that may be discharged from an authorized location. An effluent limitation may be final or interim, and may be expressed as a prohibition. An effluent limitation, for those purposes, does not include a receiving water limitation, a compliance schedule, or a best management practice.

SEC. 24. Section 79441 of the Water Code is amended to read:

79441. (a) The department, the Department of Fish and Game, and the United States Army Corps of Engineers are the implementing agencies for the levee program element.

(b) The state board, the United States Environmental Protection Agency, and the State Department of Health Services are the implementing agencies for the water quality program element.

(c) The Department of Fish and Game, the United States Fish and Wildlife Service, and the United States National Marine Fisheries Service are the implementing agencies for the ecosystem restoration program element. If interests in land, water, or other real property are acquired, those interests shall be acquired from willing sellers by means of entering into voluntary agreements.

(d) The department and the United States Bureau of Reclamation are the implementing agencies for the water supply reliability, storage, and conveyance elements of the program.

(e) The department, the state board, and the United States Bureau of Reclamation are the implementing agencies for the water use efficiency and water transfer program elements.

(f) The Resources Agency, the state board, the department, the Department of Fish and Game, the Department of Conservation, the United States Natural Resources Conservation Service, the United States Environmental Protection Agency, and the United States Fish and Wildlife Service are the implementing agencies for the watershed program element.

(g) The Resources Agency is the implementing agency for the science program element.

(h) The department, the Department of Fish and Game, the United States Bureau of Reclamation, the United States Fish and Wildlife Service, and the United States National Marine Fisheries Service are the implementing agencies for the environmental water account program element.

SEC. 25. (a) Of the positions funded by Item No. 3860-510-0502 of Section 2.00 of the 2008–09 Budget Act, the Department of Water Resources shall use eight limited-term positions funded by that item exclusively for conducting studies on options for conservation and restoration of the Sacramento-San Joaquin River Delta, including water conveyance, consistent with the recommendations of the Delta Blue Ribbon Task Force established pursuant to Executive Order No. S-17-06.

(b) The eight positions described in subdivision (a) shall not be used to perform environmental studies, or documentation, except for studies required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for the plan prepared pursuant to the planning agreement for the Bay Delta Conservation Plan, dated October 6, 2006.

SEC. 26. In order to meet California's obligation under Chapter 7 (commencing with Section 12560) of Part 5 of Division 6 of the Water Code, as added by Chapter 813 of the Statutes of 1998, and to preserve General Fund resources, on and after July 1, 2008, moneys to fund the purposes of that chapter may be obtained by appropriating in the annual Budget Act, in lieu of General Fund moneys, moneys provided from the sale of general obligation bonds pursuant to the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code) and made available to the Department of Water Resources for allocation pursuant to paragraph (12) of subdivision (a) of Section 75027 of the Public Resources Code, subject to appropriation by the Legislature, or another state funding source.

SEC. 27. (a) The Public Utilities Commission shall not execute an order, or collect any rate revenues, in Rulemaking 07-09-008 (Order Instituting Rulemaking to establish the California Institute for Climate Solutions), and shall not adopt or execute any similar order or decision establishing a research program for climate change unless expressly authorized to do so by statute.

(b) This section does not constitute a change in, but is declaratory of, existing law.

SEC. 28. Due to the insufficient resources available to the Electricity Oversight Board as a result of reductions in the Budget Act of 2007, it is the intent of the Legislature that the Attorney General settle pending lawsuits, claims, and petitions filed by the Electricity Oversight Board as a result of the 2000–02 energy crisis.

SEC. 29. The sum of five million eight hundred seventy thousand seven hundred eighty-two dollars ($5,870,782) is hereby appropriated for transfer from the Natural Heritage Preservation Tax Credit Reimbursement Account to the General Fund.

SEC. 30. The Legislature finds and declares both of the following:

(a) Any costs that may result from Sections 4, 5, and 6 of this act are not unique to local agencies or school districts.

(b) There is no mandate contained in Section 4, 5, or 6 of this act that will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 31. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement the Budget Act of 2008 at the earliest time possible, it is necessary that this act take effect immediately.

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## CHAPTER 761

An act to add Sections 5003.16 and 5080.41 to the Public Resources Code, and to amend Section 9 of Chapter 731 of the Statutes of 1998, relating to state property, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with
Secretary of State September 30, 2008.]

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

SECTION 1. The Legislature hereby finds and declares both of the following:

(a) Old Sacramento State Historic Park in the City of Sacramento is uniquely situated for the development of a Sacramento regional children's museum in that the site is all of the following:

(1) Located in the center of the Sacramento region.

(2) Located in the heart of the region's downtown and business core.

(3) A destination state park and national historic district for tourists from throughout the world.

(4) The location of the California State Railroad Museum, which itself is a major regional destination for families and tourists alike.

(b) The state does not provide children's museums as a part of its core mission and therefore the use of a site within Old Sacramento State Historic Park by a nonprofit organization does not supplant an existing core state mission.

SEC. 2. Section 5003.16 is added to the Public Resources Code, to read:

5003.16. (a) Subject to subdivisions (b) to (f), inclusive, and notwithstanding the provisions of Division 3 (commencing with Section 11000) of Title 2 of the Government Code that relate to the disposition of state-owned real property, with the approval of the Director of General Services, the director may exchange with or sell to the City of Sacramento for fair market value all or part of the following described property located in Old Sacramento State Historic Park that is part of the Old Sacramento Historic District in the City of Sacramento:

(1) PARCEL 1: APN 009-0012-048 (Docks).

(2) PARCEL 2: APN 009-0012-058 (Docks).

(3) PARCEL 3: APN 009-0012-059 (Docks).

(4) PARCEL 4: APN 002-0010-023 (Railyards Riverfront).

(b) For the purpose of complying with the fair market value requirement of subdivision (a), the City of Sacramento shall be credited for any financial participation it contributes either toward a purchase by the state of a real property interest that benefits Old Sacramento State Historic Park, or in a development project by the state that benefits Old Sacramento State Historic Park, or both. For the purpose of this subdivision, any purchase by the state shall be made at fair market value, and any development by the state shall be valued at fair market value.

(c) The transfer authorized in subdivision (a) shall require that the fair market value include consideration for any toxic remediation that needs to be performed on the parcels.

(d) Proceeds from the transfer authorized in subdivision (a) shall be used to finance the department's costs for negotiating the transfer and transferring the property.

(e) Any net proceeds from the transfer authorized in subdivision (a) shall be deposited into the State Park Contingent Fund to be used for development or construction within Old Sacramento State Historic Park.

(f) Before authorizing an exchange, sale, or transfer, the director shall secure an independent market valuation of the property authorized for transfer.

SEC. 3. Section 5080.41 is added to the Public Resources Code, to read:

5080.41. (a) Notwithstanding any other provision of this article, until January 1, 2014, the department may enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, and control of a children's museum in Old Sacramento State Historic Park in the City of Sacramento. The agreement shall include, but is not limited to, the following:

(1) The district superintendent for the department shall provide liaison with the department, the nonprofit organization, and the public.

(2) The operating agreement shall specify the manner in which the children's museum is proposed to be operated.

(3) All revenues received from the operation of the children's museum shall be expended only for the care, maintenance, operation, administration, improvement, or development of the museum.

(4) In constructing the children's museum, the nonprofit organization shall incorporate historical architectural features consistent with buildings existing in Sacramento in the mid-1800s.

(b) Whenever the department intends to enter into an operating agreement with respect to a children's museum in Old Sacramento State Historic Park in the City of Sacramento, the department shall notify each Member of the Legislature in whose district the unit is located of that intention.

(c) This section does not authorize the demolition of any state building.

SEC. 4. Section 9 of Chapter 731 of the Statutes of 1998 is amended to read:

Sec. 9. (a) The Director of General Services, with the approval of the Military Department and the State Public Works Board may grant to the Roman Catholic Bishop, Sacramento, a corporation sole/St. Francis High School, an option to purchase, or a lease with option to purchase,

or exchange for real property, the real property located at 1013 58th Street in the City of Sacramento, known as the 58th Street Armory, comprising approximately six acres. The option shall be exercised within 90 days from completion of a replacement facility of size and quality specified by the Military Department. The replacement facility shall be constructed to National Guard bureau criteria on other state or federal lands available to the Military Department that have been certified by the state for occupancy. The option to purchase, or lease with option to purchase, or exchange for real property agreement shall be under terms and conditions that the Director of General Services determines to be in the best interest of the state based on the fair market value of the property.

(b) Subject to Section 9 of Article III of the California Constitution, the net proceeds of moneys received from the disposition of a property described in subdivision (a) that is an armory under the jurisdiction of the Military Department shall be deposited in the Armory Fund established pursuant to Section 435 of the Military and Veterans Code and shall be available for appropriation in accordance with that section.

SEC. 5. The Director of General Services may sell, exchange, sell combined with an exchange, or lease for fair market value and upon those terms and conditions as the Director of General Services determines are in the best interest of the state, all or any part of the following real property:

Parcel 1. Approximately .092 acres, located at 806 North Beaudry Avenue, Los Angeles, Los Angeles County.

Parcel 2. Approximately 5.52 acres with improvements thereon, known as the Fernwood Seed Orchard, located in Humboldt County.

Parcel 3. Approximately 2 acres with improvements thereon, known as the Manton Forest Fire Station, located on Ponderosa Way, Manton, Tehama County.

Parcel 4. Approximately .92 acres with improvements thereon, known as the Hesperia Forest Fire Station, located at 16661 Yucca Street, Hesperia, San Bernardino County.

Parcel 5. Approximately 2 acres with improvements thereon, known as the Valley Center Forest Fire Station, located at 28741 Cole Grade Road, Valley Center, San Diego County.

Parcel 6. Approximately .33 acres with improvements thereon, known as the San Marcos Forest Fire Station (Old), located at 236 Pico Avenue, San Marcos, San Diego County.

Parcel 7. Approximately 3-acre portion of the 5-acre parcel known as the San Marcos Forest Fire Station (New), located at Monticello Drive, Escondido, San Diego County.

Parcel 8. Approximately .39 acres located midblock on the north side of Golden Gate Avenue, between Gough and Franklin Streets, City of San Francisco, County of San Francisco.

Parcel 9. Approximately 1.74 acres with improvements thereon, known as the EDD Indio Office, located at 47110 Calhoun Boulevard, Indio, Riverside County.

SEC. 6. (a) A notice of every public auction or bid opening shall be posted on a property to be sold under Section 5 of this act and shall be published in a newspaper of general circulation published in the county in which the real property to be sold is situated.

(b) (1) An "as-is" sale, exchange, sale, sale combined with an exchange, or transfer of a parcel described in Section 5 of this act is exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code. However, the buyer or transferee of a parcel shall be subject to any local governmental entitlement or land use approval requirements, and that buyer or transferee shall be subject to the requirements of Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code.

(2) If a sale, exchange, sale combined with an exchange, or transfer is not an "as-is" sale and close of escrow is contingent on satisfying a local governmental approval for entitlement or land use requirements, including compliance by the local government with Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code, then the execution of the purchase and sale agreement or exchange agreement is exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code.

SEC. 7. The Department of General Services shall be reimbursed for any cost or expense incurred in the disposition of a parcel under Section 5 of this act from the proceeds of the disposition of that or any other surplus parcel.

SEC. 8. For any property sold pursuant to Section 5 of this act consisting of 15 acres or less, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry. As to property sold pursuant to Section 5 of this act consisting of more than 15 acres, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. The rights to prospect for,

mine, and remove the deposits shall be limited to those areas of the property conveyed that the director, after consultation with the State Lands Commission, determines to be reasonably necessary for the removal of the deposits.

SEC. 9. The net proceeds of any moneys received from the disposition of Parcels 1 to 8, inclusive, described in Section 5 of this act shall be allocated consistent with Section 9 of Article III of the California Constitution. Proceeds received from the disposition of Parcel 9 described in Section 5 of this act, known as the EDD Indio Office, shall be subject to the reimbursement of federal equity financing.

SEC. 10. Notwithstanding any other provision of law that declared the following property as surplus, the surplus authorization is hereby rescinded for the following real property:

Parcel 1. Approximately 1.31 acres with improvements thereon, known as the Call Mountain Forest Fire Station, located at 20400 Panoche Road, Paicines, San Benito County.

Parcel 2. Approximately 345 acres known as the Porterville Developmental Center, located at 26501 Avenue 140, Porterville, Tulare County.

Parcel 3. Approximately .59 acres with improvements thereon, known as the DFG Shasta Headquarters, located at 601 Locust Street, Redding, Shasta County.

Parcel 4. Approximately .11 acres known as the State Burial Grounds, located at Broadway and Riverside Boulevard, Sacramento City Cemetery, Sacramento County.

Parcel 5. Approximately 77 acres with improvements thereon, known as Patton State Hospital, located at 3102 E. Highland Avenue, Patton, San Bernardino County.

Parcel 6. Approximately 1.3 acres with improvements thereon, known as the Redding DMV Office, located at 615 Locust Street, Redding, Shasta County.

Parcel 7. Approximately 3.04 acres with improvements thereon, known as the Concord Armory, located at 2929 Willow Pass Road, Concord, Contra Costa County.

SEC. 11. The Legislature finds and declares the following:

(a) Due to documented hydrogeologic conditions, the City of Soledad's existing wastewater treatment facilities, as designed and constructed, are inadequate to continue to treat and dispose of, in accordance with regional water quality control board requirements, the volume of wastewater now being generated by the Salinas Valley State Prison and the City of Soledad.

(b) The expansion of the prison and growth within the city have caused pending wastewater overflow that will have disastrous effects on the prison and the city.

SEC. 12. It is the intent of the Legislature to authorize the sale or transfer, as specified in Section 13 of this act, of the wastewater treatment facilities located in the Salinas Valley State Prison to the City of Soledad.

SEC. 13. (a) Notwithstanding any other provision of law, the Director of General Services may sell, lease, convey, or exchange at fair market value to the City of Soledad, upon those terms and conditions and subject to those reservations and exceptions as the Director of General Services determines are in the best interests of the state, all or any part of the following real property:

Approximately 33.5 acres of the facility known as the California Department of Corrections and Rehabilitation Correctional Training Facility, Soledad, Monterey County, Assessor Parcel Numbers 257-041-020 and 257-041-021.

(b) The net proceeds of any moneys received from the disposition of the property described in subdivision (a) shall be paid into the Deficit Recovery Bond Retirement Sinking Fund Subaccount, as established by subdivision (f) of Section 20 of Article XVI of the California Constitution.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to expedite the sale of state property as a means of addressing the state's urgent financial needs, it is necessary for this act to take effect immediately.

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## CHAPTER 762

An act to amend and repeal Section 47612.7 of, and to add and repeal Section 42238.20 of, the Education Code, relating to charter schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 42238.20 is added to the Education Code, to read:

42238.20. (a) Notwithstanding any other provision of law, commencing in the 2008–09 fiscal year, the minimum schoolday for a pupil concurrently enrolled in regular secondary school classes and classes operating pursuant to a joint powers agreement that became effective prior to January 1, 2008, is 180 minutes. These regular secondary school classes constitute regular school classes for the purposes of Section 46010.3.

(b) Notwithstanding any other provision of law, for purposes of computing the average daily attendance of a pupil described in subdivision (a), the 180-minute minimum schoolday permitted by this section shall be computed and reported as attendance for three-quarters of the full 240-minute minimum schoolday prescribed by Section 46141.

(c) For a pupil described in subdivision (a), the average daily attendance shall be included as school district average daily attendance computed pursuant to Section 42238.5.

(d) (1) Commencing with the 2008–09 fiscal year, the Superintendent shall compute funding for each pupil enrolled in classes as described in subdivision (a), for the period of time each day during which the pupil attends classes pursuant to a joint powers agreement, by multiplying the annual clock hours of attendance, up to a maximum of three clock hours per schoolday, by the rate described in subdivision (e) or (f), as applicable.

(2) The Superintendent shall add the amount computed pursuant to paragraph (1) to the revenue limit calculated pursuant to Section 42238 for the school district of attendance of the pupil.

(3) A pupil shall not generate apportionment credit pursuant to this subdivision for more than 540 hours in any school year.

(e) The hourly rate for the 2008–09 fiscal year shall be determined as follows:

(1) Subtract 73.3 percent of the school district revenue limit funding per unit of average daily attendance computed pursuant to Section 42238 for the 2007–08 fiscal year for the school districts that entered into the joint powers agreement from the statewide average revenue limit funding per unit of average daily attendance received by high school districts computed pursuant to paragraph (1) of subdivision (a) of Section 47633 for the 2007–08 fiscal year.

(2) Divide the amount computed in paragraph (1) by 540.

(3) Multiply the amount in paragraph (2) by the cost of living, deficit factor, and equalization adjustments applied to revenue limits for the 2008–09 fiscal year.

(f) Commencing with the 2009–10 fiscal year, the hourly rate for the current fiscal year shall be determined by multiplying the prior year hourly rate by the cost of living, deficit factor, and equalization

adjustments applied to the current year revenue limit computed pursuant to Section 42238.

(g) For purposes of computing attendance pursuant to Section 46300 or any other provision of law, immediate supervision and control of pupils while attending classes pursuant to a joint powers agreement described in subdivision (a) is deemed satisfied regardless of the school district employing the certificated employee providing the supervision and control, provided the school district is a party to the joint powers agreement.

(h) The auditor who conducts the annual audit pursuant to Section 41020 shall verify compliance with the requirements of this section by each school district that is a party to the joint powers agreement as described in subdivision (a). An instance of noncompliance shall be reported as an audit exception. If the noncompliance is a condition of eligibility for the receipt of funds, the audit report shall include a statement of the number of units of average daily attendance or hours, if any, that were inappropriately reported for apportionment.

(i) Notwithstanding any other provision of law, the number of hours of instruction at regional occupational centers or programs that are claimed for funding pursuant to subdivision (d) shall be used, in addition to the hourly rate determined pursuant to subdivision (e) or (f), whichever subdivision is applicable, in the computation of the average daily attendance of the regional occupational center or program.

(j) 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 47612.7 of the Education Code is amended to read:

47612.7. (a) Notwithstanding Section 47612.5 or any other provision of law, the Center for Advanced Research and Technology, operating pursuant to a joint powers agreement between the Clovis Unified School District and the Fresno Unified School District, is eligible to receive general-purpose funding, as calculated pursuant to Section 47633, for the 2005–06 and 2006–07 fiscal years for a total average daily attendance not to exceed the center's average daily attendance as determined at the second principal apportionment for the 2005–06 and 2006–07 fiscal years, respectively, and for the 2007–08 fiscal year for a total average daily attendance not to exceed the center's average daily attendance as determined at the second principal apportionment for the 2006–07 fiscal year.

(b) Commencing with the 2008–09 fiscal year, the Center for Advanced Research and Technology, as described in subdivision (a), is

not eligible to receive funding pursuant to Chapter 6 (commencing with Section 47630).

(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. 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 funding for pupils attending classes pursuant to joint powers agreements at the earliest possible time, it is necessary that this act take effect immediately.

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## CHAPTER 763

An act to amend Sections 6248, 17276, 17942, and 24416 of, to add Sections 17039.2 17276.9, 17276.10, 19137, 23036.2, 23663, 24416.9, and 24416.10 to, and to add Chapter 9.2 (commencing with Section 19740) to Part 10.2 of Division 2 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

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

SECTION 1. Section 6248 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

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

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

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

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

(2) This subdivision shall not apply if, during the period following the time the aircraft or vessel is brought into this state and ending when the repair, retrofit, or modification of the aircraft or vessel is complete, more than 25 hours of airtime in the case of an airplane or 25 hours of sailing time in the case of a vessel is logged on the aircraft or vessel by the registered owner of that aircraft or vessel or by an authorized agent operating the aircraft or vessel on behalf of the registered owner of the aircraft or vessel. The calculation of airtime or sailing time logged on the aircraft or vessel shall not include airtime or sailing time following the completion of the repair, retrofit, or modification of the aircraft or vessel that is logged for the sole purpose of returning or delivering the aircraft or vessel to a point outside of this state.

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

(f) The presumption set forth in subdivision (a) may be controverted by documentary evidence that the vehicle was brought into this state for the exclusive purpose of warranty or repair service and was used or stored in this state for that purpose for 30 days or less. The 30-day period begins when the vehicle enters this state, includes any time of travel to and from the warranty or repair facility, and ends when the vehicle is returned to a point outside the state. The documentary evidence shall include a work order stating the dates that the vehicle is in the possession

of the warranty or repair facility and a statement by the owner of the vehicle specifying dates of travel to and from the warranty or repair facility.

SEC. 2. Section 17039.2 is added to the Revenue and Taxation Code, to read:

17039.2. (a) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401) to the contrary, for each taxable year beginning on or after January 1, 2008, and before January 1, 2010, the total of all business credits otherwise allowable under any credit under any provision of Chapter 2 (commencing with Section 17041), including the carryover of any business credit under a former provision of that chapter, for the taxable year shall not reduce the "net tax" (as defined in Section 17039) below the applicable amount.

(b) For purposes of this section, "business credit" means a credit allowable under any provision of Chapter 2 (commencing with Section 17041) other than the following credits:

(1) The credit allowed by Section 17052.6 (relating to credit for household and dependent care).

(2) The credit allowed by Section 17052.25 (relating to credit for adoption costs).

(3) The credit allowed by Section 17053.5 (relating to renter's tax credit).

(4) The credit allowed by Section 17054 (relating to credit for personal exemption).

(5) The credit allowed by Section 17054.5 (relating to credit for qualified joint custody head of household and a qualified taxpayer with a dependent parent).

(6) The credit allowed by Section 17054.7 (relating to credit for senior head of household).

(7) The credit allowed by Section 17061 (relating to refunds pursuant to the Unemployment Insurance Code).

(c) For purposes of this section, the "applicable amount" shall be equal to 50 percent of the "net tax" (as defined in Section 17039) before application of any credits.

(d) The amount of any credit otherwise allowable for the taxable year under Section 17039 that is not allowed due to application of this section shall remain a credit carryover amount under this part.

(e) The carryover period for any credit that is not allowed due to the application of this section shall be increased by the number of taxable years the credit (or any portion thereof) was not allowed.

(f) Notwithstanding anything to the contrary in this part or Part 10.2 (commencing with Section 18401) the credits listed in subdivision (b)

shall be required to be applied before any business credits, as limited by subdivision (a), are applied.

(g) The provisions of this section shall not apply to a taxpayer with net business income of less than five hundred thousand dollars ($500,000) for the taxable year. For purposes of this subdivision, business income means:

(1) Income from a trade or business, whether conducted by the taxpayer or by a pasthrough entity owned directly or indirectly by the taxpayer. For purposes of this paragraph, the term "passthrough entity" means a partnership or an "S" corporation.

(2) Income from rental activity.

(3) Income attributable to a farming business.

SEC. 3. Section 17276 of the Revenue and Taxation Code is amended to read:

17276. Except as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7, the deduction provided by Section 172 of the Internal Revenue Code, relating to a net operating loss deduction, shall be modified as follows:

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any taxable year shall be eligible for carryover to any subsequent taxable year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty percent for any taxable year beginning before January 1, 2000.

(B) Fifty-five percent for any taxable year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(D) One hundred percent for any taxable year beginning on or after January 1, 2004.

(2) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates a new business during that taxable year, each of the following shall apply to each loss incurred during the first three taxable years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (d).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in subdivision (d).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B)

of that paragraph, paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, the term "net loss" means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) Section 172(b)(1) of the Internal Revenue Code, relating to net operating loss carrybacks and carryovers and the years to which the loss may be carried, is modified as follows:

(1) Net operating loss carrybacks shall not be allowed for any net operating losses attributable to taxable years beginning before January 1, 2011.

(2) A net operating loss attributable to taxable years beginning on or after January 1, 2011, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of the loss in lieu of the number of years provided therein.

(A) For a net operating loss attributable to a taxable year beginning on or after January 1, 2011, and before January 1, 2012, the amount of carryback to any taxable year shall not exceed 50 percent of the net operating loss.

(B) For a net operating loss attributable to a taxable year beginning on or after January 1, 2012, and before January 1, 2013, the amount of carryback to any taxable year shall not exceed 75 percent of the net operating loss.

(C) For a net operating loss attributable to a taxable year beginning on or after January 1, 2013, the amount of carryback to any taxable year shall not exceed 100 percent of the net operating loss.

(3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the Internal Revenue Code, relating to special rules for REITs, and Sections 172(b)(1)(E) and 172(h) of the Internal Revenue Code, relating to corporate equity reduction interest loss, shall apply as provided.

(4) A net operating loss carryback shall not be carried back to any taxable year beginning before January 1, 2009.

(d) (1) (A) For a net operating loss for any taxable year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute "five taxable years" in lieu of "20 taxable years" except as otherwise provided in paragraphs (2) and (3).

(B) For a net operating loss for any taxable year beginning on or after January 1, 2000, and before January 1, 2008, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating

losses may be carried, is modified to substitute "10 taxable years" in lieu of "20 taxable years."

(2) For any taxable year beginning before January 1, 2000, in the case of a "new business," the "five taxable years" in paragraph (1) shall be modified to read as follows:

(A) "Eight taxable years" for a net operating loss attributable to the first taxable year of that new business.

(B) "Seven taxable years" for a net operating loss attributable to the second taxable year of that new business.

(C) "Six taxable years" for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 17276.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning prior to January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a taxpayer that is under the jurisdiction of the court in a Title 11 or similar case at any time during the income year. The loss carryover provided in the preceding sentence shall not apply to any loss incurred after the date the taxpayer is no longer under the jurisdiction of the court in a Title 11 or similar case.

(e) For purposes of this section:

(1) "Eligible small business" means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the taxable year.

(2) Except as provided in subdivision (f), "new business" means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) "Title 11 or similar case" shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or "S" corporation paragraphs (1) and (2) shall be applied to the partnership or "S" corporation.

(f) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective

of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months ("prior trade or business activity"), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In any case where a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In any case where the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an

existing trade or business under the rules of paragraph (1) of this subdivision.

(5) "Related person" shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) "Acquire" shall include any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(7) (A) For taxable years beginning on or after January 1, 1997, the term "new business" shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended, and that has not received regulatory approval for any product from the United States Food and Drug Administration.

(B) For purposes of this paragraph:

(i) "Biopharmaceutical activities" means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(ii) "Other biotechnology activities" means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(g) In computing the modifications under Section 172(d)(2) of the Internal Revenue Code, relating to capital gains and losses of taxpayers other than corporations, the exclusion provided by Section 18152.5 shall not be allowed.

(h) Notwithstanding any provisions of this section to the contrary, a deduction shall be allowed to a "qualified taxpayer" as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7.

(i) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(j) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision

(b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(k) Except as otherwise provided, the amendments made by Chapter 107 of the Statutes of 2000 shall apply to net operating losses for taxable years beginning on or after January 1, 2000.

SEC. 4. Section 17276.9 is added to the Revenue and Taxation Code, to read:

17276.9. (a) Notwithstanding Sections 17276, 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7 of this code and Section 172 of the Internal Revenue Code, no net operating loss deduction shall be allowed for any taxable year beginning on or after January 1, 2008, and before January 1, 2010.

(b) For any net operating loss or carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended as follows:

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2008, and before January 1, 2009.

(2) By two years, for losses incurred in taxable years beginning before January 1, 2008.

(c) Notwithstanding subdivision (a), a net operating loss deduction shall be allowed for carryback of a net operating loss attributable to a taxable year beginning on or after January 1, 2011.

(d) The provisions of this section shall not apply to a taxpayer with net business income of less than five hundred thousand dollars ($500,000) for the taxable year. For purposes of this subdivision, business income means:

(1) Income from a trade or business, whether conducted by the taxpayer or by a passthrough entity owned directly or indirectly by the taxpayer. For purposes of this paragraph, the term "passthrough entity" means a partnership or an "S" corporation.

(2) Income from rental activity.

(3) Income attributable to a farming business.

SEC. 5. Section 17276.10 is added to the Revenue and Taxation Code, to read:

17276.10. Notwithstanding Section 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, or 17276.7 to the contrary, a net operating loss attributable to a taxable year beginning on or after January 1, 2008, shall be a net operating carryover to each of the 20 taxable years following the year of the loss, and a net operating loss attributable to a taxable year beginning on or after January 1, 2011, shall also be a net operating loss carryback to each of the two taxable years preceding the taxable year of loss.

SEC. 6. Section 17942 of the Revenue and Taxation Code is amended to read:

17942. (a) In addition to the tax imposed under Section 17941, every limited liability company subject to tax under Section 17941 shall pay annually to this state a fee equal to:

(1) Nine hundred dollars ($900), if the total income from all sources derived from or attributable to this state for the taxable year is two hundred fifty thousand dollars ($250,000) or more, but less than five hundred thousand dollars ($500,000).

(2) Two thousand five hundred dollars ($2,500), if the total income from all sources derived from or attributable to this state for the taxable year is five hundred thousand dollars ($500,000) or more, but less than one million dollars ($1,000,000).

(3) Six thousand dollars ($6,000), if the total income from all sources derived from or attributable to this state for the taxable year is one million dollars ($1,000,000) or more, but less than five million dollars ($5,000,000).

(4) Eleven thousand seven hundred ninety dollars ($11,790), if the total income from all sources derived from or attributable to this state for the taxable year is five million dollars ($5,000,000) or more.

(b) (1) (A) For purposes of this section, "total income from all sources derived from or attributable to this state" means gross income, as defined in Section 24271, plus the cost of goods sold that are paid or incurred in connection with the trade or business of the taxpayer. However, "total income from all sources derived from or attributable to this state" shall not include allocation or attribution of income or gain or distributions made to a limited liability company in its capacity as a member of, or holder of an economic interest in, another limited liability company if the allocation or attribution of income or gain or distributions are directly or indirectly attributable to income that is subject to the payment of the fee described in this section.

(B) For purposes of this section, "total income from all sources derived from or attributable to this state" shall be determined using the rules for assigning sales under Sections 25135 and 25136 and the regulations thereunder, as modified by regulations under Section 25137, other than those provisions that exclude receipts from the sales factor.

(2) In the event a taxpayer is a commonly controlled limited liability company, the total income from all sources derived from or attributable to this state, taking into account any election under Section 25110, may be determined by the Franchise Tax Board to be the total income of all the commonly controlled limited liability company members if it determines that multiple limited liability companies were formed for the primary purpose of reducing fees payable under this section. A

determination by the Franchise Tax Board under this subdivision may only be made with respect to one limited liability company in a commonly controlled group. However, each commonly controlled limited liability company shall be jointly and severally liable for the fee. For purposes of this section, commonly controlled limited liability companies shall include the taxpayer and any other partnership or limited liability company doing business (as defined in Section 23101) in this state and required to file a return under Section 18633 or 18633.5, in which the same persons own, directly or indirectly, more than 50 percent of the capital interests or profits interests.

(c) The fee assessed under this section shall be due and payable on the date the return of the limited liability company is required to be filed under Section 18633.5, shall be collected and refunded in the same manner as the taxes imposed by this part, and shall be subject to interest and applicable penalties.

(d) (1) The fee imposed by this section shall be estimated and paid on or before the 15th day of the sixth month of the current taxable year.

(2) A penalty of 10 percent of the amount of any underpayment shall be added to the fee. The underpayment amount shall be equal to the difference between the total amount of the fee imposed by this section for the taxable year less the amount paid under paragraph (1) by the date specified in that paragraph. A penalty shall not be imposed with respect to any fee estimated and paid under this section if the amount paid by the date prescribed in this subdivision is equal to or greater than the total amount of the fee of the limited liability company for the preceding taxable year.

SEC. 7. Section 19137 is added to the Revenue and Taxation Code, to read:

19137. (a) There shall be added to the tax for amounts in each taxable year for which amnesty could have been requested a penalty in an amount determined as follows:

(1) For amounts that are due and payable (as provided in subdivision (f)) on the last day of the tax amnesty period, an amount equal to 50 percent of the accrued interest payable under Section 19101 for the period beginning on the last date prescribed by law for the payment of that tax (determined without regard to extensions) and ending on the last day of the tax amnesty period specified in Section 19741.

(2) For amounts that become due and payable (as provided in subdivision (f)) after the last date of the tax amnesty period, an amount equal to 50 percent of the interest computed under Section 19101 on any final amount, including final deficiencies and self-assessed amounts, for the period beginning on the last date prescribed by law for the payment of the tax for the year of the deficiency (determined without regard to

extensions) and ending on the last day of the tax amnesty period specified in Section 19741. In computing the final amount upon which the penalty is computed, deposits made before the end of the tax amnesty period pursuant to Section 19041.5 shall reduce the amount upon which the penalty is computed. Payments or deposits made after the end of the tax amnesty period shall not reduce the amount upon which the penalty is computed.

(3) For purposes of paragraph (2), Sections 19107, 19108, 19110, and 19113 shall apply in determining the amount computed under Section 19101.

(b) The penalty imposed by this section is in addition to any other penalty imposed under Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part.

(c) (1) This section shall not apply to any amounts that are treated as paid during the tax amnesty period under paragraph (1) or (2) of subdivision (b) of Section 19743.

(2) This section shall not apply to any amount attributable to an assessment resulting from either of the following:

(A) An examination, within the meaning of Section 19032, where the Franchise Tax Board first contacted the taxpayer in writing in connection with that examination before March 27, 2009, and that assessment was not final before March 27, 2009.

(B) A proposed assessment under Section 19087 where the Franchise Tax Board first contacted the taxpayer in writing in connection with failing to file a return before March 27, 2009, and that assessment was not final before March 27, 2009.

(d) Article 3 (commencing with Section 19031), relating to deficiency assessments, shall not apply with respect to the assessment or collection of any penalty imposed by subdivision (a) or the determination of when an amount is considered due and payable.

(e) A refund or credit for any amounts paid to satisfy a penalty imposed under this section may be allowed only on the grounds that the amount of the penalty was not properly computed by the Franchise Tax Board.

(f) For purposes of this section, amounts are due and payable on the following dates:

(1) For amounts of any liability disclosed on a return filed on or before the date payment is due (with regard to any extension of time to pay), the date the amount is established on the records of the Franchise Tax Board, except that in no case shall it be prior to the day after the payment due date.

(2) For amounts of any liability disclosed on a return filed after the date payment is due (with regard to any extension of time to pay), the date the amount is established on the records of the Franchise Tax Board.

(3) For amounts of any liability determined under Section 19081 or 19082 (pertaining to jeopardy assessments), the date the notice of the Franchise Tax Board's finding is mailed or issued.

(4) For all other amounts of liability, the date the assessment is final.

SEC. 8. Chapter 9.2 (commencing with Section 19740) is added to Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

## Chapter 9.2. Tax Amnesty 2009

19740. The Franchise Tax Board shall administer a tax amnesty for taxpayers subject to Part 10 (commencing with Section 17001) and Part 11 (commencing with Section 23001), as provided in this chapter.

19741. The tax amnesty shall be conducted during the period beginning February 1, 2009, and ending March 27, 2009, inclusive, pursuant to Section 19743. The tax amnesty shall apply to tax liabilities for taxable years beginning on or after January 1, 2003, and before January 1, 2007.

19742. (a) For any taxpayer who meets each of the requirements of Section 19743, both of the following shall apply:

(1) The Franchise Tax Board shall waive all unpaid penalties and fees imposed by this part for each taxable year for which tax amnesty is allowed, but only to the extent of the amount of any penalty or fee that is owed as a result of previous nonreporting or underreporting of tax liabilities or prior nonpayment of any taxes previously assessed or proposed to be assessed for that taxable year.

(2) Except as provided in subdivision (b), no criminal action shall be brought against the taxpayer for the taxable years for which tax amnesty is allowed for the nonreporting or underreporting of tax liabilities or the nonpayment of any taxes previously assessed or proposed to be assessed.

(b) This chapter shall not apply to violations of this part for which, as of February 1, 2009, any of the following apply:

(1) A criminal complaint was filed against the taxpayer.

(2) The taxpayer is under criminal investigation.

(c) This chapter shall not apply to any nonreported or underreported tax liability amounts attributable to a potentially abusive tax avoidance transaction. For purposes of this chapter, a "potentially abusive tax avoidance transaction" means any of the following:

(1) A tax shelter as defined in Section 6662(d)(2)(C) of the Internal Revenue Code. For purposes of this chapter, Section 6662(d)(2)(C) of

the Internal Revenue Code is modified by substituting the phrase "income or franchise tax" for "Federal income tax."

(2) A reportable transaction, as defined in Section 6707A(c) (1) of the Internal Revenue Code, with respect to which the requirements of Section 6664(d)(2)(A) of the Internal Revenue Code are not met.

(3) A listed transaction, as defined in Section 6707A(c)(2) of the Internal Revenue Code.

(4) Any entity, investment plan or arrangement, or other plan or arrangement which is of a type that the Secretary of the Treasury, Internal Revenue Service, or the Franchise Tax Board determines by regulations, notices, coordinated issue papers, or other official public notification as having a potential for tax avoidance or evasion.

(5) A gross misstatement, within the meaning of Section 6404(g)(2)(D) of the Internal Revenue Code.

(6) Any transaction to which Section 19774 applies.

(d) No refund or credit shall be allowed with respect to any penalty or fee paid with respect to a taxable year prior to the time the taxpayer makes a request for tax amnesty for that taxable year pursuant to Section 19743.

(e) Notwithstanding Chapter 6 (commencing with Section 19301), no claim for refund or credit for any amounts paid in connection with the tax amnesty program under this chapter shall be allowed.

19743. (a) This chapter shall apply to any taxpayer that satisfies all of the following requirements:

(1) During the tax amnesty period specified in Section 19741, is eligible to participate in the tax amnesty.

(2) During the tax amnesty period specified in Section 19741, files a completed amnesty application with the Franchise Tax Board electing to participate in the tax amnesty.

(3) By June 1, 2009, does the following:

(A) (i) For any taxable year eligible for the tax amnesty where the taxpayer has not filed any required return, files a completed original tax return for that year.

(ii) For any taxable year eligible for the tax amnesty where the taxpayer filed a return but underreported tax liability on that return, files an amended return for that year.

(B) Pays in full any taxes and interest due for each taxable year described in clauses (i) and (ii) of subparagraph (A), as applicable, for which amnesty is requested, or applies for an installment payment agreement under subdivision (b). For taxpayers who have not paid in full any taxes previously proposed to be assessed, pays in full the taxes and interest due for that portion of the proposed assessment for each

taxable year for which amnesty is requested or applies for an installment payment agreement under paragraph (2) of subdivision (b).

(4) In the case of any taxpayer that has filed for bankruptcy protection under Title 11 of the United States Code, submits an order from a Federal Bankruptcy Court allowing the taxpayer to participate in the tax amnesty.

(b) (1) For purposes of complying with the full payment provisions of paragraph (3) of subdivision (a), if the full amount due is paid within the period set forth in paragraph (3) of subdivision (c) of Section 19101 after the date the Franchise Tax Board mails a notice resulting from the filing of an amnesty application or the full amount is paid by June 1, 2009, the full amount due shall be treated as paid during the amnesty period.

(2) (A) For purposes of complying with the full payment provisions of subparagraph (B) of paragraph (3) of subdivision (a), the Franchise Tax Board may enter into an installment payment agreement, but only if final payment under the terms of that installment payment agreement is due and is paid no later than June 30, 2010.

(B) Any installment payment agreement authorized by this subdivision shall include interest on the outstanding amount due at the rate prescribed in Section 19521.

(C) Failure by the taxpayer to comply fully with the terms of an installment payment agreement under this subdivision shall render the waiver of penalties and fees under Section 19742 null and void, unless the Franchise Tax Board determines that the failure was due to reasonable cause and not due to willful neglect.

(D) In the case of any failure described under subparagraph (C), the total amount of tax, interest, fees, and all penalties shall become immediately due and payable.

(c) (1) The application required under paragraph (2) of subdivision (a) shall be in the form and manner specified by the Franchise Tax Board, but in no case shall a mere payment of any taxes and interest due, in whole or in part, for any taxable year otherwise eligible for amnesty under this part be deemed to constitute an acceptable amnesty application under this part. For purposes of the prior sentence, the application of a refund from one taxable year to offset a tax liability from another taxable year otherwise eligible for amnesty shall not, without the filing of an amnesty application, be deemed to constitute an acceptable amnesty application under this part.

(2) The Legislature specifically intends that the Franchise Tax Board, in administering the amnesty application requirement under this part, make the amnesty application process as streamlined as possible to ensure that participation in the tax amnesty be available to as many taxpayers as possible without otherwise compromising the Franchise Tax Board's

ability to enforce and collect the taxes imposed under Part 10 (commencing with Section 17001) and Part 11 (commencing with Section 23001).

(d) Upon the conclusion of the tax amnesty period, the Franchise Tax Board may propose a deficiency upon any return filed pursuant to subparagraph (A) of paragraph (3) of subdivision (a), impose penalties and fees, or initiate criminal action under this part with respect to the difference between the amount shown on that return and the correct amount of tax. This action shall not invalidate any waivers previously granted under Section 19742.

(e) All revenues derived pursuant to subdivision (c) shall be subject to Sections 19602 and 19604.

19744. Notwithstanding any other provision of this chapter, if any overpayment of tax shown on an original or amended return filed under this article is refunded or credited within 180 days after the return is filed, no interest shall be allowed under Section 19340 on that overpayment.

19745. (a) The Franchise Tax Board may issue forms, instructions, notices, rules, or guidelines, and take any other necessary actions, needed to implement this chapter, specifically including any forms, instructions, notices, rules, or guidelines that specify the form and manner of any acceptable form of amnesty application described in Section 19743.

(b) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this chapter.

19746. (a) The Franchise Tax Board shall conduct a public outreach program and adequately publicize the tax amnesty so as to maximize public awareness and to make taxpayers aware of tax amnesty. In addition, the Franchise Tax Board shall make taxpayers aware of the new and increased penalties associated with taxpayer failure to participate in the tax amnesty.

(b) The Franchise Tax Board shall make reasonable efforts to identify taxpayer liabilities and, to the extent practicable, shall send written notice to taxpayers of their eligibility for the tax amnesty. However, failure of the Franchise Tax Board to notify a taxpayer of the existence or correct amount of a tax liability eligible for amnesty shall not preclude the taxpayer from participating in the tax amnesty, nor shall that failure be grounds for abating the penalty imposed under Section 19137.

19747. Any taxpayer who has an existing installment payment agreement under Section 19008 as of the start of the tax amnesty, and who does not participate in the tax amnesty, may not be subject to the

penalty imposed under Section 19137 with respect to amounts payable under that agreement.

SEC. 9. Section 23036.2 is added to the Revenue and Taxation Code, to read:

23036.2. (a) Notwithstanding any provision of this part or Part 10.2 (commencing with Section 18401) to the contrary, for each taxable year beginning on or after January 1, 2008, and before January 1, 2010, the total of all credits otherwise allowable under any provision of Chapter 3.5 (commencing with Section 23604) including the carryover of any credit under a former provision of that chapter, for the taxable year shall not reduce the "tax" (as defined in Section 23036) below the applicable amount.

(b) For purposes of this section, the "applicable amount" shall be equal to 50 percent of the "tax" (as defined in Section 23036) before application of any credits.

(c) The amount of any credit otherwise allowable for the taxable year under Section 23036 that is not allowed due to the application of this section shall remain a credit carryover amount under this part.

(d) The carryover period for any credit that is not allowed due to the application of this section shall be increased by the number of taxable years the credit (or any portion thereof) was not allowed.

(e) The provisions of this section shall not apply to a taxpayer with income subject to tax under this part of less than $500,000 for the taxable year.

SEC. 10. Section 23663 is added to the Revenue and Taxation Code, to read:

23663. (a) (1) Notwithstanding any other law to the contrary, for each taxable year beginning on or after July 1, 2008, any credit allowed to a taxpayer under this chapter that is an "eligible credit (within the meaning of paragraph (2) of subdivision (b)) may be assigned by that taxpayer to any "eligible assignee" (within the meaning of paragraph (3) of subdivision (b)).

(2) A credit assigned under paragraph (1) may only be applied by the eligible assignee against the "tax" of the eligible assignee in a taxable year beginning on or after January 1, 2010.

(3) Except as specifically provided in this section, following an assignment of any eligible credit under this section, the eligible assignee shall be treated as if it originally earned the assigned credit.

(b) For purposes of this section, the following definitions shall apply:

(1) "Affiliated corporation" means a corporation that is a member of a commonly controlled group as defined in Section 25105.

(2) "Eligible credit" shall mean:

(A) Any credit earned by the taxpayer in a taxable year beginning on or after July 1, 2008, or

(B) Any credit earned in any taxable year beginning before July 1, 2008, that is eligible to be carried forward to the taxpayer's first taxable year beginning on or after July 1, 2008, under the provisions of this part.

(3) "Eligible assignee" shall mean any affiliated corporation that is properly treated as a member of the same combined reporting group pursuant to Section 25101 or 25110 as the taxpayer assigning the eligible credit as of:

(A) In the case of credits earned in taxable years beginning before July 1, 2008:

(i) June 30, 2008, and

(ii) The last day of the taxable year of the assigning taxpayer in which the eligible credit is assigned.

(B) In the case of credits earned in taxable years beginning on or after July 1, 2008.

(i) The last day of the first taxable year in which the credit was allowed to the taxpayer, and

(ii) The last day of the taxable year of the assigning taxpayer in which the eligible credit is assigned.

(c) (1) The election to assign any credit under subdivision (a) shall be irrevocable once made, and shall be made by the taxpayer allowed that credit on its original return for the taxable year in which the assignment is made.

(2) The taxpayer assigning any credit under this section shall reduce the amount of its unused credit by the face amount of any credit assigned under this section, and the amount of the assigned credit shall not be available for application against the assigning taxpayer's "tax" in any taxable year, nor shall it thereafter be included in the amount of any credit carryover of the assigning taxpayer.

(3) The eligible assignee of any credit under this section may apply all or any portion of the assigned credits against the "tax" (as defined in Section 23036) of the eligible assignee for the taxable year in which the assignment occurs, or any subsequent taxable year, subject to any carryover period limitations that apply to the assigned credit and also subject to the limitation in paragraph (2) of subdivision (a).

(4) In no case may the eligible assignee sell, otherwise transfer, or thereafter assign the assigned credit to any other taxpayer.

(d) (1) No consideration shall be required to be paid by the eligible assignee to the assigning taxpayer for assignment of any credit under this section.

(2) In the event that any consideration is paid by the eligible assignee to the assigning taxpayer for the transfer of an eligible credit under this section, then:

(A) No deduction shall be allowed to the eligible assignee under this part with respect to any amounts so paid, and

(B) No amounts so received by the assigning taxpayer shall be includable in gross income under this part.

(e) (1) The Franchise Tax Board shall specify the form and manner in which the election required under this section shall be made, as well as any necessary information that shall be required to be provided by the taxpayer assigning the credit to the eligible assignee.

(2) Any taxpayer who assigns any credit under this section shall report any information, in the form and manner specified by the Franchise Tax Board, necessary to substantiate any credit assigned under this section and verify the assignment and subsequent application of any assigned credit.

(3) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to paragraphs (1) and (2).

(4) The Franchise Tax Board may issue any regulations necessary to implement the purposes of this section, including any regulations necessary to specify the treatment of any assignment that does not comply with the requirements of this section (including, for example, where the taxpayer and eligible assignee are not properly treated as members of the same combined reporting group on any of the dates specified in paragraph (3) of subdivision (b).

(f) (1) The taxpayer and the eligible assignee shall be jointly and severally liable for any tax, addition to tax, or penalty that results from the disallowance, in whole or in part, of any eligible credit assigned under this section.

(2) Nothing in this section shall limit the authority of the Franchise Tax Board to audit either the assigning taxpayer or the eligible assignee with respect to any eligible credit assigned under this section.

(g) On or before June 30, 2013, the Franchise Tax Board shall report to the Joint Legislative Budget Committee, the Legislative Analyst, and the relevant policy committees of both houses on the effects of this section. The report shall include, but need not be limited to, the following:

(1) An estimate of use of credits in the 2010 and 2011 taxable years by eligible taxpayers.

(2) An analysis of effect of this section on expanding business activity in the state related to these credits.

(3) An estimate of the resulting tax revenue loss to the state.

(4) The report shall cover all credits covered in this section, but focus on the credits related to research and development, economic incentive areas, and low income housing.

SEC. 11. Section 24416 of the Revenue and Taxation Code is amended to read:

24416. Except as provided in Sections 24416.1, 24416.2, 24416.4, 24416.5, 24416.6, and 24416.7, a net operating loss deduction shall be allowed in computing net income under Section 24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any taxable year shall be eligible for carryover to any subsequent taxable year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty percent for any taxable year beginning before January 1, 2000.

(B) Fifty-five percent for any taxable year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(D) One hundred percent for any taxable year beginning on or after January 1, 2004.

(2) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates a new business during that taxable year, each of the following shall apply to each loss incurred during the first three taxable years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (e).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in paragraph (1) of subdivision (e).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (e).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of paragraph (2), paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, "net loss" means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) For any taxable year in which the taxpayer has in effect a water's-edge election under Section 25110, the deduction of a net operating loss carryover shall be denied to the extent that the net operating loss carryover was determined by taking into account the income and factors of an affiliated corporation in a combined report whose income and apportionment factors would not have been taken into account if a water's-edge election under Section 25110 had been in effect for the taxable year in which the loss was incurred.

(d) Section 172(b)(1) of the Internal Revenue Code, relating to net operating loss carrybacks and carryovers and the years to which the loss may be carried, is modified as follows:

(1) Net operating loss carrybacks shall not be allowed for any net operating losses attributable to taxable years beginning before January 1, 2011.

(2) A net operating loss attributable to taxable years beginning on or after January 1, 2011, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of the loss in lieu of the number of years provided therein.

(A) For a net operating loss attributable to a taxable year beginning on or after January 1, 2011, and before January 1, 2012, the amount of carryback to any taxable year shall not exceed 50 percent of the net operating loss.

(B) For a net operating loss attributable to a taxable year beginning on or after January 1, 2012, and before January 1, 2013, the amount of carryback to any taxable year shall not exceed 75 percent of the net operating loss.

(C) For a net operating loss attributable to a taxable year beginning on or after January 1, 2013, the amount of carryback to any taxable year shall not exceed 100 percent of the net operating loss.

(3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the Internal Revenue Code, relating to special rules for REITs, and Sections 172(b)(1)(E) and 172(h) of the Internal Revenue Code, relating to corporate equity reduction interest loss, shall apply as provided.

(4) A net operating loss carryback shall not be carried back to any taxable year beginning before January 1, 2009.

(e) (1) (A) For a net operating loss for any taxable year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute "five taxable years" in lieu of "20 years" except as otherwise provided in paragraphs (2), (3), and (4).

(B) For a net operating loss for any income year beginning on or after January 1, 2000, and before January 1, 2008, Section 172(b)(1)(A)(ii)

of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute "10 taxable years" in lieu of "20 taxable years."

(2) For any income year beginning before January 1, 2000, in the case of a "new business," the "five taxable years" referred to in paragraph (1) shall be modified to read as follows:

(A) "Eight taxable years" for a net operating loss attributable to the first taxable year of that new business.

(B) "Seven taxable years" for a net operating loss attributable to the second taxable year of that new business.

(C) "Six taxable years" for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 24416.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning prior to January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a corporation that was either of the following:

(A) Under the jurisdiction of the court in a Title 11 or similar case at any time prior to January 1, 1994. The loss carryover provided in the preceding sentence shall not apply to any loss incurred in an income year after the taxable year during which the corporation is no longer under the jurisdiction of the court in a Title 11 or similar case.

(B) In receipt of assets acquired in a transaction that qualifies as a tax-free reorganization under Section 368(a)(1)(G) of the Internal Revenue Code.

(f) For purposes of this section:

(1) "Eligible small business" means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the income year.

(2) Except as provided in subdivision (g), "new business" means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) "Title 11 or similar case" shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or an "S corporation," paragraphs (1) and (2) shall be applied to the partnership or "S corporation."

(g) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months ("prior trade or business activity"), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In any case where a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by

purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In any case where the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1) of this subdivision.

(5) "Related person" shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) "Acquire" shall include any transfer, whether or not for consideration.

(7) (A) For taxable years beginning on or after January 1, 1997, the term "new business" shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended, and that has not received regulatory approval for any product from the United States Food and Drug Administration.

(B) For purposes of this paragraph:

(i) "Biopharmaceutical activities" means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(ii) "Other biotechnology activities" means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(h) For purposes of corporations whose net income is determined under Chapter 17 (commencing with Section 25101), Section 25108 shall apply to each of the following:

(1) The amount of net operating loss incurred in any taxable year that may be carried forward to another taxable year.

(2) The amount of any loss carry forward that may be deducted in any taxable year.

(i) The provisions of Section 172(b)(1)(D) of the Internal Revenue Code, relating to bad debt losses of commercial banks, shall not be applicable.

(j) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(k) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(*l*) Except as otherwise provided, the amendments made by Chapter 107 of the Statutes of 2000 shall apply to net operating losses for taxable years beginning on or after January 1, 2000.

SEC. 12. Section 24416.9 is added to the Revenue and Taxation Code, to read:

24416.9. (a) Notwithstanding Sections 24416, 24416.1, 24416.2, 24416.4, 24416.5, 24416.6, and 24416.7 of this code and Section 172 of the Internal Revenue Code, no net operating loss deduction shall be allowed for any taxable year beginning on or after January 1, 2008, and before January 1, 2010.

(b) For any net operating loss or carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended as follows:

(1) By one year, for losses incurred in taxable years beginning on or after January 1, 2008, and before January 1, 2009.

(2) By two years, for losses incurred in taxable years beginning before January 1, 2008.

(c) Notwithstanding subdivision (a), a net operating loss deduction shall be allowed for carryback of a net operating loss attributable to a taxable year beginning on or after January 1, 2011.

(d) The provisions of this section shall not apply to a taxpayer with income subject to tax under this part of less than five hundred thousand dollars ($500,000) for the taxable year.

SEC. 13. Section 24416.10 is added to the Revenue and Taxation Code, to read:

24416.10. Notwithstanding Section 24416.1, 24416.2, 24416.4, 24416.5, 24416.6, or 24416.7 to the contrary, a net operating loss attributable to a taxable year beginning on or after January 1, 2008, shall be a net operating carryover to each of the 20 taxable years following

the year of the loss, and a net operating loss attributable to a taxable year beginning on or after January 1, 2011, shall also be a net operating loss carryback to each of the two taxable years preceding the taxable year of loss.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to alleviate the current fiscal crisis, it is necessary that this act go into immediate effect.

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## CHAPTER 764

An act to amend Sections 8880.1, 8880.4, 8880.5, 8880.25, 8880.26, 8880.321, 8880.38, 8880.48, 8880.56, 8880.62, 8880.64, and 8880.65 of, to add Sections 8880.4.5 and 8880.5.5 to, and to repeal Section 8880.63 of, the Government Code, and to amend Section 5 of the California State Lottery Act of 1984, relating to the California State Lottery, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor November 14, 2008. Filed with Secretary of State November 14, 2008.]

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

SECTION 1. More than 20 years having passed since the inception of the California State Lottery, the Lottery, as a state-owned asset, should be authorized to modernize its operations in order to improve its financial performance.

SEC. 2. Section 8880.1 of the Government Code is amended to read:

8880.1. The People of the State of California declare that the purpose of this Act is support for preservation of the rights, liberties and welfare of the people by providing additional moneys to benefit education either directly or indirectly by providing funds to pay General Fund and infrastructure bond obligations without the imposition of additional or increased taxes.

The People of the State of California further declare that it is their intent that the net revenues of the California State Lottery that are allocated for public education shall not be used as substitute funds but rather shall supplement the total amount of money allocated for public education in California.

It is further the intent of the People of California to permanently secure the contribution that the California State Lottery has made to funding public education by increasing the minimum guarantee set forth in Section 8 of Article XVI of the California Constitution.

SEC. 3. Section 8880.4 of the Government Code is amended to read:

8880.4. For fiscal years prior to the 2009–10 fiscal year, total revenues of the lottery, as defined in Section 8880.65, shall be allocated as follows:

(a) Not less than 84 percent of the total annual revenues from the sale of state lottery tickets or shares shall be returned to the public in the form of prizes and net revenues to benefit public education.

(1) Fifty percent of the total annual revenues shall be returned to the public in the form of prizes as described in this chapter.

(2) At least 34 percent of the total annual revenues shall be allocated to the benefit of public education, as specified in Section 8880.5. However, for the 1998–99 fiscal year and each fiscal year thereafter, 50 percent of any increase in the amount calculated pursuant to this paragraph from the amount calculated in the 1997–98 fiscal year shall be allocated to school districts and community college districts for the purchase of instructional materials, on the basis of an equal amount per unit of average daily attendance, as defined by law, and through a fair and equitable distribution system across grade levels.

(3) All unclaimed prize money shall revert to the benefit of public education, as provided for in subdivision (e) of Section 8880.321.

(4) All of the interest earned upon funds held in the State Lottery Fund shall be allocated to the benefit of public education, as specified in Section 8880.5. This interest is in addition to, and shall not be considered as any part of, the 34 percent of the total annual revenues that is required to be allocated for the benefit of public education as specified in paragraph (2).

(5) No more than 16 percent of the total annual revenues shall be allocated for payment of expenses of the lottery as described in this chapter. To the extent that expenses of the lottery are less than 16 percent of the total annual revenues, any surplus funds also shall be allocated to the benefit of public education, as specified in this section or in Section 8880.5.

(b) Funds allocated for the benefit of public education pursuant to subdivision (a) are in addition to other funds appropriated or required under existing constitutional reservations for educational purposes. No program shall have the amount appropriated to support that program reduced as a result of funds allocated pursuant to subdivision (a). Funds allocated for the benefit of public education pursuant to subdivision (a) shall not supplant funds committed for child development programs.

(c) None of the following shall be considered revenues for the purposes of this section:

(1) Revenues recorded as a result of a nonmonetary exchange. "Nonmonetary exchange" means a reciprocal transfer, in compliance with generally accepted accounting principles, between the lottery and another entity that results in the lottery acquiring assets or services and the lottery providing assets or services.

(2) Reimbursements received by the lottery for the cost of goods or services provided by the lottery that are less than or equal to the cost of the same goods or services provided by the lottery.

(d) Reimbursements received in excess of the cost of the same goods and services provided by the lottery, as specified in paragraph (2) of subdivision (c), are not a part of the 34 percent of total annual revenues required to be allocated for the benefit of public education, as specified in paragraph (2) of subdivision (a). However, this amount shall be allocated for the benefit of public education as specified in Section 8880.5.

SEC. 4. Section 8880.4.5 is added to the Government Code, to read:

8880.4.5. Commencing with the 2009–10 fiscal year, total revenues of the lottery, as defined in Section 8880.65, for each fiscal year shall be allocated as follows:

(a) Not less than 87 percent of the total revenues shall be returned to the public as follows:

(1) The commission shall determine the percentage of total revenues that shall be returned to the public in the form of prizes as set forth in this chapter, provided that the percentage shall not be less than 50 percent of the total revenues.

(2) One million dollars ($1,000,000) shall be allocated to the Office of Problem and Pathological Gambling within the State Department of Alcohol and Drug Programs for problem gambling awareness and treatment programs. No later than April 1 of each year, the Director of the Office of Problem and Pathological Gambling shall report to the commission on the effectiveness of problem gambling awareness and treatment efforts. The funding provided pursuant to this paragraph shall not replace or limit any other problem gambling awareness or treatment activity determined by the director to further the purposes of this chapter.

(3) The amount of net revenues designated by the Director of Finance as lottery revenue assets subject to sale pursuant to Article 6.7 (commencing with Section 63048.91) of Chapter 2 of Division 1 of Title 6.7 shall be transferred to the Lottery Assets Fund, which is hereby established in the State Treasury, and, notwithstanding Section 13340, is continuously appropriated for the purposes of that article.

(4) Net revenues remaining after the allocations made pursuant to paragraphs (1) through (3) shall be transferred to the Debt Retirement Fund, which is hereby established in the State Treasury. The Debt Retirement Fund may be appropriated by the Legislature for the purpose of repaying General Fund budgetary obligations, infrastructure bond debts, and the Economic Recovery Bonds, including reimbursement to the General Fund for the costs of these debts.

(b) No more than 13 percent of the total revenues shall be allocated for payment of expenses of the lottery as described in this chapter. To the extent that expenses of the lottery are less than 13 percent of the total revenues, surplus funds may be carried over from year to year upon a determination by the commission that the carryover furthers the purposes of this chapter, except that the total revenues allocated for payment, plus carried over revenue, shall not exceed 16 percent of the total revenues for the year in which carried over revenue is available. Excess carried over revenue shall be allocated pursuant to subdivision (a).

(c) None of the following shall be considered revenues for the purposes of this section:

(1) Revenues recorded as a result of a nonmonetary exchange. "Nonmonetary exchange" means a reciprocal transfer, in compliance with generally accepted accounting principles, between the lottery and another entity that results in the lottery acquiring assets or services and the lottery providing assets or services.

(2) Reimbursements received by the lottery for the cost of goods or services provided by the lottery that are less than or equal to the cost of the same goods or services provided by the lottery.

SEC. 5. Section 8880.5 of the Government Code is amended to read:

8880.5. The California State Lottery Education Fund is created within the State Treasury, and is continuously appropriated for carrying out the purposes of this chapter. For fiscal years prior to the 2009–10 fiscal year, the Controller shall draw warrants on this fund and distribute them quarterly in the following manner, provided that the payments specified in subdivisions (a) to (g), inclusive, shall be equal per capita amounts.

(a) Payments shall be made directly to public school districts, including county superintendents of schools, serving kindergarten and grades 1 to 12, inclusive, or any part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law and adjusted pursuant to subdivision (*l*).

(b) Payments shall also be made directly to public school districts serving community colleges, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(c) Payments shall also be made directly to the Board of Trustees of the California State University on the basis of an amount for each unit

of equivalent full-time enrollment. Funds received by the trustees shall be deposited in and expended from the California State University Lottery Education Fund, which is hereby created or, at the discretion of the trustees, deposited in local trust accounts in accordance with subdivision (j) of Section 89721 of the Education Code.

(d) Payments shall also be made directly to the Regents of the University of California on the basis of an amount for each unit of equivalent full-time enrollment.

(e) Payments shall also be made directly to the Board of Directors of the Hastings College of the Law on the basis of an amount for each unit of equivalent full-time enrollment.

(f) Payments shall also be made directly to the Department of the Youth Authority for educational programs serving kindergarten and grades 1 to 12, inclusive, or any part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(g) Payments shall also be made directly to the two California Schools for the Deaf, the California School for the Blind, and the three Diagnostic Schools for Neurologically Handicapped Children, on the basis of an amount for each unit of equivalent full-time enrollment.

(h) Payments shall also be made directly to the State Department of Developmental Services and the State Department of Mental Health for clients with developmental or mental disabilities who are enrolled in state hospital education programs, including developmental centers, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(i) No Budget Act or other statutory provision shall direct that payments for public education made pursuant to this chapter be used for purposes and programs (including workload adjustments and maintenance of the level of service) authorized by Chapters 498, 565, and 1302 of the Statutes of 1983, Chapter 97 or 258 of the Statutes of 1984, or Chapter 1 of the Statutes of the 1983–84 Second Extraordinary Session.

(j) School districts and other agencies receiving funds distributed pursuant to this chapter may at their option utilize funds allocated by this chapter to provide additional funds for those purposes and programs prescribed by subdivision (i) for the purpose of enrichment or expansion.

(k) As a condition of receiving any moneys pursuant to subdivision (a) or (b), each district and county superintendent of schools shall establish a separate account for the receipt and expenditure of those moneys, which account shall be clearly identified as a lottery education account.

(*l*) Commencing with the 1998–99 fiscal year, and each year thereafter, for the purposes of subdivision (a), average daily attendance shall be increased by the statewide average rate of excused absences for the

1996–97 fiscal year as determined pursuant to the provisions of Chapter 855 of the Statutes of 1997. The statewide average excused absence rate, and the corresponding adjustment factor required for the operation of this subdivision, shall be certified to the State Controller by the Superintendent of Public Instruction.

(m) It is the intent of this chapter that all funds allocated from the California State Lottery Education Fund and pursuant to Section 8880.5.5 shall be used exclusively for the education of pupils and students and no funds shall be spent for acquisition of real property, construction of facilities, financing of research, or any other noninstructional purpose.

SEC. 6. Section 8880.5.5 is added to the Government Code, to read:

8880.5.5. (a) Notwithstanding Section 13340 of the Government Code, commencing with the 2009–10 fiscal year and each fiscal year thereafter, the following annual appropriations are hereby made from the General Fund:

(1) To the State Department of Education, for allocation to school districts, county offices of education, and charter schools serving kindergarten and grades 1 to 12, inclusive, or any part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law and adjusted pursuant to subdivision (*l*) of Section 8880.5, an amount equal to the payments made during the 2008–09 fiscal year pursuant to subdivision (a) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in average daily attendance, as defined by law and adjusted pursuant to subdivision (*l*) of Section 8880.5, for school districts, county offices of education, and charter schools serving kindergarten and grades 1 to 12 from the second preceding fiscal year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(2) To the Board of Governors of the California Community Colleges, for allocation to community college districts, on the basis of an equal amount for each full time equivalent student, as defined by law, an amount equal to the payments made during the 2008–09 fiscal year pursuant to subdivision (b) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in full time equivalent students for community college districts from the second preceding fiscal year to the preceding fiscal year and then by applying a cost of living adjustment pursuant to paragraph (10) of this subdivision.

(3) To the Board of Trustees of the California State University, an amount equal to the payments made during the 2008–09 fiscal year

pursuant to subdivision (c) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in full-time equivalent students for the California State University system from the second preceding fiscal year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(4) To the Regents of the University of California, an amount equal to the payments made during the 2008–09 fiscal year pursuant to subdivision (d) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in full-time equivalent students for the University of California system from the second preceding fiscal year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(5) To the Board of Directors of the Hastings College of the Law, an amount equal to the payments made during the 2008–09 fiscal year pursuant to subdivision (e) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in full-time equivalent students for the Hastings College of the Law from the second preceding fiscal year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(6) To the California Department of Corrections and Rehabilitation, for educational programs serving kindergarten and grades 1 to 12, inclusive, or any part thereof, an amount equal to the payments made during the 2008–09 fiscal year pursuant to subdivision (f) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in equivalent average daily attendance for the Department of Corrections and Rehabilitation Division of Juvenile Justice from the second preceding fiscal year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(7) To the State Department of Education, for support of the State Special Schools, an amount equal to the payments made during the 2008–09 fiscal year pursuant to subdivision (g) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the

amount appropriated in the preceding fiscal year by one plus the percent change in equivalent average daily attendance for the State Special Schools from the second preceding fiscal year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(8) To the State Department of Developmental Services, for clients with developmental disabilities who are enrolled in developmental center education programs, an amount equal to the payments made to the State Department of Developmental Services during the 2008–09 fiscal year pursuant to subdivision (h) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in equivalent average daily attendance for the State Department of Developmental Services from the second preceding fiscal year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(9) To the State Department of Mental Health, for clients with mental disabilities who are enrolled in state hospital education programs, an amount equal to the payments made to the State Department of Mental Health during the 2008–09 fiscal year pursuant to subdivision (h) of Section 8880.5, adjusted for inflation and attendance. The amount appropriated each year pursuant to this paragraph shall be determined by multiplying the amount appropriated in the preceding fiscal year by one plus the percent change in equivalent average daily attendance for the State Department of Mental Health from the second preceding fiscal year to the preceding fiscal year and then by applying a cost-of-living adjustment pursuant to paragraph (10) of this subdivision.

(10) The amounts appropriated pursuant to this subdivision shall be increased each year by the change in the cost-of-living determined pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B of the California Constitution.

(b) The amounts appropriated for the 2009–10 fiscal year pursuant to paragraphs (1), (2), (6), (7), (8), and (9) of subdivision (a) shall be in addition to the sums required by, and shall not be considered towards fulfilling the funding requirements of, paragraph (2) of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(c) The amounts appropriated for the 2009–10 fiscal year pursuant to paragraphs (1), (2), (6), (7), (8), and (9) of subdivision (a) shall not offset or in any way reduce the maintenance factor determined pursuant to subdivisions (d) and (e) of Section 8 of Article XVI of the California Constitution, and shall be in addition to the amount of maintenance factor

allocated in the 2009–10 fiscal year pursuant to subdivision (e) of Section 8 of Article XVI of the California Constitution.

(d) Commencing with the 2009–10 fiscal year and each fiscal year thereafter, for the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by paragraphs (1), (2), (6), (7), (8), and (9) of subdivision (a) of this section shall be deemed to be included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code.

(e) Commencing with the 2009-10 fiscal year, the percentage determined pursuant to paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution, as adjusted pursuant to Chapter 2 (commencing with Section 41200) of Part 24 of the Education Code, shall be increased by adding to it the number of percentage points determined by dividing the total amount allocated pursuant to subdivisions (a), (b), (f), (g), and (h) of Section 8880.5 of the Government Code for the 2008–09 fiscal year by the total General Fund revenues that may be appropriated pursuant to Article XIII B of the California Constitution for the 2008–09 fiscal year.

(f) Commencing with the 2009–10 fiscal year, references in law to lottery education funds, to funds allocated pursuant to Section 8880.5, to funds allocated from the California State Lottery Education Fund, or similar references in law to the proceeds of lottery revenues allocated for the benefit of public education to the entities described in subdivisions (a), (b), (f), (g), and (h) of Section 8880.5 shall be deemed to be references to the funds appropriated pursuant to this section. This subdivision shall be broadly construed to effectuate its purpose.

SEC. 7. Section 8880.25 of the Government Code is amended to read:

8880.25. The Lottery shall be operated so as to produce the maximum amount of net revenues available for allocation pursuant to Sections 8880.4 and 8880.4.5.

SEC. 8. Section 8880.26 of the Government Code is amended to read:

8880.26. (a) The provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 are not applicable to any rule or regulation promulgated by the commission.

(b) Section 2889 of the Public Utilities Code shall not be applicable to any live, recorded, or recorded-interactive audio text access telephone service under contract to the commission, as of the effective date of the act adding this subdivision, that provides the public with lottery game draw results.

(c) The provisions of the Public Contract Code shall not apply to expenditures made by the lottery in furtherance of its duty to produce the maximum amount of net revenues.

SEC. 9. Section 8880.321 of the Government Code is amended to read:

8880.321. The commission shall promulgate regulations to establish a system of verifying the validity of prizes and to effect payment of the prizes, provided that:

(a) For convenience of the public, lottery game retailers may be authorized by the commission to pay winners of up to six hundred dollars ($600) after performing validation procedures on their premises appropriate to the lottery game involved.

(b) No prize may be paid arising from tickets or shares that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the lottery by applicable deadlines, lacking in captions that confirm and agree with the lottery play symbols required by the lottery game involved, purchased by a minor, or not in compliance with additional specific rules and regulations and confidential validation and security tests appropriate to the particular lottery game. The lottery may pay a prize even though the actual winning ticket is not received by the lottery if the lottery validates the claim for the prize based upon substantial proof. "Substantial proof" means any evidence that would permit the lottery to use established validation procedures, as specified in lottery regulations, to validate the claim.

The commission may require that any form relating to a claim for a prize shall be signed under penalty of perjury. This declaration shall meet the requirements of Section 2015.5 of the Code of Civil Procedure.

(c) No particular prize in any lottery game shall be paid more than once.

(d) The commission may specify that winners of less than twenty-five dollars ($25) claim the prizes from either the same lottery game retailer from whom the ticket or share was purchased or from the lottery itself.

(e) Players shall have the right to claim prize money for 180 days after the drawing or the end of the lottery game or play in which the prize was won. The commission may define shorter time periods for eligibility for participation in, and entry into, drawings involving entries or finalists. If a valid claim is not made for a prize directly payable by the commission or for any on-line game prize within the period applicable for that prize, the unclaimed prize money shall be treated as set forth in subdivision (c) of Section 8880.4 or, commencing with the 2009–10 fiscal year, be treated as total revenues as set forth in Section 8880.4.5.

(f) After the expiration of the claim period for prizes for each lottery game, the commission shall make available a detailed tabulation of the

total number of tickets or shares actually sold in a lottery game and the total number of prizes of each prize denomination that were actually claimed and paid directly by the commission.

(g) A ticket or share shall not be purchased by, and a prize shall not be paid to, a member of the commission, any officer or employee of the commission, any officer or employee of the Controller who is designated in writing by the Controller as having possible access to confidential lottery information, programs, or systems, or any spouse, child, brother, sister, or parent of that person who resides within the same household of the person. Any person who knowingly sells or purchases a ticket or share in violation of this section, or who knowingly claims or attempts to claim a prize with a ticket or share that was purchased or sold in violation of this section, is guilty of a misdemeanor.

(h) No prize shall be paid to any person under the age of 18 years. Any person who knowingly claims or attempts to claim a prize with a ticket or share purchased by a person under the age of 18 years is guilty of a misdemeanor.

SEC. 10. Section 8880.38 of the Government Code is amended to read:

8880.38. (a) One of the deputy directors shall be the Deputy Director for Security, and be responsible for a security division to assure integrity, honesty, and fairness in the operation and administration of the California State Lottery, including, but not limited to, an examination of the qualifications and criminal history of all prospective and current employees, prospective and current Lottery Game Retailers, and prospective and current Lottery suppliers as defined in Section 8880.57. Fingerprints shall be obtained in this process and shall be furnished to the Department of Justice. The Department of Justice shall submit one set of the fingerprints to the Federal Bureau of Investigation as required, and shall retain the other set to obtain the California criminal history record that may be maintained.

(b) The Deputy Director for Security shall be qualified by training and experience, including at least five years of law enforcement experience, and shall have knowledge and experience in computer security, to fulfill these responsibilities. The Deputy Director for Security shall confer with the Attorney General or his or her designee and the Controller or his or her designee as the Deputy Director for Security deems necessary and advisable to promote and ensure integrity, security, honesty, and fairness of the operation and administration of the Lottery. The Deputy Director for Security shall report any alleged violation of any law related to the operations of the California State Lottery to the appropriate law enforcement agency and the Attorney General for further investigation and action. The Deputy Director for Security and lottery

security officers shall have access to criminal history information pursuant to Sections 11105 and 11105.01 of the Penal Code.

(c) Notwithstanding subdivision (a), the commission may adopt regulations for alternate methods of examining the qualifications and criminal history of lottery game retailers and lottery suppliers, as defined in Section 8880.57.

SEC. 11. Section 8880.48 of the Government Code is amended to read:

8880.48. (a) The director shall, pursuant to this chapter and the regulations of the commission, select as lottery game retailers those persons and organizations as the director deems shall best serve the public convenience and promote the sale of tickets or shares. No person under the age of 18 years shall be a lottery game retailer. In the selection of lottery game retailers, the director shall consider factors such as financial responsibility, integrity, reputation, accessibility of the place of business or activity to the public, security of the premises, the sufficiency of existing lottery game retailers to serve the public convenience, and the projected volume of the sales for the lottery game involved.

(b) In order to allow an evaluation of the competence, integrity, and character of potential lottery game retailers, the commission may require information it deems necessary of any person, corporation, trust, association, partnership, or joint venture applying for authority to act as a lottery game retailer.

(c) No person shall be a lottery game retailer if the person is engaged exclusively in the business of selling lottery tickets or shares. A person lawfully engaged in nongovernmental business on state property, an owner or lessee of an establishment which sells alcoholic beverages, and a civic and fraternal organization may be selected as a lottery game retailer. The director may contract with lottery game retailers on a seasonal or temporary basis.

(d) The commission shall establish a formal written appeal process concerning the denial of an application for, or revocation of, a contract to be a lottery game retailer.

SEC. 12. Section 8880.56 of the Government Code is amended to read:

8880.56. (a) Notwithstanding any other provision of this chapter or of any other law, the director has express authority, subject only to commission approval, to make any and all expenditures that are necessary or reasonable for effectuating the purposes of this chapter, including, but not limited to, payment for the costs of supplies, materials, tickets, independent audit services, independent studies, data transmission, advertising, promotion, consumer, retailer, and employee incentives,

public relations, communications, compensation paid to the lottery game retailers, bonding for lottery game retailers, printing, distribution of tickets or shares, reimbursement of costs of services provided to the lottery by other governmental entities, and payment for the costs of any other goods and services necessary or reasonable for effectuating the purposes of this chapter. The director may not contract with any private party for the operation and administration of the California State Lottery, created by this chapter. However, this section does not preclude procurements that integrate functions. In all procurement decisions, the director shall, subject to the approval of the commission, award contracts to the responsible supplier submitting the best proposal that maximizes the benefits to the state in relation to the areas of security, competence, experience, and timely performance, shall take into account the particularly sensitive nature of the California State Lottery and shall act to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery and the objective of raising net revenues for the benefit of the public purpose described in this chapter.

(b) Notwithstanding any other provision of this chapter, the following shall apply to contracts or procurement by the lottery:

(1) To ensure the fullest competition, the commission shall adopt and publish competitive bidding procedures for the award of any procurement or contract involving an expenditure of more than five hundred thousand dollars ($500,000). The competitive bidding procedures shall include, but not be limited to, requirements for submission of bids and accompanying documentation, guidelines for the use of requests for proposals, invitations to bid, or other methods of bidding, and a bid protest procedure. The director shall determine whether the goods or services subject to this paragraph are available through existing contracts or price schedules of the Department of General Services.

(2) The contracting standards, procedures, and rules contained in this subdivision shall also apply with respect to any subcontract involving an expenditure of more than five hundred thousand dollars ($500,000). The commission shall establish, as part of its bidding procedures for general contracts, subcontracting guidelines that implement this requirement.

(3) The provisions of Article 1 (commencing with Section 11250) of Chapter 3 of Part 1 of Division 3 apply to the commission.

(4) The commission is subject to the Small Business Procurement and Contract Act, as provided in Chapter 6.5 (commencing with Section 14835) of Part 5.5 of Division 3.

(5) In advertising or awarding any general contract for the procurement of goods and services exceeding five hundred thousand dollars

($500,000), the commission and the director shall require all bidders or contractors, or both, to include specific plans or arrangements to utilize subcontracts with socially and economically disadvantaged small business concerns. The subcontracting plans shall delineate the nature and extent of the services to be utilized, and those concerns or individuals identified for subcontracting if known.

It is the intention of the Legislature in enacting this section to establish as an objective of the utmost importance the advancement of business opportunities for these small business concerns in the private business activities created by the California State Lottery. In that regard, the commission and the director shall have an affirmative duty to achieve the most feasible and practicable level of participation by socially and economically disadvantaged small business concerns in its procurement programs.

By July 1, 1986, the commission shall adopt proposal evaluation procedures, criteria, and contract terms which are consistent with the advancement of business opportunities for small business concerns in the private business activities created by the California State Lottery and which will achieve the most feasible and practicable level of participation by socially and economically disadvantaged small business concerns in its procurement programs. The proposal evaluation procedures, criteria, and contract terms adopted shall be reported in writing to both houses of the Legislature on or before July 1, 1986.

For the purposes of this section, socially and economically disadvantaged persons include women, Black Americans, Hispanic Americans, Native Americans (including American Indians, Eskimos, Aleuts, and Native Hawaiians), Asian-Pacific Americans (including persons whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the United States Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), and other minorities or any other natural persons found by the commission to be disadvantaged.

The commission shall report to the Legislature by July 1, 1987, and by each July 1 thereafter, on the level of participation of small businesses, socially and economically disadvantaged businesses, and California businesses in all contracts awarded by the commission.

(6) The commission shall prepare and submit to the Legislature by October 1 of each year a report detailing the lottery's purchase of goods and services through the Department of General Services. The report shall also include a listing of contracts awarded for more than one hundred thousand dollars ($100,000), the name of the contractor, amount and term of the contract, and the basis upon which the contract was awarded.

(c) The lottery shall fully comply with the requirements of paragraphs (2) to (5), inclusive, of subdivision (b), except that any function or role which is otherwise the responsibility of the Department of Finance or the Department of General Services shall instead, for purposes of this subdivision, be the sole responsibility of the lottery, which shall have the sole authority to perform that function or role.

(d) Where a conflict exists between the provisions of this chapter and any other provision of law, the provisions of this chapter shall control.

SEC. 13. Section 8880.62 of the Government Code is amended to read:

8880.62. Funds shall be disbursed from the State Lottery Fund by the Controller for any of the purposes authorized by this chapter.

SEC. 14. Section 8880.63 of the Government Code is repealed.

SEC. 15. Section 8880.64 of the Government Code is amended to read:

8880.64. (a) Expenses of the lottery shall include all costs incurred pursuant to Section 8880.56. As a promotional expense, the commission may supplement the prize pool of a game or games upon its determination that a supplement will benefit the public purpose of this chapter.

(b) Expenses recorded as a result of a nonmonetary exchange shall not be considered an expense for the purposes of Sections 8880.4 and 8880.4.5 and this section. "Nonmonetary exchange" means a reciprocal transfer, in compliance with generally accepted accounting principles, between the lottery and another entity that results in the lottery acquiring assets or services and the lottery providing assets or services.

SEC. 16. Section 8880.65 of the Government Code is amended to read:

8880.65. (a) For the purposes of this chapter, the total revenues of the lottery shall include all revenue received by the California State Lottery, including, but not limited to, revenue from the sale of tickets or shares, merchandising revenue, advertising revenue, interest earnings on moneys in the State Lottery Fund, and unclaimed prizes returned to or retained by the State Lottery Fund. The net revenues of the lottery shall include total revenues remaining after accrual of all obligations of the lottery for prizes and expenses.

(b) For fiscal years prior to the 2009–10 fiscal year, the net revenues of the lottery shall be transferred from the State Lottery Fund not less than quarterly to the California State Lottery Education Fund.

(c) Commencing with the 2009–10 fiscal year, the net revenues of the lottery shall be transferred from the State Lottery Fund as required by Section 8880.4.5.

SEC. 17. Section 5 of the California State Lottery Act of 1984 is amended to read:

Sec. 5. The provisions of this Act, except Sections 8880.5 and 8880.5.5 which may be amended only by a vote of the People, may be changed for the purpose of modernizing the California State Lottery or to further the purposes of this Act as set forth in Sections 8880.1 and 8880.25 of the Government Code by a bill passed by a vote of two-thirds of the membership of both houses of the Legislature and signed by the Governor.

SEC. 18. Notwithstanding any other provision of law, the Secretary of State shall submit to the voters, as a single measure, at the next statewide election, the provisions of Senate Constitutional Amendment 12 of the 2007–08 Regular Session and the provisions of this act that are required to be submitted to the voters.

SEC. 19. (a) Sections 1 to 7, inclusive, Section 12, and Sections 14 to 17, inclusive, of this act amend Chapter 12.5 (commencing with Section 8880) of Division 1 of Title 2 of the Government Code, an initiative statute, and shall become effective only when submitted to and approved by the voters.

(b) Notwithstanding the requirements of Sections 9040, 9043, 9044, 9061, and 9082 of the Elections Code or any other provision of law, the Secretary of State shall submit Sections 1 to 7, inclusive, Section 12, and Sections 14 to 17, inclusive, of this act and Senate Constitutional Amendment 12 to the voters at the next statewide election.

(c) (1) Notwithstanding any other provision of law, all ballots for the next statewide election shall contain the following ballot label:

"LOTTERY MODERNIZATION ACT. Raises revenues for the payment of General Fund obligations and allows modernization of the California State Lottery to improve the efficiency of the operation of the Lottery."

(2) At the appropriate location on the ballot, in the manner prescribed by law, there shall be provided the opportunity for voters to indicate whether they vote for or against the measure.

(d) Notwithstanding Sections 13247 and 13281 of the Elections Code or any other provision of law, the language in subdivision (c) shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and the financial impact summary.

(e) (1) Notwithstanding any other provision of law, all ballots for the next statewide election shall contain the following ballot title and summary:

"LOTTERY MODERNIZATION ACT. INCREASED STATE REVENUES. PROTECTS EDUCATION FUNDING. Allows the state Lottery to be modernized to improve its performance with increased payouts, improved marketing, and effective management. Ensures the state maintains ownership of the state lottery. Increases revenues that will be used to increase payouts, build a needed budget reserve, and pay down state bond debt. Ensures that schools continue to receive the same dollar amount or more funding than previously received from Lottery revenues."

(2) Notwithstanding any other provision of law, the language in paragraph (1) shall be the only language included in the ballot title and summary, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code.

(f) Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choices by means thereof are in compliance with this section.

SEC. 20. 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 Sections 1 to 7, inclusive, Section 12, and Sections 14 to 17, inclusive, of this act are submitted to the voters at the next statewide election, it is necessary that this act take effect immediately.

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## CHAPTER 765

An act to add Article 6.7 (commencing with Section 63048.91) to Chapter 2 of Division 1 of Title 6.7 of the Government Code, relating to the California State Lottery, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor November 14, 2008. Filed with Secretary of State November 14, 2008.]

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

SECTION 1. The Legislature hereby finds and declares the following:

(a) More than 20 years having passed since the inception of the California State Lottery, the lottery, as a state-owned asset, should be authorized to modernize its operations in order to improve its financial performance.

(b) It is in the public interest and a matter of urgency to authorize, and to implement as soon as possible, the sale of the right to receive a portion of the lottery revenue assets, and the issuance of bonds by the purchaser of the assets, in order to ensure that funds will be available for the stated purposes of the lottery.

SEC. 2. Article 6.7 (commencing with Section 63048.91) is added to Chapter 2 of Division 1 of Title 6.7 of the Government Code, to read:

Article 6.7. Lottery Revenue Assets Securitization

63048.91. The definitions contained in this section are in addition to the definitions contained in Section 63010 and together with the definitions contained in that section shall govern the construction of this article, unless the context requires otherwise:

(a) "Lottery revenue assets" means the amount of the net revenues of the California State Lottery required to be transferred to the Lottery Assets Fund pursuant to paragraph (3) of subdivision (a) of Section 8880.4.5 and the rights to receive those revenues.

(b) "Operating expenses" means the reasonable operating expenses of the special purpose trust and the bank, including, but not limited to, the costs of preparation of accounting and other reports, maintenance of the ratings on the bonds, insurance premiums, or other required activities of the special purpose trust, and fees and expenses incurred for professional consultants, advisers, fiduciaries, and legal counsel, including the fees and expenses of the Attorney General incurred in connection with the enforcement of the pledges and agreements of the state or the California State Lottery Commission pursuant to Section 63048.95.

(c) "Debt Retirement Fund" means the fund created in paragraph (4) of subdivision (a) of Section 8880.4.5.

63048.92. (a) Upon a filing with the bank by the Director of Finance of a designation of the portions of the lottery revenue assets or any residual interest therein to be sold, notwithstanding any other provision of law, the bank may sell for, and on behalf of, the state, solely as its agent, those portions of the lottery revenue assets or any residual interest therein to a special purpose trust. To that end, a special purpose trust is

hereby established as a not-for-profit corporation solely for the purpose of purchasing lottery revenue assets or any residual interest therein and for the purposes necessarily incidental thereto. The bank may enter into one or more sales agreements with the special purpose trust on terms it deems appropriate, which may include covenants of, and binding on, the state or the California State Lottery Commission necessary to establish and maintain the security of the bonds and exemption of interest on the bonds from federal income taxation. Lottery revenue assets, or any residual interest therein may be sold at one time or from time to time, as determined by the Director of Finance.

(b) (1) The special purpose trust may do all of the following:

(A) Issue bonds, including, but not limited to, refunding bonds, on the terms it shall determine.

(B) Do all things contemplated by, and authorized by, this division with respect to the bank, and enjoy all rights, privileges, and immunities the bank enjoys pursuant to this division, or as authorized by Section 5140 of the Corporations Code with respect to public benefit nonprofit corporations, or as necessary or appropriate in connection with the issuance of bonds.

(C) Enter into agreements with any public or private entity and pledge the lottery revenue assets, or any residual interest therein, that it has purchased as collateral and security for its bonds.

(2) The pledge of any of the lottery revenue assets or any residual interests therein, and of any revenues, reserves, and earnings pledged in connection therewith shall be valid and binding in accordance with its terms and have priority in accordance with its terms from the time the pledge is made, and property so pledged shall immediately be subject to the lien of the pledge without the need for physical delivery, recordation, filing, or other further act. This pledge shall not be subject to Division 9 (commencing with Section 9101) of the Commercial Code or Sections 954.5 and 955.1 of the Civil Code.

(3) The special purpose trust, and its assets and income, and bonds issued by the special purpose trust, and their transfer and the income therefrom, shall be exempt from all taxation by the state and by its political subdivisions.

(c) The net proceeds of any sale of lottery revenue assets, or any residual interest therein, by the bank shall be first used to repay the outstanding amount of any General Fund loan made pursuant to Section 63048.99, and then deposited in the Debt Retirement Fund. The use and application of the proceeds of any sale of lottery revenue assets or bonds shall not in any way affect the legality or validity of that sale or those bonds.

(d) From time to time, at the direction of the Director of Finance, any moneys in the Lottery Assets Fund representing lottery revenue assets, or any residual interest therein, not already sold shall be transferred to the Debt Retirement Fund or shall be deemed to be lottery revenue assets to be sold to the special purpose trust pursuant to this article. Any moneys in the Lottery Assets Fund deemed to be lottery revenue assets to be sold shall be retained in the Lottery Assets Fund until sold.

(e) All moneys in, or to be transferred into, the Lottery Assets Fund that represent lottery revenue assets sold to a special purpose trust shall be transferred as agreed upon in the agreement of sale between the bank and the special purpose trust.

(f) The principal office of the special purpose trust shall be located in the County of Sacramento. The articles of incorporation of the special purpose trust shall be prepared and filed, on behalf of the state, with the Secretary of State by the bank. The five voting members of the State Public Works Board shall each serve ex officio as the directors of the special purpose trust. Any of these directors may name a designee to act on his or her behalf as a director of the special purpose trust. The Director of Finance or his or her designee shall serve as chair of the special purpose trust. Directors of the special purpose trust shall not be subject to personal liability for carrying out the powers and duties conferred by this article. The Legislature hereby finds and declares that the duties and responsibilities of the directors of the special purpose trust and the duties and responsibilities of the Director of Finance established under this article are within the scope of the primary duties of those persons in their official capacities. The special purpose trust shall be treated as a separate legal entity with its separate corporate purpose as described in this article, and the assets, liabilities, and funds of the special purpose trust shall be neither consolidated nor commingled with those of the bank or the State Public Works Board.

(g) The Treasurer shall be the agent for sale for any bonds or other evidences of indebtedness issued by the special purpose trust, and shall exercise those duties pursuant to Sections 5702 and 5703.

63048.93. Notwithstanding any other provision of this division, Article 3 (commencing with Section 63040), Article 4 (commencing with Section 63042), and Article 5 (commencing with Section 63043) do not apply to any bonds issued by the special purpose trust established by this article. All matters authorized in this article are in addition to powers granted to the bank in this division.

63048.94. Any sale of some or all of the lottery revenue assets, or any residual interest therein, under this article shall be treated as a true sale and absolute transfer of the property so transferred to the special purpose trust and not as a pledge or grant of a security interest by the

state, the bank board, the State Public Works Board, or the bank for any borrowing. The characterization of the sale of any of those assets as an absolute transfer by the participants shall not be negated or adversely affected by the fact that only a portion of the lottery revenue assets is transferred, by the state's acquisition of an ownership interest in any residual interest or subordinate interest in the lottery revenue assets, by any characterization of the special purpose trust or its bonds for purposes of accounting, taxation, or securities regulation, or by any other factor whatsoever.

63048.95. (a) (1) On and after the effective date of each sale of lottery revenue assets, the state shall have no right, title, or interest in or to the lottery revenue assets sold. The lottery revenue assets so sold shall be property of the special purpose trust and not of the state, the bank board, the State Public Works Board, or the bank, and shall be owned, received, held, and disbursed by the special purpose trust or the trustee for the financing. None of the lottery revenue assets sold by the state pursuant to this article shall be subject to garnishment, levy, execution, attachment, or other process, writ, including, but not limited to, a writ of mandate, or remedy in connection with the assertion or enforcement of any debt, claim, settlement, or judgment against the state, the bank board, the State Public Works Board, or the bank.

(2) The state pledges to, and agrees with, the holders of any bonds issued by the special purpose trust that, until those bonds, together with the interest thereon and costs and expenses in connection with any action or proceeding on behalf of the bondholders are fully paid and discharged or otherwise provided for pursuant to the terms of the indenture or trust agreement pursuant to which those bonds are issued, the state will:

(A) Enforce its rights to collect the lottery revenue assets sold to the special purpose trust pursuant to this article.

(B) Not take any action that would in any way materially diminish, limit, or impair the rights to receive lottery revenue assets sold to the special purpose trust pursuant to this article.

(C) Not in any way materially impair the rights and remedies of bondholders or the security for their bonds.

(D) Enforce state laws limiting gambling, and not authorize an alternative type of lottery that would materially impair the value of the lottery revenue assets sold to the special purpose trust pursuant to this article, provided that this pledge and agreement shall not limit the state's right to negotiate, conclude, or ratify new or amended gaming compacts with federally recognized Indian tribes.

(3) The California State Lottery Commission shall pledge and agree with the holders of any bonds issued by the special purpose trust that, until those bonds, together with the interest thereon and costs and

expenses in connection with any action or proceeding on behalf of the bondholders, are fully paid and discharged or otherwise provided for pursuant to the terms of the indenture or trust agreement pursuant to which those bonds are issued, the California State Lottery Commission shall operate or cause the operation of the California State Lottery consistent with Section 8880.25.

(4) Notwithstanding this section or any other provision of this article, inherent police powers that cannot be contracted away are reserved to the state.

(b) Bonds issued pursuant to this article shall not be deemed to constitute a debt of the state or a pledge of the faith or credit of the state, and all bonds shall contain on the face of the bond a statement to the effect that neither the faith and credit nor the taxing power nor any other assets or revenues of the state or of any political subdivision of the state, other than the special purpose trust, is or shall be pledged to the payment of the principal of or the interest on the bonds.

(c) Whether or not the bonds are of a form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the bonds are hereby made negotiable instruments for all purposes, subject only to the provisions of the bonds for registration.

(d) The special purpose trust and the bank shall be treated as public agencies for purposes of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, and any action or proceeding challenging the validity of any matter authorized by this article shall be brought in accordance with, and within the time specified in, that chapter.

63048.96. (a) The Legislature finds and declares that, because the proceeds from the sale of lottery revenue assets authorized by this article are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

(b) Lottery revenue assets shall not be deemed to be "State General Fund proceeds of taxes appropriated pursuant to Article XIII B" within the meaning of Section 8 of Article XVI of the California Constitution, Section 41202 of the Education Code, or any other provision of law.

(c) Lottery revenue assets are not General Fund revenues for the purposes of Section 8 of Article XVI of the California Constitution or any other provision of law.

63048.97. (a) The Director of Finance is authorized to enter into an agreement with one or more firms or individuals to obtain financial, operational, and valuation advice in relation to the designation of lottery revenue assets to be sold pursuant to this article. The provisions of Section 14838 and Article 4 (commencing with Section 10335) of

Chapter 2 of Part 2 of Division 2 of the Public Contract Code, and the regulations and directions of the Department of General Services pertaining to state contracts, shall not apply to any agreement entered into by the director pursuant to this section. Notwithstanding any other provision of law, neither the approval of the Attorney General nor of the Director of General Services is required for the execution or implementation of any agreement entered into by the Director of Finance pursuant to this section. Nothing in this section shall limit the Treasurer's authority to enter into agreements in the Treasurer's capacity as the agent for sale under Section 63048.11.

(b) The Director of Finance, in consultation with the Treasurer, shall choose firms or individuals to provide financial, operational, and valuation advisory services based on demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required, in accordance with the following procedures:

(1) The Director of Finance and the Treasurer shall establish criteria for selecting an adviser or advisers. The criteria may include, but are not necessarily limited to, professional excellence, demonstrated competence, specialized experience in performing similar services, education and experience of key personnel to be assigned, staff capability, ability to meet schedules, nature and quality of similar completed work of the firm or individual, reliability and continuity of the firm or individual, and other considerations deemed by the Director of Finance and the Treasurer to be relevant and necessary to the performance of advisory services.

(2) The Director of Finance shall send a notice of request for qualifications to firms and individuals in the Treasurer's underwriter and financial adviser pools, and shall advertise the contract for these advisor services in the California State Contracts Register pursuant to Sections 14827.1 and 14827.2. The notice shall include a description of the advisory services required, the selection criteria based on which the contract award will be made, submission requirements and deadlines, and a Department of Finance contact name and telephone number for more information.

(3) After the final response date stated in the notice of request for qualifications, the Director of Finance and the Treasurer shall review the responses submitted, and shall evaluate the statements using the criteria contained in the notice. The Director of Finance and the Treasurer shall rank, in order of preference based on the criteria contained in the notice, the firm, firms, individual, or individuals determined to be qualified to perform the required services.

(4) The Director of Finance and the Treasurer, or their designees, may interview any of the qualified firms or individuals regarding the experience and qualifications of that firm or individual, as well as

anticipated concepts and the benefits of alternative methods of furnishing the required services. Following the interviews, if any, the Director of Finance and the Treasurer shall adjust the ranking of the qualified individuals or firms to reflect those firms or individuals deemed to be the most highly qualified to perform the required services.

(5) The Director of Finance, in consultation with the Treasurer, shall enter into negotiations with the firm or individual most highly ranked pursuant to paragraph (4). In addition, if the Director of Finance, in consultation with the Treasurer, determines to contract with more than one firm or individual, the Director of Finance, in consultation with the Treasurer, shall enter into negotiations with other ranked firms or individuals, in order of ranking. Upon the conclusion of successful negotiations, the Director of Finance may enter into a contract or contracts. To the extent a negotiation with a firm or individual is, in the sole opinion of the Director of Finance, unsuccessful, the Director of Finance shall terminate that negotiation.

(6) If, after pursuing the negotiation process set forth in paragraph (5), the Director of Finance, in his or her sole discretion, concludes that the negotiations were unsuccessful, the Director of Finance shall terminate the negotiations and begin new negotiations, in consultation with the Treasurer, with the other firms or individuals ranked pursuant to paragraph (1), in order of their ranking. The Director of Finance shall either contract with or terminate negotiations with each next most highly ranked firm or individual.

(c) If, after pursuing the negotiation process set forth in this section, the Director of Finance has been unable to negotiate the number of satisfactory contracts deemed by the Director of Finance, in consultation with the Treasurer, to be advisable, the Director of Finance may reinstitute the selection process, commencing with the issuance of a new notice of request for qualifications.

63048.98. The Director of Finance is also authorized to enter into a legal services agreement or agreements with counsel other than the Attorney General to provide specialized legal advice to the Department of Finance or the bank related to the designation of lottery revenue assets to be sold pursuant to this article. Section 11040 of this code and Section 6072 of the Business and Professions Code shall not apply to the legal services agreement entered into by the director pursuant to this section. Notwithstanding any other provision of law, regulation, or procedure to the contrary, neither the approval of the Attorney General nor of the Director of General Services is required for the execution or implementation of any agreement entered into by the Director of Finance pursuant to this section.

63048.99. The Director of Finance may authorize a short-term cash flow loan, without budgetary impact, of three million dollars ($3,000,000) from the General Fund to the Department of Finance to provide funds for the purpose of obtaining advice and services related to any determinations to be made by the Director of Finance pursuant to this article and any activities undertaken by the Department of Finance or the bank to achieve the purposes of this article. This loan shall be repaid from the net proceeds of the first sale of the lottery revenue assets.

63048.991. This article and all powers granted hereby shall be liberally construed to effectuate its intent and their purposes.

SEC. 3. This act shall become operative only if SCA 12 and AB 1654 of the 2007–08 Regular Session are approved by the voters at the next statewide election and take effect pursuant to their provisions.

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 provisions providing for the securitization of lottery revenue are in place following the next statewide election, it is necessary that this act take effect immediately.

# CONCURRENT AND JOINT RESOLUTIONS AND CONSTITUTIONAL AMENDMENTS

2007 – 08

REGULAR SESSION

2008 RESOLUTION CHAPTERS

## RESOLUTION CHAPTER 1

Assembly Concurrent Resolution No. 86—Relative to Korean-American Day.

[Filed with Secretary of State January 29, 2008.]

WHEREAS, On January 13, 1903, the history of Korean immigration to America began as 102 courageous Korean men, women, and children ventured across the vast Pacific Ocean aboard the S.S. Gaelic to land in Hawaii; and

WHEREAS, The hopes of these Koreans for the promised land of opportunity was quickly frustrated by social, economic, and language barriers of unforeseen magnitude; and

WHEREAS, They did not falter in their pursuit of the American dream, but through tenacious effort and sacrifice, established a new home in a new land and educated their Korean-American children; and

WHEREAS, While the first Korean immigrants fought for the freedom and independence of their motherland, their children grew up to be patriotic American citizens, served in the Armed Forces of the United States during World War II, and made other important contributions to mainstream America; and

WHEREAS, While the first wave of immigrants gradually made inroads into California society, a timely enactment of the federal Immigration Act of 1965 opened wide doors for a second wave of Korean immigration; and

WHEREAS, Beginning in the 1970s, in search of better opportunities for their children, a multitude of dynamic Koreans joined the increasing flow of immigration to California; and

WHEREAS, With diligence, fortitude, and a strong belief in the American dream, these immigrants turned emergent areas into thriving and respectable California communities while raising children as productive Korean-Americans; and

WHEREAS, Korean-Americans have become an integral part of the State of California, and have made important contributions to mainstream American society; and

WHEREAS, In a quarter century, young Korean-Americans joined mainstream society and began to make significant contributions as Californians in the fields of finance, technology, law, medicine, education, sports, media, the arts, the military, and government, as well as in other areas; and

WHEREAS, As the Korean-American community, with a population of nearly 2,000,000, prepares for a new era and creates new history, we must instill in the upcoming generations proper appreciation for the

courage and value of their forefathers, a deep sense of their roots, and pride in their own cultural heritage so that they may better contribute to the great State of California, rich with ethnic and cultural diversity; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California hereby proclaims January 13, 2008, as Korean-American Day; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 2

Assembly Concurrent Resolution No. 81—Relative to Dr. Martin Luther King, Jr., Day.

[Filed with Secretary of State February 5, 2008.]

WHEREAS, Renowned civil rights leader Dr. Martin Luther King, Jr., was born in Atlanta, Georgia, on January 15, 1929; and

WHEREAS, In 1948, Dr. Martin Luther King, Jr., received his bachelor of arts degree in sociology from Morehouse College; in 1951, he received his bachelor of divinity degree from Crozer Theological Seminary, as valedictorian and student body president; and in 1955, he was awarded a doctorate in systematic theology from Boston University; and

WHEREAS, Dr. King married Coretta Scott on June 18, 1953; and

WHEREAS, Dr. King was ordained pastor of Dexter Avenue Baptist Church in Montgomery, Alabama, in 1954; and

WHEREAS, Five days after Rosa Parks' arrest for refusing to comply with segregation on buses in Montgomery, on December 5, 1955, Dr. King was elected president of the Montgomery Improvement Association, and the Montgomery Bus Boycott began; and

WHEREAS, During the boycott, Dr. King gained national prominence as an exceptional leader with extraordinary oratorical skills and personal courage; and

WHEREAS, On December 20, 1956, the United States Supreme Court declared Alabama's segregation laws unconstitutional, and Montgomery buses were desegregated; and

WHEREAS, In 1957, Dr. King and other southern African American ministers founded the Southern Christian Leadership Conference, and elected Dr. King as their president; and

WHEREAS, Dr. King led the 1957 Prayer Pilgrimage for Freedom in Washington, D.C., and subsequently published his first book, Stride Toward Freedom: The Montgomery Story; and

WHEREAS, In 1959, Dr. King toured India, where he learned more about Gandhian strategies of nonviolence and developed his own theories about achieving social change through nonviolent resistance; and

WHEREAS, During mass demonstrations in 1963 organized by Dr. King and his staff in Birmingham, Alabama, images of brutality inflicted on African American demonstrators by police using police dogs and firehoses shocked the world; and

WHEREAS, Dr. King delivered his famous "I Have a Dream" speech on August 28, 1963, at the "March on Washington for Jobs and Freedom"; and

WHEREAS, Dr. King received the Nobel Peace Prize in Oslo, Norway, in 1964, and the Civil Rights Act of 1964 was enacted as a direct result of his efforts; and

WHEREAS, In 1965, Dr. King led the march from Selma, Alabama, to Montgomery, and President Lyndon B. Johnson signed the first Voting Rights Act; and

WHEREAS, On April 4, 1968, while in Memphis, Tennessee, assisting striking sanitation workers, Dr. King was assassinated; and

WHEREAS, United States Representative John Conyers introduced legislation in Congress four days later proposing Dr. King's birthday as a holiday; and

WHEREAS, On April 10, 1970, California became the first state to pass legislation making Dr. King's birthday a school holiday; and

WHEREAS, Despite resistance to the creation of a new national holiday, the diligence and perseverance of United States Representative John Conyers and numerous others in pursuing this goal culminated when on November 2, 1983, President Ronald Reagan signed legislation making Dr. King's birthday a national holiday; and

WHEREAS, January 20, 1986, marked the first observance of Dr. Martin Luther King, Jr., Day; and

WHEREAS, The Rev. Dr. Martin Luther King, Jr., devoted his life to fight segregation and injustice by nonviolent means, and is an outstanding example of courageous leadership in the face of unrelenting violence and harassment by individuals and government institutions; and

WHEREAS, The Rev. Dr. Martin Luther King, Jr., is a source of inspiration for all Americans; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California honors the

late Rev. Dr. Martin Luther King, Jr., and commemorates the observance of his birthday, January 21, 2008, as Dr. Martin Luther King, Jr., Day.

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## RESOLUTION CHAPTER 3

Assembly Joint Resolution No. 33—Relative to a commemorative stamp recognizing the Nisei (Japanese American) veterans of World War II.

[Filed with Secretary of State February 13, 2008.]

WHEREAS, Over 20,000 Nisei (American-born children of Japanese immigrants) enlisted in the United States Army in World War II, many from internment camps, despite the prejudice against them generated after the attack of Pearl Harbor by Japan in 1941; and

WHEREAS, Nisei served in a number of capacities in the United States Army during the World War II era both at home and abroad. Many were born and raised here in California, where they and their families would be unjustly incarcerated at internment camps like Manzanar in Inyo County and Tule Lake in Modoc County; and

WHEREAS, Over 300 Nisei women across the nation enlisted in the Women's Army Corps and Cadet Nurse Corps; and

WHEREAS, Among their many battles, Nisei soldiers in Europe fought at Monte Cassino and Anzio and they were critical in breaking the German "Gothic Line." They liberated towns such a Bruyeres, Biffontaine, and Belvedere. They also freed and aided Holocaust victims from the Dachau concentration camps; and

WHEREAS, The most famous unit, the 100th/442nd Regimental Combat Team also known as the "Go For Broke" regiment, became one of the most decorated and acclaimed units in American history. The 100th Infantry Battalion established a reputation as a tough combat outfit in Italy and were known as the "Purple Heart Battalion" because of the heavy number of casualties it had suffered at Monte Cassino and Anzio in May 1944; and

WHEREAS, The 100th/442nd Regimental Combat Team's "Rescue of the Lost Battalion" was acknowledged to be one of the prominent battles in United States Army history. This battle became one of 16 depicted in "The Army in Action" series of paintings for the United States Army's Center of Military History. This regiment led a heroic drive through German lines in the Vosges Mountains in October 1944 freeing over 200 fellow American soldiers of the 36th Texas Division; and

WHEREAS, The Nisei of the United States Army's secret Military Intelligence Service (MIS) played a key role in the Pacific, using Nisei soldiers' knowledge of the Japanese language and culture to support the Allied war efforts, including the occupation of Japan; and

WHEREAS, The Military Intelligence Service was awarded a Presidential Unit Citation for their contributions to the war effort, and is considered to be the pioneering group of what would become the United States Armed Forces' Defense Language Institute Foreign Language Center located at the Presidio of Monterey, which today trains military linguists in over 84 languages and dialects, and is considered one of the finest schools for foreign language study in the world; and

WHEREAS, Among their many awards, Nisei soldiers of World War II earned over 9,000 Purple Hearts, 21 Medals of Honor, and a total of nine Presidential Unit Citations; and

WHEREAS, Congress would later apologize for the en masse World War II incarceration of 120,000 American citizens and permanent residents of Japanese ancestry as "a grave injustice" that grew mainly from "racial prejudice, wartime hysteria, and a failure of political leadership" as stated in the Civil Liberties Act of 1988; and

WHEREAS, Nisei World War II veterans are a shining example of patriotic sacrifice in our nation's history, and their service cautions the nation against questioning the loyalty of a person based on their heritage. The constitutional rights of these American citizens were removed due to their ancestry, and we need to be vigilant against similar actions in the future; and

WHEREAS, The Nisei World War II veterans commemorative stamp is being considered for issuance by the United States Postal Service Citizens' Stamp Advisory Committee; and

WHEREAS, The dedicated service of our current Armed Forces being so honorably served by minorities today, we find it fitting that the diverse heritage of our military be recognized; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature urges the Citizens' Stamp Advisory Committee of the United States Postal Service to approve the issuance of a commemorative postal stamp honoring the significant contributions of Nisei in the United States Army during World War II; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California

in the Congress of the United States, and to the Citizens' Stamp Advisory Committee.

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## RESOLUTION CHAPTER 4

Senate Joint Resolution No. 11—Relative to the National Children's Study.

[Filed with Secretary of State February 22, 2008.]

WHEREAS, The Children's Health Act of 2000 (Public Law 106-310), authorized the National Children's Study, a multiyear study of key health characteristics of America's children; and

WHEREAS, The National Children's Study (NCS) is a longitudinal study of 100,000 children in America, focusing on long-term observation of their health, as impacted by genetics and environmental conditions; and

WHEREAS, The NCS is focusing on six key diseases; asthma, autism, diabetes, injury, obesity, and schizophrenia; and

WHEREAS, The NCS will focus on 100,000 children from before birth to their 21st birthday and is patterned on the well-known Framingham Heart Study, which began in 1948, and focused on heart disease. Researchers credit this previous study with making a substantial contribution to the 42-percent decrease in mortality from heart disease between 1979 and 1990; and

WHEREAS, The United States House of Representatives and the United States Senate have both continued to provide funding for this study and an appropriation of one hundred ten million nine hundred thousand dollars ($110,900,000) has been proposed for the 2008 federal budget; and

WHEREAS, The Counties of Humboldt, Kern, Los Angeles, Orange, Sacramento, San Bernardino, San Diego, San Mateo, and Ventura have been selected to participate in this study, with Orange County being identified as the Vanguard County; and

WHEREAS, Information from the study will be made available within two or three years, and updated periodically to provide important information to medical and public health researchers on the impact of environmental factors on the health of children; and

WHEREAS, A coalition of almost 100 organizations is supporting the NCS, including the American Academy of Pediatrics, the American Chemistry Council, the American Pediatric Society, the American Public Health Association, the Association of American Medical Colleges,

Easter Seals, the March of Dimes, the National Catholic Education Association, National Association of Counties, National Association of County and City Health Officials, National Coalition of 100 Black Women, National Hispanic Medical Association, United Cerebral Palsy, and the United States Conference of Catholic Bishops; now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly,* That the Legislature calls upon the Congress to present to the President, and calls upon the President to sign legislation to ensure the continuation of funding for the NCS; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 5

Senate Joint Resolution No. 12—Relative to elder abuse awareness.

[Filed with Secretary of State February 22, 2008.]

WHEREAS, According to the 2000 decennial census, 12 percent of the total population in the United States was 65 years of age or older, representing 35 million individuals. By the year 2030, it is estimated that the number and percentage of individuals who are 65 years of age or older will nearly double to 20 percent of the total population, or 60 million persons; and

WHEREAS, It is estimated that 4 to 6 percent of all senior citizens will become victims of some form of elder abuse, including neglect and exploitation; and

WHEREAS, The act of elder abuse, including neglect and exploitation, is considered the "crime of the 21st century"; and

WHEREAS, Fewer than 20 percent of elder abuse cases are reported to adult protective services or law enforcement agencies; and

WHEREAS, According to the American Medical Association, seniors who are abused or mistreated are three times more likely to die earlier than seniors of the same age who are not abused or mistreated; and

WHEREAS, Although the federal government spends $520 million on programs designed to combat violence against women, and $6.7 billion on child abuse prevention efforts, it spends only $153.5 million on elder abuse prevention; and

WHEREAS, To combat elder abuse, our government has the responsibility to help raise awareness in the community and fund programs that protect elders, train law enforcement, and support local and state prosecutors; and

WHEREAS, Former United States Senator John Breaux (D - Louisiana) introduced Senate Bill No. 333, known as The Elder Justice Act, which sought to provide national leadership to combat elder abuse, including neglect and exploitation; and

WHEREAS, If similar legislation is enacted, one means of funding this legislation would be to authorize and issue a special postage stamp, the revenue from which would help fund the programs outlined in this bill. A special postage stamp for elder abuse awareness, like the breast cancer stamp, would cost postal patrons more than the face value of the stamp. Funds collected in excess of the face value of the stamp, after the postal service is reimbursed for its costs related to issuing this special postage stamp, would provide funding for elder abuse programs; and

WHEREAS, An elder abuse awareness stamp would also provide a method for all citizens to learn about, and contribute to stopping, this shocking crime; now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly,* That the Legislature hereby respectfully memorializes the President and Congress of the United States to afford the public a convenient way to contribute towards the funding of elder abuse prevention and awareness programs by authorizing the United States Postmaster General to establish a special rate of postage for first-class mail, and to issue a special postage stamp regarding elder abuse prevention and awareness; and be it further

*Resolved,* That the Legislature respectfully memorializes the Congress and the President to enact appropriate legislation that would address the concerns set forth in this measure; and be it further

*Resolved,* That the Legislature respectfully memorializes other state legislatures to pass similar resolutions that memorialize the President and Congress of the United States to authorize the United States Postmaster General to establish a special rate of postage and issue a special postage stamp regarding elder abuse prevention and awareness; and be it further

*Resolved,* That a copy of this measure be transmitted to the President and Vice President of the United States, the Speaker of the House of Representatives, the Chairpersons of the House and Senate Committees on Aging, and to each Senator and Representative from California in the Congress of the United States; and be it further

*Resolved,* That a copy of this measure be transmitted to all of the 49 other state legislatures in the United States.

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## RESOLUTION CHAPTER 6

Assembly Joint Resolution No. 30—Relative to the Lyme and Tick-Borne Disease Prevention, Education, and Research Act of 2007.

[Filed with Secretary of State February 27, 2008.]

WHEREAS, Lyme disease is a common but frequently misunderstood illness that, if not caught early and treated properly, can cause serious health problems; and

WHEREAS, Lyme disease is a bacterial infection that is usually transmitted by a tick bite, and early signs of infection may include rash and flu-like symptoms such as fever, muscle aches, headaches, and fatigue; and

WHEREAS, Although Lyme disease can be treated with antibiotics if caught early, the disease often goes undetected because it mimics other illnesses and this may be misdiagnosed; and

WHEREAS, Lyme disease, if untreated, can lead to severe heart, neurological, eye, and joint problems because the bacteria can affect many different organs and organ systems; and

WHEREAS, Although Lyme disease accounts for 90 percent of all vector-borne infections in the United States, the ticks that spread the disease also spread other diseases such as ehrlichiosis, babesiosis, and anaplasmosis; and

WHEREAS, Three new borrelial species belonging to the Lyme disease spirochetal complex have been described recently, increasing the number of these bacteria known to be from California to five and making California the locus of more distinct species than any other geographical area in the United States; and

WHEREAS, The Centers for Disease Control and Prevention (CDC) indicates that the reported cases of Lyme disease are only 10 percent of the actual cases that meet surveillance criteria; and

WHEREAS, Persistence of symptomatology in many patients without reliable testing makes treatment of patients more difficult; and

WHEREAS, The Lyme and Tick-Borne Disease Prevention, Education, and Research Act of 2007 has been introduced to the 110th Congress of the United States as H.R. 741 (Smith, R-NJ) and S. 1708 (Dodd, D-CT); and

WHEREAS, H.R. 741 and S. 1708 would advance the treatment of, and cure for, Lyme and other tick-borne diseases by expanding federal efforts concerning prevention, education, treatment, and research activities relating to Lyme and other tick-borne diseases, providing authorization for the appropriation of twenty million dollars ($20,000,000) for each of the federal fiscal years 2008 through 2012 for these activities, requiring the Secretary of Health and Human Services to annually report to the Congress of the United States on these activities and make recommendations for further research and education; and

WHEREAS, H.R. 741 and S. 1708 would also establish a Tick-Borne Diseases Advisory Committee within the Office of the Secretary of Health and Human Services; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature respectfully memorializes the Congress and the President of the United States to enact the Lyme and Tick-Borne Disease Prevention, Education, and Research Act of 2007, H.R. 741 and S. 1708; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 7

Assembly Concurrent Resolution No. 95—Relative to a Day of Remembrance.

[Filed with Secretary of State March 3, 2008.]

WHEREAS, On February 19, 1942, President Franklin D. Roosevelt signed Executive Order 9066, under which 120,000 Americans and resident aliens of Japanese ancestry were incarcerated in internment camps during World War II; and

WHEREAS, Executive Order 9066 deferred the American dream for 120,000 Americans and resident aliens of Japanese ancestry by inflicting a great human cost of abandoned homes, businesses, careers, professional advancements, and disruption to family life; and

WHEREAS, Despite their families being incarcerated behind barbed wire in the United States, approximately 33,000 veterans of Japanese ancestry fought bravely for our country during World War II, serving

in the 100th Battalion, the 442nd Regimental Combat Team, and the 522nd Field Artillery Battalion; and

WHEREAS, The 100th Battalion, the 442nd Regimental Combat Team, and the 522nd Field Artillery Battalion heroically suffered nearly 10,000 casualties and are honored as being among World War II's most decorated combat teams, having received seven Presidential Distinguished Unit Citations, 52 Distinguished Service Crosses, 588 Silver Stars, 5,200 Bronze Stars, and 9,486 Purple Hearts; and

WHEREAS, On June 21, 2000, President William Jefferson Clinton elevated 20 Japanese Americans who served in the 100th Battalion and the 442nd Regimental Combat Team and were among 52 individuals who received the nation's second highest award—the Distinguished Service Cross—to receive the nation's highest military honor—the Medal of Honor—bringing the total number of recipients who so received the Medal of Honor to 21; and

WHEREAS, Nearly 6,000 veterans of Japanese ancestry served with the Military Intelligence Service and have been credited for shortening the war by two years by translating enemy battle plans, defense maps, tactical orders, intercepted messages and diaries, and interrogating enemy prisoners; and

WHEREAS, Nearly 40 years subsequent to the United States Supreme Court decisions upholding the convictions of Fred Korematsu, Min Yasui, and Gordon Hirabayashi for violations of curfew and Executive Order 9066, it was discovered that the United States War Department and Department of Justice officials had altered and destroyed evidence regarding the loyalty of Americans and resident aliens of Japanese ancestry and withheld information from the United States Supreme Court; and

WHEREAS, Dale Minami, Peggy Nagae, Dennis Hayashi, Rod Kawakami, and many attorneys and interns contributed innumerable hours to win a reversal in 1983 of the original convictions of Korematsu, Yasui, and Hirabayashi by filing a petition for writ of error coram nobis on the grounds that fundamental errors and injustice occurred; and

WHEREAS, On August 10, 1988, President Ronald Reagan signed into law the Civil Liberties Act of 1988, finding that Executive Order 9066 was not justified by military necessity and, hence, was caused by racial prejudice, war hysteria, and a failure of political leadership; and

WHEREAS, February 19, 2008, marks 66 years since the signing of Executive Order 9066 and a policy of grave injustice against American citizens and resident aliens of Japanese ancestry; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California declares February 19, 2008, as a Day of Remembrance in this state to increase

public awareness of the events surrounding the internment of Americans of Japanese ancestry during World War II; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the Superintendent of Public Instruction, the State Library, and the State Archives.

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## RESOLUTION CHAPTER 8

Assembly Concurrent Resolution No. 84—Relative to the Lunar New Year 4706 celebration.

[Filed with Secretary of State March 3, 2008.]

WHEREAS, February 7, 2008, will mark the beginning of the Lunar New Year 4706, which is celebrated in many Asian communities around the world, including the United States, and especially California; and

WHEREAS, California is home to over 4 million Asian and Pacific Islander Americans of Bangladeshi, Cambodian, Chinese, Filipino, Hmong, Indian, Indonesian, Iu-Mien, Japanese, Korean, Laotian, Malaysian, Pakistani, Sri Lankan, Taiwanese, and Vietnamese descent; and

WHEREAS, The Asian and Pacific Islander American community has contributed to the social, cultural, civic, economic, and academic success of the state; and

WHEREAS, The lunar new year is predominantly celebrated by the 1.7 million Chinese, Korean, and Vietnamese residents of California; and

WHEREAS, The Lunar New Year 4706 is the Year of the Rat and is universally celebrated by these communities as a time to renew family ties and to start the new year with a clean slate; and

WHEREAS, The celebration of the lunar new year in communities throughout California illustrates the state's rich cultural diversity and commitment to racial, religious, and cultural tolerance; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Members join Asian and Pacific Islander communities throughout the state in celebrating February 7, 2008, as the beginning of the Lunar New Year 4706 and extend best wishes for a peaceful and prosperous lunar new year to all Californians; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the authors for appropriate distribution.

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## RESOLUTION CHAPTER 9

Senate Joint Resolution No. 22—Relative to the wine industry.

[Filed with Secretary of State March 7, 2008.]

WHEREAS, California is the fourth largest wine producing region in the world, after France, Italy, and Spain; and

WHEREAS, The California wine industry has an annual impact of $58.1 billion on the state's economy and produces the number one finished agricultural product in the state; and

WHEREAS, The California wine industry creates more than 300,000 jobs, billions of dollars in economic impact, and preserves agricultural land and family farms; and

WHEREAS, The California wine industry generates higher taxes than most industries because, as a regulated industry, it pays excise taxes to state and federal governments on every bottle of wine; and

WHEREAS, The economic impact of the California wine industry on the national economy is $125.3 billion annually; and

WHEREAS, Winery tourism is very popular and contributes significantly to the rural economy, as many state tourism departments feature their wineries as major tourist attractions and create tourism expenditures of some $2 billion annually; and

WHEREAS, The California wine industry is a leader in the stewardship of natural resources and the environment, the preservation of agricultural land and open space, and the overall enhancement of Californians' lifestyles; and

WHEREAS, Wineries, by and large, are located in rural areas, near the source of the winegrapes, and the combination of vineyards and wineries provides a stable, year-round, and flexible base of rural employment; and

WHEREAS, Wineries and winegrape growers have made a major commitment to implement sustainable practices that are environmentally sound, economically viable, and socially responsible; and

WHEREAS, Despite the challenges of intense global competition, trade barriers, agricultural pests, and the constant threat of increased taxes and regulations, the state's wine industry is strong and is a major contributor to the economic vitality of California; and

WHEREAS, The duty of the United States Department of the Treasury's Alcohol and Tobacco Tax and Trade Bureau (hereafter the TTB), as mandated by the Federal Alcohol Administration Act, is to prohibit consumer deception and the use of misleading statements on wine labels and ensure that those labels provide the consumer with adequate information as to the identity and quality of a product; and

WHEREAS, It is one of the principal responsibilities of the TTB to protect the public; and

WHEREAS, Wine consumers rely on the truthfulness of wine labels to guide their purchasing decisions; and

WHEREAS, The TTB's Notices of Proposed Rulemaking Number 77, relating to a Proposed Establishment of the Calistoga Viticultural Area, and Number 78, relating to a Proposed Revision of the American Viticultural Area Regulations, propose to create rules that will undermine consumer confidence in wine labels by creating loopholes to permit misdescriptive wine labels; and

WHEREAS, The California wine industry has been a leader in truth in labeling and the TTB's Notices of Proposed Rulemaking Number 77 and Number 78 compromise the integrity of one of America's most distinguished agricultural products, recognized as such internationally; and

WHEREAS, The State of California, from the mid-1800s to the present day, has actively sought to protect consumers from misleading labeling; and

WHEREAS, American Viticultural Areas have been successfully recognized under existing rules since 1981 and follow a pattern in use worldwide for winegrowing regions as well as for regions within regions; and

WHEREAS, Of the 187 American Viticultural Areas in existence, 107 of them are located in California; now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly,* That the Legislature of the State of California hereby respectfully memorializes the Tobacco Tax and Trade Bureau to protect and preserve the ability of California wineries, as well as all American wineries, to contribute to the economy of California and the nation by withdrawing the Notices of Proposed Rulemaking Number 77 and Number 78; and be it further

*Resolved,* That the TTB move forward with the uncompromised recognition of the Calistoga American Viticultural Area as originally petitioned to the Tobacco Tax and Trade Bureau; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this measure to the President of the United States, to each Senator and Representative in the Congress of the United States, to the Secretary of

the Treasury, and to the Administrator of the Alcohol and Tobacco Tax and Trade Bureau.

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## RESOLUTION CHAPTER 10

Assembly Concurrent Resolution No. 94—Relative to Black History Month.

[Filed with Secretary of State March 10, 2008.]

WHEREAS, Dr. Carter Godwin Woodson, distinguished African American author, editor, publisher, and historian, who is known as the "Father of Black History," founded Negro History Week in 1926, which became Black History Month in 1976, intended to encourage further research and publishing regarding the untold stories of African American heritage; and

WHEREAS, The history of African Americans here in the United States, as well as throughout the ages, is indeed unique and vibrant, and it is appropriate to celebrate this history during the month of February 2008, which has been proclaimed as Black History Month; and

WHEREAS, The history of the United States is rich with inspirational stories of great men and noble women whose actions, words, and achievements have united Americans and contributed to the success and prosperity of the United States; and

WHEREAS, During the first millennium, the Catholic Church had three popes who were either from Africa or of African descent: Saint Victor I (189–99), Saint Miltiades (311–14), and Saint Gelasius I (492–96); and

WHEREAS, The slave trade was a tragic episode in African history and began before August 1619 when the first slaves arrived in Jamestown, Virginia. During the course of the slave trade, an estimated 50 million African men, women, and children were lost to their native continent, though only about 15 million arrived safely to a new home. The others lost their lives on African soil or along the Guinea coast, or finally in holds on the ships during the dreaded Middle Passage across the Atlantic Ocean; and

WHEREAS, The first American to shed blood in the revolution that freed America from British rule was Crispus Attucks (March 5, 1770, Boston Massacre), an African American seaman and slave. African Americans also fought in wars including the Battles of Lexington and Concord in April 1775, Ticonderoga, White Plains, Bennington, Brandywine, Saratoga, Savannah, Yorktown, Bunker Hill, the Battle of

Rhode Island on August 29, 1775, and other Revolutionary War battles, the War of 1812, including, the Battle of New Orleans, the Civil War, the Spanish-American War, World Wars I and II, Korea, and Vietnam; and

WHEREAS, In spite of the African slave trade, many Africans and African Americans continued to move forward in society; during the Reconstruction period, two African Americans served in the United States Senate and 14 sat in the House of Representatives; and

WHEREAS, From the earliest days of the United States, the course of its history has been greatly influenced by Black heroes and pioneers in many diverse areas, from science, medicine, business, and education to government, industry, and social leadership; and

WHEREAS, Africans and African Americans have also been great inventors, inventing and improving such things as the air-conditioning unit, almanac, automatic gear shift, blood plasma bag, clothes dryer, doorknob, doorstop, electric lamp bulb, elevator, fire escape ladder, fountain pen, gas mask, golf tee, horseshoe, lantern, lawnmower, lawn sprinkler, lock, lubricating cup, refrigerating apparatus, spark plug, stethoscope, telephone transmitter, thermostat control, traffic signal, and typewriter; and

WHEREAS, A number of these brave and accomplished individuals, such as Booker T. Washington, George Washington Carver, Matthew Hansen, Daniel Hale Williams, Dr. Charles Drew, Jackie Robinson, Jesse Owens, Curt Flood, Medgar Evers, and, of course, Dr. Martin Luther King, Jr., are noted prominently in the history books of students nationwide, thus enabling them to learn about the important and lasting contributions of these individuals; and

WHEREAS, Among those Americans who have enriched our society are the members of the African American community—individuals who have been steadfast in their commitment to promoting brotherhood, equality, and justice for all; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature takes great pleasure in recognizing February 2008 as Black History Month, urges all citizens to join in celebrating the accomplishments of African Americans during Black History Month, and encourages the people of California to recognize the many talents, achievements, and contributions that African Americans make to their communities; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

## RESOLUTION CHAPTER 11

Assembly Concurrent Resolution No. 97—Relative to the centennial celebration of Allensworth.

[Filed with Secretary of State March 10, 2008.]

WHEREAS, In 1908, Colonel Allen Allensworth, Professor William Payne, a minister named Dr. W.H. Peck, a miner named J.W. Palmer, and a real estate agent named Harry Mitchel cofounded the town of Allensworth in Tulare County, located in the San Joaquin Valley, as a visionary settlement where African Americans could thrive economically and socially; and

WHEREAS, Allensworth was named after its cofounder Colonel Allensworth, who was born into slavery, and escaped to eventually earn a formal education and become a United States Army Chaplain to the 24th Infantry, one of the Army's four African American regiments at that period of time. Upon his retirement as a Lieutenant Colonel in 1906, being the first African American to attain such high rank, he lectured throughout the nation on African American self-reliance; and

WHEREAS, The founders established Allensworth on 800 acres along a railroad line as a progressive community, free of discrimination, to showplace the highest ideals of civic engagement, culture, and self-determination; and

WHEREAS, More than 400 people from around the nation settled in Allensworth to follow the dream and goal of developing an abundant, thriving, and self-reliant African American community where hard work, dedication, and faith would allow them and their children the opportunity to control their own destiny; and

WHEREAS, Allensworth's settlers built homes and shops, worked farms, raised livestock, operated trade and commerce, established churches, and educated their children in the state's first African American school district; and

WHEREAS, At the height of Allensworth's success, the town was a prosperous center for trade and commerce as a busy train station and supported the largest general store in the region, a judicial district that elected the state's first African American justice of the peace and constable, and a regional cultural center that built the first public library branch in Tulare County and included a theater and symphony orchestra; and

WHEREAS, By 1910, the great success of Allensworth was known throughout the nation and became the focus of state and national newspaper articles praising the town and its residents; and

WHEREAS, An unavoidable set of circumstances caused Allensworth to begin its economic decline in 1914, when the train station moved to another town and limited access to water impeded the town's agricultural businesses; and

WHEREAS, Despite its slow economic decline over the decades of the 20th century, Allensworth became "the town that refused to die" and still remains a fully functioning town that bears the distinction of being the longest lasting town founded, financed, and governed by African Americans; and

WHEREAS, Recognizing the historical significance of Allensworth, the state purchased 240 of the town's original 800 acres and created the Colonel Allensworth State Historic Park; and

WHEREAS, The current residents of Allensworth, Department of Parks and Recreation, historians, and the Legislature strive to preserve the teachings of self-reliance by Colonel Allensworth, and the town's legacy in the evolution of the state and nation; and

WHEREAS, In 2008, events throughout the state will celebrate the 100th anniversary of the founding of this unique town dedicated to the dignity of the human spirit and the courageous group of families and individuals who believed they could create their own version of the American dream; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature memorializes the significant cultural contributions of Allensworth, and joins Californians and the residents of Allensworth, both past and present, in celebrating the centennial of this special and important town that refused to die; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 12

Senate Concurrent Resolution No. 75—Relative to California Agriculture Day.

[Filed with Secretary of State March 27, 2008.]

WHEREAS, March 20, 2008, is National Agriculture Day, a day set aside to honor the hard-working men and women of agriculture, and to promote an understanding of America's agricultural industry; and

WHEREAS, March 25, 2008, is California Agriculture Day, a day of celebration to commemorate agriculture's vital role in keeping

Californians nourished and the state's economy ranked as the fifth largest in the world; and

WHEREAS, California's agricultural community provides a vital infrastructure that aids in the exclusion and early detection of plant and animal pests and diseases that impact public health, the environment, and commerce; and

WHEREAS, For approximately 59 consecutive years, California has been the number one agricultural state in the nation, producing more than 350 crop and livestock products and accounting for approximately 50 percent of the nation's supply of fruits, vegetables, and nuts; and

WHEREAS, The inexhaustible efforts of approximately 850,000 farmworkers have contributed greatly to the success of the industry; and

WHEREAS, With less than 1 percent of California's population engaged in farming and agriculture, each agricultural worker today provides for more than 100 other people, compared to just 13 in 1947; and

WHEREAS, Today's agricultural industry offers over 200 challenging and rewarding career opportunities, from on-farm cultivation, to food science and engineering; and

WHEREAS, Over the past five decades, advances in production agriculture have resulted in a drop in consumer spending on food products from 24 percent of disposable income in 1949 to approximately 9 percent today; and

WHEREAS, California is the nation's leader in agricultural exports, annually shipping more than 6.5 billion dollars worth of food and agricultural commodities to continents ranging from Europe to Asia, and from Africa to South America; and

WHEREAS, California's agricultural industry constantly seeks to incorporate the latest scientific and technological production and marketing techniques to meet the demands of changing consumer needs and complex world markets; and

WHEREAS, Government-industry partnerships are continually being developed to improve quality and ensure safe handling practices on the farm, in transit, and during processing; and

WHEREAS, "California Grown" is a public-private partnership campaign that emphasizes our strong ties to the land and our neighbors and our desire to restore pride in our homegrown products and our quality of work; and

WHEREAS, A broad approach to agricultural education is vital to ensure that California agriculture continues to flourish; and

WHEREAS, The California "5 A Day—For Better Health" campaign, launched in 1988, was the precursor for the national "5 A Day" program, which spreads the message that healthy eating through the consumption

of fruits and vegetables can reduce the risk of heart disease and cancer by as much as 30 percent; and

WHEREAS, It is appropriate for all Californians to recognize our farmers, farmworkers, and others involved in providing such a bounty to our nation and the entire world; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That it takes great pleasure in honoring the men and women of California agriculture for their dedication and productivity by observing the week of March 16 to March 22, 2008, inclusive, as National Agriculture Week, Tuesday, March 25, 2008, as California Agriculture Day, and Wednesday, March 20, 2008, as National Agriculture Day; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 13

Assembly Concurrent Resolution No. 109—Relative to Read Across America Day.

[Filed with Secretary of State March 27, 2008.]

WHEREAS, Reading is the building block to learning, and is the foundation for future success; and

WHEREAS, In 1998, the National Education Association started its "Read Across America" campaign to encourage children to read every day and to raise awareness about the importance of reading; and

WHEREAS, The California Teachers Association celebrates "Read Across America" and the positive impact it has made in the schools and the State of California; and

WHEREAS, "Read Across America" is a national celebration of Dr. Seuss's birthday on March 2 that promotes reading and adult involvement in the education of pupils; and

WHEREAS, The theme of this year's event, "Go Books Go," reminds children of all ages that learning to read is fun and one of the most important things they will learn to do; and

WHEREAS, Pupils, parents, teachers, celebrities, firefighters, and business and community leaders are taking part in "Read Across America" events to celebrate the joy of reading; and

WHEREAS, On March 3, 2008, the National Education Association, the California Teachers Association, local schools, libraries, bookstores,

businesses, and other community organizations will commemorate "Read Across America Day"; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature joins the California Teachers Association in recognizing March 3, 2008, as "Read Across America Day"; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 14

Assembly Concurrent Resolution No. 63—Relative to the Lt. Leonard B. "Larry" Estes and Deputy William R. "Bill" Hunter Memorial Highway.

[Filed with Secretary of State April 4, 2008.]

WHEREAS, Lieutenant Leonard B. "Larry" Estes was born June 10, 1940, and died in the line of duty July 26, 2001; and

WHEREAS, Lt. Estes joined the Butte County Sheriff's Department in 1973, worked in patrol for 12 years, and at the Butte Interagency Narcotics Task Force for four years; and

WHEREAS, Lt. Estes was promoted to sergeant in 1991 and transferred to investigation in 1994. A year later he was promoted to lieutenant and named chief deputy coroner; and

WHEREAS, In 1998, Lt. Estes was promoted to assistant sheriff; the highest nonelected position in the department; and

WHEREAS, Lt. Estes was the husband of Carolyn Estes and father to Brian, Jennifer, and Darren; and

WHEREAS, Lt. Estes is remembered as a man with a wonderful sense of humor and who leaves a legacy of honor with the department; and

WHEREAS, Deputy William R. "Bill" Hunter was born November 10, 1974, and died in the line of duty on July 26, 2001; and

WHEREAS, Deputy Hunter joined the Butte County Sheriff's Department in 1998 and had been selected to join the K-9 team; and

WHEREAS, Deputy Hunter was the husband of Holly Hunter, the son of Tom and Barbara Hunter, and the brother of Richard and Kevin Hunter; and

WHEREAS, Deputy Hunter is remembered as a generous, kind, and giving man who treated everyone with respect, and who believed in the honor and the code of law enforcement; and

WHEREAS, Lt. Leonard B. "Larry" Estes and Deputy William R. "Bill" Hunter were tragically killed by gunfire in the line of duty on July 26, 2001, when they were ambushed by a suspect in the Inskip area of Paradise Ridge; and

WHEREAS, It would be a fitting tribute to the bravery and dedication of these fallen heroes who were called to make the ultimate sacrifice in the service of the community to name Highway 149 in Butte County as the Lt. Leonard B. "Larry" Estes and Deputy William R. "Bill" Hunter Memorial Highway; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby designates Highway 149 in Butte County as the Lt. Leonard B. "Larry" Estes and Deputy William R. "Bill" Hunter Memorial Highway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of erecting the appropriate signs, consistent with the signing requirements of the state highway system, showing this special designation, and upon receiving donations from nonstate sources covering the cost, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 15

Assembly Joint Resolution No. 22—Relative to Hurricane Katrina disaster relief.

[Filed with Secretary of State April 4, 2008.]

WHEREAS, Hurricane Katrina damaged over 200,000 Gulf Coast homes; and

WHEREAS, Hurricane Katrina destroyed schools, hospitals, roads, community centers, bridges, parks, and forest lands; and

WHEREAS, a coordinated local, state, and federal effort is required to rebuild the communities of the Gulf Coast region, using citizens from the region; and

WHEREAS, Approximately 101,000 Louisianans have applied for aid to rebuild their homes, but only several thousand people have received grant assistance; and

WHEREAS, During the Great Depression, when the United States faced a crisis, our country created 800,000 jobs in two weeks, and 4 million jobs in two months; and

WHEREAS, Public workers in projects such as the Works Progress Administration (WPA) during the Great Depression built or repaired 2,500 hospitals, 6,000 schools, 13,000 playgrounds, and built the Golden Gate Bridge; and

WHEREAS, The neglect of the Gulf Coast region after the impact of Hurricane Katrina is a tragedy that requires the attention of every American, regardless of party affiliation or state of residence; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature supports the passage of federal legislation known as the Gulf Coast Civic Works Act, H.R. 4048, introduced in the United States Congress on November 1, 2007, by Representatives Zoe Lofgren, Charlie Melancon, and Gene Taylor, a national effort to create 100,000 jobs for Gulf Coast residents to rebuild their communities; and be it further

*Resolved,* That a WPA-like project for the Gulf Coast will rebuild homes and shattered lives, and will restore faith in our federal government; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to each Senator and Representative from California in the Congress of the United States and the President of the United States urging their support in passing this federal legislation.

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## RESOLUTION CHAPTER 16

Senate Concurrent Resolution No. 60—Relative to the Leo J. Trombatore State Office Building.

[Filed with Secretary of State April 7, 2008.]

WHEREAS, Leo J. Trombatore was born in the Los Angeles area, studied engineering at UCLA and industrial relations at the UCLA Graduate School of Business, and completed the Professional Program in Urban Transportation at the Carnegie Mellon University in Pittsburgh, Pennsylvania. Mr. Trombatore is a registered professional engineer in California; and

WHEREAS, Leo J. Trombatore's impressive 41-year career with the Department of Transportation began in 1947. He served more than seven years as District Director at the department's Marysville office, which covers 11 counties, including Sacramento. He was Chief Deputy District Director for Planning and Design in the department's San Francisco

District Office for eight years, and also worked 20 years in the Los Angeles District Office as Assistant District Director; and

WHEREAS, Leo J. Trombatore was one of the first major appointees of Governor Deukmejian, and served as the Director of Transportation from March 4, 1983, through January 1, 1988; and

WHEREAS, Leo J. Trombatore received numerous awards and honors for his service. He was honored in 1987 by the American Association of State Highway and Transportation Officials with the Thomas H. MacDonald Award for his lifetime of distinguished service. In recognition of his past service with the department and for his achievements as director, in 1984 he was named by the American Public Works Association as one of this country's top 10 public works officials. In 1983, he also received the Professional Engineers in Government Award from both the National and California Societies of Professional Engineers; and

WHEREAS, Leo J. Trombatore resides with his wife, Shirley, in Yuba City near Sacramento, and they have three children; and

WHEREAS, It is appropriate to commemorate Mr. Trombatore's years of public service to California and the Department of Transportation by naming a state transportation office building in his honor; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Department of Transportation District 3 office building in Marysville shall be designated as the Leo J. Trombatore State Office Building; and be it further

*Resolved,* That a copy of this resolution be provided by the Secretary of the Senate to the Director of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 17

Senate Concurrent Resolution No. 73—Relative to American Heart Month.

[Filed with Secretary of State April 7, 2008.]

WHEREAS, Heart disease is the leading cause of death and stroke is the third leading cause of death in California and the United States; and

WHEREAS, Cardiovascular diseases claim the lives of over 460,000 American women each year, approximately one death per minute; and

WHEREAS, In 2008, the estimated direct and indirect costs of cardiovascular disease and stroke in the United States totaled $448.5 billion; and

WHEREAS, Each year, 53 percent of all cardiovascular disease deaths occur in women, as compared with 47 percent in men, and about 32,800 more women than men die from stroke; and

WHEREAS, More women die of cardiovascular disease than of the next five leading causes of death combined, including all cancers; and

WHEREAS, Only 21 percent of women perceive heart disease as their greatest risk; and

WHEREAS, The American Heart Association is the largest voluntary, nonprofit organization whose mission is to reduce disability and death from heart disease and stroke; and

WHEREAS, The American Heart Association is committed to conducting and supporting medical research that advances knowledge in the areas of prevention and treatment of cardiovascular disease; and

WHEREAS, The American Heart Association strives to inform all citizens about the critical importance of tools and skills that will increase the survival rate of men and women from heart disease and stroke; and

WHEREAS, February is designated American Heart Month; and

WHEREAS, Go Red For Women is the American Heart Association's national call to increase awareness of heart disease, the leading cause of death for women, and to inspire women to take charge of their heart health; and

WHEREAS, All women should learn their own personal risk for heart disease, using tools like the American Heart Association's Go Red for Women Heart Checkup, and by talking to their health care provider; and

WHEREAS, Wear Red Day is recognized nationwide each year to highlight the Go Red for Women campaign; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature recognizes the month of February 2008 as American Heart Month in California in order to raise awareness of the importance of the ongoing fight against heart disease and stroke; and be it further

*Resolved,* That the Legislature recognizes February 1, 2008, as Wear Red Day in California, and urges all citizens to show their support for women and the fight against heart disease by commemorating this day by wearing the color red; and be it further

*Resolved,* That the Legislature urges public support for Go Red for Women events planned in their community during the 2008 American Heart Month; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 18

Assembly Concurrent Resolution No. 89—Relative to César Chávez Day.

[Filed with Secretary of State April 16, 2008.]

WHEREAS, On March 31, 1927, a true hero named César Estrada Chávez was born in Yuma, Arizona, to Librado and Juana Chávez, and he was the second oldest in a family of five children. César Chávez lived his life dedicated to improving the plight of farmworkers through struggle, sacrifice, and self-denial. He founded and led the first successful farmworkers' union in United States history. He stood for dignity and justice for farmworkers. Today, he remains a symbol of hope to all Californians who find hope and peace in justice; and

WHEREAS, In the 1930s, during the Great Depression, César Chávez' father lost his small farming business, and the family went broke. The family became migrant workers and joined some 30,000 workers who followed the crops from Arizona into Southern California, then up the length of the central valley and back again, picking everything from peas to cotton. They lived in tents and other makeshift housing that often lacked a bathroom, electricity, or running water. Schooling for Chávez was irregular and haphazard. He attended some 30 different schools, often encountered discrimination, and was punished for speaking Spanish; and

WHEREAS, After graduation from the 8th grade, César Chávez was forced to quit school and take to the fields in order to help support his family. In 1944, at the age of 17, César Chávez joined the Navy and served in World War II. After he completed his tour of duty, César Chávez returned to California and married Helen Fabela, a woman who shared his dedication to the cause of the farmworker. They lived in San Jose in a tough Mexican neighborhood called "Sal Si Puedes" which translates to "get out if you can," and together raised eight children; and

WHEREAS, As a farmworker, César Chávez experienced firsthand the injustice of working long hours with little pay. Instilled with a sense of justice passed down from his mother, César Chávez made a decision to speak up and fight for change. He took part in his first strike in protest of low wages and poor working conditions for farmworkers. Although initially unsuccessful, his participation in that first strike was to mark

the beginning of a long career in which he fought for improved working and living conditions for farmworkers; and

WHEREAS, In 1962, César Chávez resigned his position with the Community Services Organization to embark on a bold new undertaking to form a farmworkers' union. He was joined by the great Dolores Huerta, and together they became the architects of the National Farm Worker's Union, the forerunner to the present United Farm Workers (UFW); and

WHEREAS, In 1965, César Chávez led a strike of California grapepickers to demand higher wages and urged all Americans to boycott table grapes as a show of support. The strike included a 340-mile march from Delano to Sacramento in 1966 in which thousands of farmworkers and supporters marched in solidarity. The farmworkers and supporters carried banners with the black eagle with the words "HUELGA" (strike) and "VIVA LA CAUSA" (long live our cause); and

WHEREAS, César Chávez preached nonviolence to the strikers even as they were physically abused by many of those opposed to the grape boycott. In 1968, he began a Ghandi-like fast to call attention to the migrant workers' cause. Although his dramatic act did little to solve the immediate problem, it increased public awareness of the conditions under which farmworkers labored. In 1973, the UFW organized a strike for higher wages from lettuce growers, and, after many battles, an agreement was finally reached in 1977 that gave the UFW the sole right to organize farmworkers; and

WHEREAS, During the 1980s, César Chávez led the effort to call attention to the health problems of farmworkers caused by the use of certain pesticides on crops; and

WHEREAS, On April 23, 1993, César Estrada Chávez died peacefully in his sleep in San Luis, Arizona. During his funeral, Cardinal Roger M. Mahoney, who celebrated the funeral mass, called César Chávez "a special prophet for the world's farmworkers"; and

WHEREAS, Many declared that the UFW would die without him, but on César Chávez' birthday, March 31, 1994, under the leadership of his son-in-law, Arturo Rodriguez, the UFW marched 343 miles from Delano to Sacramento, echoing César Chávez' historic 1966 march, and demonstrated that the UFW still worked for farmworkers; and

WHEREAS, In 1990, Mexican President Salinas de Gortari awarded César Chávez, the "El Aguila Azteca" (the Aztec Eagle), Mexico's highest award presented to people of Mexican heritage who have made major contributions outside of Mexico. He also became the second Mexican American to receive the Presidential Medal of Freedom, the highest civilian honor in the United States, which was presented posthumously to his wife, Helen Chávez, and their children on August 8, 1994, by President William Jefferson Clinton; and

WHEREAS, In 1994, César Chávez' family and the officers of the UFW created the César E. Chávez Foundation to inspire current and future generations by promoting the ideals of César Chávez' life, work, and vision. Communities throughout California and the United States have honored the memory of César Chávez by naming schools, parks, children's centers, streets, and other public works after the great labor leader; and

WHEREAS, César Chávez led by example, giving of himself so that he might help others. His relentless pursuit of the belief that the American dream should be available to all Americans, regardless of race or national origin, stands as a monument to our free society. His life and work is not only an inspiration to Latinos, but to working Americans of all nationalities. His legacy lives on in the improved working and living conditions of hundreds of thousands of Californians and their families; and

WHEREAS, In the year 2000, the Legislature enacted Senate Bill 984 (Chapter 213 of the Statutes of 2000) to create an annual state holiday on César Chávez' birthday, March 31. This holiday provides all Californians the opportunity to learn from César Chávez' life and provides schoolchildren the opportunity to learn through community service; and

WHEREAS, The State Board of Education on Wednesday, February 6, 2002, adopted a model curriculum on the life and work of César Chávez, fulfilling a key provision of Chapter 213 of the Statutes of 2000, that also includes topics on pesticides, immigration, and agriculture's role in the economy; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature recognizes March 31, 2008, as the anniversary of the birth of César Chávez, and calls upon all Californians to participate in appropriate observances to remember César Chávez as a symbol of hope and justice to all persons; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 19

Assembly Concurrent Resolution No. 92—Relative to Multiple Sclerosis Awareness Week.

[Filed with Secretary of State April 16, 2008.]

WHEREAS, The week of March 10, 2008, through March 17, 2008, has been declared Multiple Sclerosis Week in recognition of the importance of finding the cause and cure for multiple sclerosis and to express appreciation to the National Multiple Sclerosis Society and its California chapters; and

WHEREAS, Multiple sclerosis is a neurological disease of the central nervous system that affects an estimated 400,000 Americans across the country, and nearly 200 new cases are diagnosed each week nationwide; and

WHEREAS, The California chapters of the National Multiple Sclerosis Society report that more than 40,000 people in California are affected by this devastating disease. Throughout the years, the California chapters have been committed to heightening public knowledge and insight and are currently planning several major statewide fundraisers and educational programs to raise awareness about the effects of multiple sclerosis; and

WHEREAS, Twice as many women as men have multiple sclerosis and most are diagnosed between the ages of 20 and 50, and while studies indicate genetic factors make certain individuals more susceptible than others, there is no evidence that multiple sclerosis is directly inherited; and

WHEREAS, The National Multiple Sclerosis Foundation, founded in 1946, funds more research, offers more services for people with multiple sclerosis, and provides more professional education programs than any other multiple sclerosis organization in the world. Through its home office in New York and its 50-state network of chapters, the society services more than one million people annually; and

WHEREAS, The society is the largest private supporter of multiple sclerosis research in the world, and for more than 55 years it has funded innovative research and advocated for government support of important scientific inquiries; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That March 10, 2008, through March 17, 2008, is Multiple Sclerosis Awareness Week and that the residents of the State of California should be encouraged to join together in raising awareness and heightening public knowledge of this debilitating disease; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

## RESOLUTION CHAPTER 20

Assembly Concurrent Resolution No. 110—Relative to West Nile Virus and Mosquito and Vector Control Awareness Week.

[Filed with Secretary of State April 16, 2008.]

WHEREAS, West Nile virus is a mosquito-borne disease that can result in debilitating cases of meningitis and encephalitis and death to humans, horses, avian species, and other wildlife; and

WHEREAS, In the 2007, West Nile virus resulted in 16 deaths in California and sickened over 379 others; and

WHEREAS, The State Department of Public Health and the federal Centers for Disease Control and Prevention predict West Nile virus will again pose a public health threat in California in 2008; and

WHEREAS, Adequately funded mosquito and vector control, disease surveillance, and public awareness programs are the best way to prevent outbreaks of West Nile virus and other diseases borne by mosquitoes and other vectors; and

WHEREAS, Mosquitoes and other vectors, including, but not limited to, ticks, Africanized honey bees, rats, fleas, and flies, continue to be a source of human suffering, illness, death, and a public nuisance in California and around the world; and

WHEREAS, Excess numbers of mosquitoes and other vectors spread diseases, reduce enjoyment of both public and private outdoor living spaces, decrease property values, hinder outdoor work, and reduce livestock productivity; and

WHEREAS, Professional mosquito and vector control based on scientific research has made great advances in reducing mosquito and vector populations and the diseases they transmit; and

WHEREAS, Established mosquito- and vector-borne diseases such as plague, Lyme disease, and encephalitis, and new and emerging vector-borne diseases, such as hantavirus, arenavirus, babesiosis, and ehrlichiosis cause illness and sometimes death every year in California; and

WHEREAS, Mosquito and vector control districts throughout the State of California work closely with the United States Environmental Protection Agency and the State Department of Public Health to reduce pesticide risks to humans, animals, and the environment while protecting human health from mosquito- and vector-borne diseases and nuisance attacks; and

WHEREAS, The public's awareness of the health benefits associated with safe, professionally applied mosquito and vector control methods

will support these efforts, as well as motivate the public to eliminate mosquito and vector breeding sites on private property; and

WHEREAS, Educational programs have been developed to include schools, civic groups, private industry, and governmental agencies, in order to meet the public's need for information about West Nile virus, other diseases, and mosquito and vector biology and control; and

WHEREAS, Public awareness can result in reduced production of mosquitoes and other vectors on private, commercial, and public lands by responsible parties, avoidance of the bites of mosquitoes and other vectors when the risk of West Nile virus and other disease transmission is high, detection of human cases of mosquito- and vector-borne diseases that may otherwise be misdiagnosed for lack of appropriate laboratory testing, and the formation of mosquito or vector control agencies where needed; and

WHEREAS, Public awareness can result in action to provide adequate funding for existing mosquito and vector control agencies or in areas where there are no existing controls; and

WHEREAS, West Nile Virus and Mosquito and Vector Control Awareness Week will increase the public's awareness of the threat of West Nile virus and other diseases and the activities of the various mosquito and vector research and control agencies working to minimize the health threat within California, and will highlight the educational programs currently available; and

WHEREAS, The Mosquito and Vector Control Association of California has designated the week of April 21 to April 25, 2008, inclusive, as West Nile Virus and Mosquito and Vector Control Awareness Week in the State of California; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby declares that the week of April 21 to April 25, 2008, inclusive, be designated as West Nile Virus and Mosquito and Vector Control Awareness Week; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor and State Public Health Officer.

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## RESOLUTION CHAPTER 21

Senate Concurrent Resolution No. 56—Relative to California Peace Officers' Memorial Day.

[Filed with Secretary of State April 18, 2008.]

WHEREAS, May 9, 2008, is California Peace Officers' Memorial Day, a day Californians observe in commemoration of those noble officers who have tragically sacrificed their lives in the line of duty; and

WHEREAS, Although California citizens are indebted to our California peace officers each day of the week, we make particular note of their bravery and dedication and we share in their losses on California Peace Officers' Memorial Day; and

WHEREAS, California peace officers have a job second in importance to none, and it is a job that is as difficult and dangerous as it is important; and

WHEREAS, The peace officers of California have worked dutifully and selflessly on behalf of the people of this great state, regardless of the peril or hazard to themselves; and

WHEREAS, By the enforcement of our laws, these same officers have safeguarded the lives and property of the citizens of California and have given their full measure to ensure those citizens the right to be free from crime and violence; and

WHEREAS, Special ceremonies and observations on behalf of California peace officers provide all Californians with the opportunity to appreciate the heroic men and women who have dedicated their lives to preserving public safety; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That California's peace officers who were killed in defense of their communities in 2007 be recognized:

Deputy Manuel Villegas, Riverside County Sheriff's Department, End of Watch: March 19, 2007

Officer Robert W. Winget, Ripon Police Department, End of Watch: April 10, 2007

Deputy Raul V. Gama, Los Angeles County Sheriff's Department, End of Watch: May 1, 2007

Officer Robert F. Dickey, California Highway Patrol, Winterhaven, End of Watch: June 10, 2007

Officer Douglas "Scott" Russell, California Highway Patrol, Placerville, End of Watch: July 31, 2007

Officer Sergio Carrera, Junior, Rialto Police Department, End of Watch: October 18, 2007

Officer John P. Miller, California Highway Patrol, Dublin, End of Watch: November 16, 2007

Detective Kent Haws, Tulare County Sheriff's Department, End of Watch: December 17, 2007

Detective Vu Nguyen, Sacramento County Sheriff's Department, End of Watch: December 19, 2007; and be it further

*Resolved,* That California's peace officers who were killed in defense of their communities in prior years, but not yet enrolled, also be recognized:

Deputy Maria C. Rosa, Los Angeles County Sheriff's Department, End of Watch: March 28, 2006

Constable Iver W. Johanson, Fresno County Constable's Office, End of Watch: December 15, 1961

Deputy Charles E. Brown, Junior, Butte County Sheriff's Office, End of Watch: January 18, 1959

Constable Oliver P. Mitchell, Fresno County Constable's Office, End of Watch: April 29, 1950

Deputy Marshal T. Dwight Crittenden, Los Angeles City Marshal's Office, End of Watch: February 17, 1938

Deputy Marshal Leon W. Romer, Los Angeles City Marshal's Office, End of Watch: February 17, 1938

Special Officer Roy E. Burton, Atchison, Topeka and Santa Fe Railroad Police, End of Watch: July 27, 1922

Special Officer Thomas C. McMillin, Atchison, Topeka and Santa Fe Railroad Police, End of Watch: August 29, 1921

Deputy William F. Smithson, San Bernardino County Sheriff's Department, End of Watch: October 20, 1907

Constable Herbert S. Walker, Modoc County Constable's Office, End of Watch, May 12, 1901; and be it further

*Resolved,* That the Members designate Friday, May 9, 2008, as California Peace Officers' Memorial Day, and urge all Californians to remember those individuals who have given their lives for our safety and express appreciation to those who continue to dedicate themselves to making California a safer place in which to live and raise our families; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 22

Senate Concurrent Resolution No. 76—Relative to California Fitness Month.

[Filed with Secretary of State April 18, 2008.]

WHEREAS, Exercise and fitness activities can increase self-esteem, boost energy, strengthen the heart and muscles, burn calories, and improve cholesterol levels; and

WHEREAS, Exercise and fitness activities are excellent ways to relieve stress, lower the risk of heart disease and diabetes, prevent bone loss, and decrease the risk of some cancers; and

WHEREAS, A person's fitness level has a dramatic effect on the body's ability to produce energy and to reduce fat; and

WHEREAS, A fit person burns a higher percentage of fat not only during activity, but also at rest, fit people have a higher proportion of muscle tissue, which burns more calories than fat, and those with more muscle mass can eat more calories and still maintain a healthy weight; and

WHEREAS, To lose weight and keep it off, one should do an enjoyable, moderate-intensity aerobic activity for 30 to 60 minutes, three to five times a week; and

WHEREAS, A person should also do muscle-strengthening exercises two or three times a week, and should concentrate on maintaining a balanced diet; and

WHEREAS, Most popular diet programs cannot produce long-lasting weight reduction results without exercise; and

WHEREAS, There is no age limit for physical activity. Among the elderly, exercise provides cardiovascular, respiratory, neuromuscular, metabolic, and mental health benefits; and

WHEREAS, Fitness activities have been shown to sharpen mental ability in all people, and to retard the aging process; and

WHEREAS, Maximizing one's energy level, increasing muscle mass, and reducing body fat increases one's chances of living a longer, healthier life; and

WHEREAS, More than 60 percent of American adults do not get the recommended amount of physical activity, and 25 percent of American adults are not active; and

WHEREAS, Nearly all American youths from 12 to 21 years of age are not vigorously active on a regular basis; and

WHEREAS, The rate of type II diabetes tripled among American children from 2000 to 2005; and

WHEREAS, The United States Surgeon General recently spoke about the "cultural transformation" necessary to reverse the detrimental effects of childhood obesity, and the threat to national security that obesity poses for the country; and

WHEREAS, The State Department of Education reports that a majority of California's children are not physically fit; and

WHEREAS, Health care providers, insurance companies, fitness clubs, and others in the private sector will be collaborating to promote fit living and health improvement activities during May of 2008; and

WHEREAS, The Legislature seeks to advance the physical fitness of all Californians by educating them about the benefits of exercise and a balanced diet; and

WHEREAS, The Legislature will increase public awareness about the benefits of exercise and physical fitness by encouraging its Members to host events in their districts that stimulate physical fitness and increase participation by Californians in activities that promote physical health and benefit both mental and physical well-being; and

WHEREAS, The Legislature encourages its Members, as well as organizations, businesses, and individuals, to sponsor and attend physical fitness events that are informative, fun, and result in a number of Californians becoming physically fit; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby proclaims the month of May 2008 as California Fitness Month, and encourages all Californians to enrich their lives through proper diet and exercise; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 23

Assembly Concurrent Resolution No. 100—Relative to California Museum Month.

[Filed with Secretary of State April 21, 2008.]

WHEREAS, California is home to over 1,300 museums that are located in every county and region throughout the state and serve millions of visitors annually; and

WHEREAS, California museums represent a multitude of learning experiences, including art museums, zoos, aquaria, historical societies, science centers, botanical gardens, children's museums, and cultural centers; and

WHEREAS, California museums help the state meet its obligations in the field of education, with approximately 96 percent serving K–12 schoolchildren through field trips, curriculum, outreach programs, and teacher training; and

WHEREAS, Over the last decade, California museums have experienced an approximately 25-percent increase in K–12 school field trip attendance and an approximately 31-percent increase in the variety of public activities the museums offer; and

WHEREAS, Two-thirds of California museums partner with schools and school districts to provide valuable and relevant educational programs that serve their local students and enhance instruction provided by the public sector; and

WHEREAS, California museums, through exhibitions and programs, provide access to educational opportunities, exciting and hands-on learning experiences, information, and the cultural and natural heritage that defines us as a state; and

WHEREAS, California museums foster dialogue, utilize critical thinking skills, and support exploration to advance knowledge, understanding, and appreciation of history, science, the arts, and the natural world; and

WHEREAS, California museums provide a spark that inspires the future generations of scientists, artists, politicians, historians, and entrepreneurs; and

WHEREAS, Americans view museums as one of the most trustworthy sources of objective information, and, after their families, the most significant means of creating a strong connection to the past; and

WHEREAS, The California Association of Museums has served to bring important recognition to this commemorative month and invites all museums, museum service organizations, California residents, and local governments to use this milestone to recognize and celebrate the essential role California museums play as educational institutions serving communities, the nation, and the world; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature recognizes the essential role that museums have in the State of California as educational institutions and proclaims May 2008, as California Museum Month; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 24

Senate Concurrent Resolution No. 81—Relative to Child Abuse Prevention Month.

[Filed with Secretary of State April 23, 2008.]

WHEREAS, Child abuse and neglect continue to pose a serious threat to our nation's children; and

WHEREAS, In 2005, an estimated 899,000 children were determined to be victims of abuse or neglect and of that number, 1,460 children died of abuse or neglect; and

WHEREAS, It is estimated that for every three dollars ($3) spent on the prevention of child abuse and neglect, at least six dollars ($6) are saved that might be spent on child welfare services, special education services, medical care, foster care, counseling, and the housing of juvenile offenders; and

WHEREAS, Child abuse and neglect is a community problem and finding solutions depends on the involvement of people throughout the community; and

WHEREAS, The first organized statewide Blue Ribbon Campaign was originated in Norfolk, Virginia, by the grandmother of Bubba Dickinson, a child who was murdered by his mother's abusive boyfriend; and

WHEREAS, In recent years, the National Committee to Prevent Child Abuse, the California chapter and other local affiliates, United States military bases, and other groups have organized Blue Ribbon Campaigns to increase public awareness of child abuse and to promote ways to prevent child abuse; and

WHEREAS, The National Committee to Prevent Child Abuse, in all its forms, has proclaimed April as National Child Abuse Prevention Month; and

WHEREAS, Blue ribbons are displayed to increase awareness of child abuse and as a strategy for Child Abuse Prevention Month; and

WHEREAS, This year's campaign is entitled "Protecting Children Promoting Healthy Families and Preserving Communities"; and

WHEREAS, The flexibility of this program offers numerous opportunities to be innovative and to create partnerships within business, professional, and community organizations; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature does hereby acknowledge the month of April 2008 as Child Abuse Prevention Month, and encourage the people of the State of California to work together to support youth-serving child abuse prevention activities in their communities and schools during that month and throughout the year; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

## RESOLUTION CHAPTER 25

Senate Joint Resolution No. 24—Relative to the Armenian Genocide.

[Filed with Secretary of State April 23, 2008.]

WHEREAS, One and one-half million men, women, and children of Armenian descent were victims of the brutal genocide perpetrated by the Ottoman Empire from 1915 to 1923, inclusive; and

WHEREAS, The Armenian Genocide and massacre of the Armenian people have been recognized as an attempt to eliminate all traces of a thriving and noble civilization over 3,000 years old; and

WHEREAS, To this day, revisionists, including the Republic of Turkey, still deny the existence of these horrific events; and

WHEREAS, By consistently remembering and openly condemning the atrocities committed against the Armenians, California residents demonstrate their sensitivity to a need for constant vigilance to prevent similar atrocities in the future; and

WHEREAS, Recognition of the ninety-third anniversary of this genocide is crucial to preventing the repetition of future genocides and educating people about the atrocities connected to these tragic events; and

WHEREAS, On this ninety-third anniversary of the Armenian Genocide, it is also appropriate to remember, honor, and thank those righteous ethnic Turks and Kurds who, often at risk to their own lives, lent aid, comfort, and assistance to ethnic Armenians seeking to escape the genocide; and

WHEREAS, Armenia is now a free and independent republic, having embraced democracy following the dissolution of the Soviet Union; and

WHEREAS, California is home to the largest population of Armenians in the United States, and those citizens have enriched our state through leadership in business, agriculture, academia, medicine, government, and the arts, and they are proud and patriotic practitioners of American citizenship; now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly,* That the Legislature of the State of California hereby designates April 24, 2008, as the "California Day of Remembrance for the Armenian Genocide of 1915–1923"; and be it further

*Resolved,* That the State of California respectfully memorializes the Congress of the United States to act likewise to commemorate the Armenian Genocide; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President of the United States, Members of the United

States Congress, the Governor, and Armenian churches and commemorative organizations in California.

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## RESOLUTION CHAPTER 26

Senate Concurrent Resolution No. 82—Relative to arts education.

[Filed with Secretary of State April 29, 2008.]

WHEREAS, Arts education, which includes dance, music, theatre, and the visual arts, is an essential and integral part of basic education for all pupils in prekindergarten, kindergarten, and grades 1 to 12, inclusive; and

WHEREAS, The arts are crucial to achieving a state educational policy that is devoted to the teaching of basic academic skills and lifelong learning capacities with the goal of truly preparing all children for success after high school regardless of gender, age, economic status, physical ability, or learning ability; and

WHEREAS, A systematic, substantive, and sequential visual and performing arts curriculum addresses and develops ways of thinking, questioning, expression, and learning that complement learning in other core subjects, but that is unique in what it has to offer; and

WHEREAS, Pupils benefit from arts learning in the areas of cultural understanding, readiness for learning and creative thinking, cognitive outcomes, emotional intelligence and expression, social interaction and collaboration, and preparation for the workplace and lifelong learning; and

WHEREAS, Arts education in California is mandated for pupils in grades 1 to 12, inclusive, by Sections 51210 and 51220 of the Education Code, which provide, in part, "[t]he adopted course of study ... shall include instruction ... in [v]isual and performing arts including instruction in the subjects of dance, music, theatre, and visual arts, aimed at the development of aesthetic appreciation and the skills of creative expression"; and

WHEREAS, The arts are recognized as part of a quality education, and the University of California and the California State University have instituted a policy that includes visual and performing arts as a college preparatory subject for all high school pupils wishing to enter California's institutions of higher education; and

WHEREAS, In 2006 the Legislature passed and Governor Schwarzenegger signed into law a landmark investment in music and arts education programs, including a block grant of one hundred five

million dollars ($105,000,000) to support standards-aligned instruction in kindergarten and grades 1 to 12, inclusive; and

WHEREAS, In 2006 the Legislature also passed and Governor Schwarzenegger signed into law an additional five hundred million dollars ($500,000,000) to be distributed on a one-time basis for the purchase of visual and performing arts and physical education professional development supplies and equipment; and

WHEREAS, In 2007, this ongoing investment in arts education plus a cost-of-living increase was passed by the Legislature and signed into law by Governor Schwarzenegger; and

WHEREAS, It is the intent that this funding help implement a comprehensive vision for arts education at the local level, to ensure that every pupil in California benefits from this investment; and

WHEREAS, This funding is the first step in investing in quality visual and performing arts programs for all California pupils; and

WHEREAS, Many national and state professional arts education associations hold celebrations in the month of March, giving California schools a unique opportunity to focus on the value of the arts for all pupils, to foster cross-cultural understanding, to give recognition to the state's outstanding young artists, and to enhance public support for this essential part of the curriculum; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature proclaims the month of March 2008 as Arts Education Month and encourages all elected officials to participate with their educational communities in celebrating the arts with meaningful activities and programs for pupils, teachers, and the public that demonstrate learning and understanding in the visual and performing arts, and urges all residents to become interested in and give full support to quality school arts programs for children and youth; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 27

Senate Concurrent Resolution No. 91—Relative to Children's Day and Children's Week.

[Filed with Secretary of State April 29, 2008.]

WHEREAS, Children's Day is dedicated to the hopes of the child within us all and to children everywhere; and

WHEREAS, Children's Day is a special time for happiness, to love our children, to uplift and to inspire people of all ages to positive actions, and to aspire to do great things; and

WHEREAS, The State of California is continuing to endeavor to set a great example by putting our children and young people and their well-being as a top priority; and

WHEREAS, Children's Day reminds us all for the sake of our children to take care of our Earth, to value and support education, to make better communities and to contribute to a better world by fostering goodwill, love, peace, kindness, mutual respect, cooperative win-win attitudes, stewardship, the protection of the ecosystem and all living things, and to enact wise policies to protect children and their future; and

WHEREAS, Children's Day focuses on ways to improve communities, to be better parents, people, mentors, and role models for children, and causes us to think about what we do that affects everything around us and future generations; and

WHEREAS, Children's Week leading up to Children's Day is a time to encourage everyone to do things in honor of Children's Day and naturally links Earth Day and caring for our environment with Children's Day, adding to the heart and importance of both; and

WHEREAS, Children's Day encourages everyone to help make our world a wonderful place; and

WHEREAS, Children's Day is a gift that keeps on giving for generations to come and is a time to make good dreams come true; and

WHEREAS, The Children's Day theme always will be "Do something wonderful to make our world a better place"; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby declares the last Saturday of April of each year as Children's Day and the last week of April of each year as Children's Week in the State of California, encourages all communities, leaders, individuals, churches, organizations, businesses, and schools to support Children's Day, and by our good example encourages communities throughout America and in our world to also celebrate Children's Day; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Governor and the author for appropriate distribution.

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## RESOLUTION CHAPTER 28

Assembly Concurrent Resolution No. 83—Relative to California Holocaust Memorial Week.

[Filed with Secretary of State April 30, 2008.]

WHEREAS, The Holocaust was a tragedy of proportions the world had never before witnessed; and

WHEREAS, More than 60 years have passed since the tragic events we now call the Holocaust transpired, in which the dictatorship of Nazi Germany murdered six million Jews as part of a systematic program of genocide known as "The Final Solution of the Jewish Question"; and

WHEREAS, Jews were the primary victims, but they were not alone. Five million other people were murdered in Nazi concentration camps as part of a carefully orchestrated, state-sponsored program of cultural, social, and political annihilation under the Nazi tyranny; and

WHEREAS, We must teach our children and future generations that the individual and communal acts of heroism during the Holocaust serve as a powerful example of how our nation and its citizens can, and must, respond to acts of hatred, cruelty, and inhumanity; and

WHEREAS, We must always remind ourselves of the horrible events of the Holocaust and remain vigilant against hatred, persecution, and tyranny lest these atrocities be repeated; and

WHEREAS, We, the people of California, should actively rededicate ourselves to the principles of human rights, individual freedom, and equal protection under the laws of a just and democratic society; and

WHEREAS, Each person in California should set aside moments of his or her time every year to give remembrance to those who lost their lives in the Holocaust; and

WHEREAS, The United States Holocaust Memorial Council has designated April 28 through May 4, 2008, as the Days of Remembrance of the Victims of the Holocaust, including the International Day of Remembrance, known as Yom HaShoah, on May 2, 2008; and

WHEREAS, According to Elie Wiesel, a Holocaust survivor and nationally recognized scholar, "... a memorial unresponsive to the future would violate the memory of the past"; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That April 28 through May 4, 2008, be proclaimed "California Holocaust Memorial Week," and that Californians are urged to observe these days of remembrance for victims of the Holocaust in an appropriate manner; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit sufficient copies of this resolution to the author for appropriate distribution.

## RESOLUTION CHAPTER 29

Assembly Concurrent Resolution No. 101—Relative to Safe Jobs for Youth Month.

[Filed with Secretary of State April 30, 2008.]

WHEREAS, A productive, competitively skilled, and healthy workforce is a necessary component for the well-being of our economy and our society in general; and

WHEREAS, Having a job can be a valuable part of an adolescent's learning and development; and

WHEREAS, Eighty percent of adolescents report holding jobs before completing high school; and

WHEREAS, Every year approximately 160,000 adolescents are injured on the job; and

WHEREAS, An adolescent is injured on the job every six minutes; and

WHEREAS, Approximately 50 adolescents are killed on the job each year; and

WHEREAS, Adolescents are at higher risk for injury than adults due to, among other factors, inexperience, lack of training and supervision, and physical development; and

WHEREAS, Studies and surveys reveal that young workers do not always receive adequate health and safety training at work; and

WHEREAS, Some adolescents work in violation of labor laws regulating such matters as hours of work, hazardous workplace conditions, and work permit requirements; and

WHEREAS, This summer many adolescents will be heading into summer jobs and may not be aware of work permit requirements, potential hazards on their jobs, or labor laws designed to protect youth in the workplace; and

WHEREAS, May is Safe Jobs for Youth Month, an annual public awareness campaign intended to highlight the importance of preventing injuries to adolescents on the job; and

WHEREAS, The objective of Safe Jobs for Youth Month is to protect young workers from injury by raising community awareness about child labor and workplace health and safety issues; and

WHEREAS, Safe Jobs for Youth Month is supported by government agencies, nonprofit organizations, educators, parents, employers, job trainers, labor unions, and others; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature proclaims the month of May 2008 as Safe Jobs for Youth Month and encourages all elected officials and other

interested parties to participate and bring attention to these issues in their own communities; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 30

Assembly Concurrent Resolution No. 125—Relative to DMV/Donate Life California Registry.

[Filed with Secretary of State April 30, 2008.]

WHEREAS, Organ, tissue, and blood donation are compassionate and life-giving acts looked upon and recognized in the highest regard; and

WHEREAS, Nearly 100,000 individuals nationwide and more than 20,000 Californians are currently on the national organ transplant wait list. While about one-third of these patients receive a transplant each year, another one-third die while waiting, due to a shortage of donated organs; and

WHEREAS, A single individual's donation of heart, lungs, liver, kidneys, pancreas, and small intestine can save up to eight lives. The donation of tissue can save and enhance the lives of up to 50 others, and a single blood donation can help three people in need; and

WHEREAS, Millions of lives each year are saved and enhanced by donors of organs, tissue, and blood; and

WHEREAS, Californians by the millions are joining together to save and enhance lives by becoming registered donors. More than 2.5 million Californians have signed up with the state-authorized Donate Life California Registry to ensure that their wishes to be an organ and tissue donor are honored; and

WHEREAS, A California resident can register with the Donate Life California Registry when applying for or renewing his or her drivers's license or identification card at the Department of Motor Vehicles; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That in recognition of April as National Donate Life Month, the Legislature proclaims April 4, 2008, as DMV/Donate Life California Day in the State of California, and April 2008 as DMV/Donate Life California Month in the State of California. In doing so, the Legislature encourages all Californians to check "YES" when applying for or renewing a driver's license or identification card, or by signing up at

www.donateLIFEcalifornia.org or www.doneVIDAcalifornia.org; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 31

Senate Concurrent Resolution No. 106—Relative to Denim Day.

[Filed with Secretary of State May 2, 2008.]

WHEREAS, In 1999, the Italian Supreme Court overturned the conviction of a man who sexually assaulted an 18 year old woman after the court determined that, "because the victim wore very, very tight jeans, she had to help him remove them, and by removing the jeans it was no longer rape but consensual sex"; and

WHEREAS, Enraged by the court decision, within a matter of hours the women in the Italian Parliament launched into immediate action and protested by wearing jeans to work; and

WHEREAS, Nations and states throughout the world have followed the lead of the Italian Parliament by designating their own "Denim Day" to raise public awareness about rape and sexual assault; and

WHEREAS, California and other states have declared April as "Sexual Assault Awareness Month" and the California Coalition Against Sexual Assault has declared April 23rd as "Denim Day California"; and

WHEREAS, Both events are intended to draw attention to the fact that rape and sexual assault remain serious issues in our society; and

WHEREAS, Harmful attitudes about rape and sexual assault allow these crimes to persist and allow survivors to be revictimized through victim-blaming attitudes and unresponsive government systems; and

WHEREAS, California is a national leader within the judicial, criminal justice, medical, rape crisis, and health communities in promoting victim-centered approaches to victims of crime; and

WHEREAS, "Sexual Assault Awareness Month" and "Denim Day California" are also intended as methods of calling attention to misconceptions and misinformation about rape and sexual assault, as well as the problem that many in our society remain disturbingly uninformed about assault and forcible rape; and

WHEREAS, The importance of this issue is underlined by statistics indicating that approximately one-in-four women and one-in-ten men are raped in adulthood and the sexual assault victimization rate for youths

under 18 years of age has been documented at one-in-four for girls and one-in-six for boys; and

WHEREAS, With proper education on the matter, there is compelling evidence that we can be successful in reducing incidents of this alarming and psychologically damaging crime; and

WHEREAS, The Legislature strongly supports the efforts of California Coalition Against Sexual Assault to educate persons in our community about the true impact of rape and sexual assault in California; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Senate of the State of California, the Assembly thereof concurring, hereby recognize April 23, 2008, as "Denim Day California" and encourage everyone to wear jeans on that day to help communicate the message that there is no excuse for, and never an invitation to, rape; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for distribution.

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## RESOLUTION CHAPTER 32

Assembly Concurrent Resolution No. 113—Relative to Financial Literacy Month.

[Filed with Secretary of State May 5, 2008.]

WHEREAS, Californians' total personal income is 60 percent higher than any other state and accounts for 13 percent of all personal income in the United States; and

WHEREAS, In 2007, credit card delinquencies nationwide rose 26 percent from 2006; and

WHEREAS, Average credit card debt among low- and moderate-income households is $8,650; and

WHEREAS, Average credit card debt among indebted young adults, ages 25 to 34, inclusive, increased by 55 percent from 1992 to 2001, inclusive, to $4,088, and average credit card debt among adults ages 18 to 24 years, inclusive, increased by 104 percent; and

WHEREAS, The number of families with any type of debt climbed to 76.4 percent during 2001–04, and the largest increase was for families headed by persons 75 years of age or older; and

WHEREAS, Over one-third of young adults own credit cards, and young people receive little in the way of financial education; and

WHEREAS, A large majority of workers who have allocated money for retirement have little savings at all, and seven out of 10 of these workers say that their assets total less than $10,000; and

WHEREAS, The median amount in retirement accounts is $2,000; and

WHEREAS, The savings rate for American consumers continues to fall into negative numbers; and

WHEREAS, Total United States consumer debt, which includes installment debt, but not mortgage debt, reached $2.5 trillion in November 2007, up from $2.398 trillion at the end of 2006; and

WHEREAS, Ninety-eight percent of retirees regret how they spent their money before retiring, and 97 percent of baby boomers share this regret and are uncomfortable with how much debt they have accumulated during their preretirement years; and

WHEREAS, High school seniors taking part in a national survey of financial knowledge scored an average of 52.4 percent, which is a failing grade; and

WHEREAS, Only seven states require high school pupils to take a personal finance course in order to graduate, and only nine states require high school pupils to pass a test on personal finance in order to graduate; and

WHEREAS, As pupils progress through school, credit card usage swells, as 91 percent of final year college students have a credit card compared to 42 percent of freshman students, and 56 percent of final year students carry four or more credit cards, and 74 percent of undergraduates use credit cards for school supplies; and

WHEREAS, Increasing the financial literacy of all individuals is documented to improve attitudes, lead to improved decisionmaking, and provide for a more secure future for the individuals and their families who have been educated in these issues; and

WHEREAS, Financial literacy training may easily be integrated as a valuable component for elementary and secondary schools, colleges and universities, libraries, community groups, and citizen town hall meetings; and

WHEREAS, Many groups are dedicated to increasing the financial literacy of Americans and a broad range of quality personal finance instructional materials and curricula have been created for this purpose, but the audience to which this information is vital is not being reached; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby declares the month of April 2008 as Financial Literacy Month, in order to raise public awareness about the need for increased financial literacy; and be it further

*Resolved,* That legislators, employers, schools, service groups, community organizations, libraries, financial institutions, and the media, be encouraged to provide opportunities for financial literacy education for all Californians through a variety of means, including collaboration with members of the California Society of Certified Public Accountants, California Jump$tart Coalition, and others, in order to provide outreach and education; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 33

Assembly Concurrent Resolution No. 104—Relative to Public Service Recognition Week.

[Filed with Secretary of State May 12, 2008.]

WHEREAS, The contributions made by public employees in this state have strengthened our belief that public service is a noble profession; and

WHEREAS, The professionalism and expertise demonstrated by public employees in this state in carrying out a wide variety of services have helped build a strong foundation for our government; and

WHEREAS, Public employees have served the people of California well, even in difficult times; and

WHEREAS, The State of California wishes to pay tribute to all public employees in the state for dedicating themselves to improving the quality of life for all of the people of California; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature declares the week of May 5 to 11, 2008, inclusive, as Public Service Recognition Week, and encourages all Californians to recognize the crucial role of public employees in this state; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 34

Assembly Concurrent Resolution No. 111—Relative to Senior Volunteer Month.

[Filed with Secretary of State May 12, 2008.]

WHEREAS, Each May, Americans observe Older Americans Month and celebrate the accomplishments and achievements of older Americans; and

WHEREAS, Many local governments have proclaimed May as Older Americans Month; and

WHEREAS, Senior volunteers serve congregate and home delivered meals, engage in assisted senior center activities, work for the prevention of elder abuse, and provide health care counseling, legal assistance, and transportation; and

WHEREAS, Volunteer work is performed for Alzheimer's disease patients, grandchildren, community organizations, schools, churches, hospitals, and many other nonprofit organizations; and

WHEREAS, A 1999 national survey showed senior citizen volunteer work hours totaled approximately 5.5 billion hours per year for a $71.2 billion dollar value; and

WHEREAS, Of the senior citizens surveyed in the 1999 national survey, 45 percent reported volunteering in neighborhoods, 54 percent reported either full or part time employment, 45 percent of the retired seniors reported volunteering four or more hours per week, and 81 percent of those over 75 years of age reported volunteering when asked; and

WHEREAS, The 2005 White House Conference on Aging resolved to reauthorize the National and Community Service Act to expand opportunities for volunteer and civil engagement activities because volunteerism greatly assists many nonprofit organizations; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California recognizes May 2008 as Senior Volunteer Month to honor the contributions of California senior volunteers; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 35

Assembly Concurrent Resolution No. 121—Relative to National Multicultural Cancer Awareness Week.

[Filed with Secretary of State May 12, 2008.]

WHEREAS, National Multicultural Cancer Awareness Week has been observed across the country each year since 1987 to bring attention to the disparities of cancer among racial and ethnic populations; and

WHEREAS, The American Cancer Society is participating in National Multicultural Cancer Awareness Week to point out the disparities in cancer incidence and mortality, and to encourage public and private sector commitments to helping eliminate these disparities; and

WHEREAS, California is the most populous and ethnically diverse state in the country, and thus, in a position to provide leadership for the nation to address the reduction of the incidence of cancer among all races and genders; and

WHEREAS, In California, disparities exist in knowledge about cancer, access to early detection, high-quality treatment and health care coverage, and cancer survival. Systemic inequities also exist, including differences in occupational hazards, environmental exposures to pollution and other toxins, access to education, nutrition, physical activity, safe neighborhoods, healthy foods, and other factors that contribute to an increased or reduced risk of cancer; and

WHEREAS, The risk of developing and dying from cancer varies considerably by race and ethnicity in California. The medically underserved are often diagnosed at later stages, and with a higher incidence of cancers with higher mortality, like lung cancer, and are more likely to receive lower quality health care; and

WHEREAS, In California, African American males have the highest overall cancer rate, while African Americans generally have higher rates of stomach, liver, and multiple melanoma cancer, and are much more likely to have cancer of the prostate and larynx. Also, Asian Pacific Islanders and Latinos have substantially higher rates of certain cancers, including liver and stomach cancer, than other ethnic groups, and Asian Pacific Islander and Latino women are more likely to develop and die from cervical cancer than any other ethnic group. Further, lung cancer is rising among recently immigrated Cambodian and Vietnamese men, who also have among the highest smoking rates of all ethnic groups. Lastly, American Indian males also have high smoking rates and suffer from high lung cancer rates; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the week of April 20 to 26, 2008, inclusive, be declared "National Multicultural Cancer Awareness Week," and that the private sector and the state and federal governments are encouraged to promote policies and programs that seek to reduce cancer disparities and as a result, improve cancer prevention, detection, treatment, and followup care for all Californians; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 36

Assembly Concurrent Resolution No. 124—Relative to Automotive Career Month.

[Filed with Secretary of State May 12, 2008.]

WHEREAS, The automotive industry employs over 500,000 Californians in automotive-dependent careers; and

WHEREAS, California ranks third among all states in the number of people employed by the auto industry, is home to the national headquarters for several automobile manufacturers, and is the location for research and design facilities for many domestic and international automobile manufacturers; and

WHEREAS, Career opportunities are expanding in the over 1,500 new car dealers located in California, where dynamic positions with high-income potential can be found in fields such as sales, auto repair and service, finance, marketing, administration, design, technology and computers, and communications; and

WHEREAS, Over the next 10 years, new car dealers in California will have to annually recruit 3,600 educated and well-trained automotive technician professionals to keep up with increasing demand; and

WHEREAS, Well-paying job opportunities in the automotive industry will be abundant in coming years, and automotive technicians alone can earn forty thousand dollars ($40,000) to one hundred thousand dollars ($100,000) annually; and

WHEREAS, The Legislature has recognized the importance of Career Technical Education (CTE) by approving the Strategic Growth Plan, approved by voters in November 2006, which authorized a general obligation bond to provide five hundred million dollars ($500,000,000) for CTE, and increasing CTE funds by 18 percent over the last three years; and

WHEREAS, Automotive Youth Educational Systems (AYES) and its unique public-private partnership between auto manufacturers, new car dealers, and the State Department of Education, is the premier high

school-to-work initiative preparing young people for entry level career positions or advanced studies in automotive technology; and

WHEREAS, AYES has over 20 California schools on its roster that join more than 400 AYES school programs nationally; and

WHEREAS, In addition to AYES-qualified high schools, nearly 500 other high schools, 55 regional occupational programs, and 70 community colleges offer automotive technology training programs in California; and

WHEREAS, A model public-private partnership in automotive technology is the Southland/Cerritos Center for Transportation Technology, a new educational center on the Cerritos College campus that connects education and industry to address the employment needs of southern California auto dealers; and

WHEREAS, During Automotive Career Month, the California New Car Dealers Association and the state's new car dealers, automobile manufacturers, and other industry partners will reach out to students, teachers, and parents to educate them about the wide array of career opportunities available in the automotive industry; and

WHEREAS, Through this national initiative and many partnerships with manufacturers and educational professionals, new car dealers are leading the way in providing young people with well-paying and rewarding career opportunities; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the month of April 2008, is hereby officially designated Automotive Career Month; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 37

Assembly Concurrent Resolution No. 130—Relative to Cinco de Mayo Week.

[Filed with Secretary of State May 12, 2008.]

WHEREAS, Cinco de Mayo, or the fifth of May, is memorialized as a significant date in the history of California and Mexico in recognition of the courage of the Mexican people, who defeated a better trained and equipped army at the "Batalla de Puebla"; and

WHEREAS, Cinco de Mayo serves to remind us that the foundation of any nation and our state is in its people, in their spirit and courage in the face of adversity, in the strength of their drive to achieve

self-determination, and in their willingness to sacrifice even life itself in the pursuit of freedom and liberty; and

WHEREAS, Cinco de Mayo offers an opportunity to reflect on the courage and achievements not only of the Mexican forces at Puebla, but also on the courage and achievements of Latinos here in California; and

WHEREAS, Achievements by Latinos in America and California include contributions to all facets of our community; and

WHEREAS, Latino voters continue to go to the polls in record numbers and influence the entrance of newly elected Latino public officials in both the Democratic and Republican parties and issues ranging from affordable housing, investing in our children, ensuring that higher education is affordable and accessible, creating good paying jobs for working families, and improving the overall quality of life for all Californians; and

WHEREAS, California's Latinos have contributed to our culture and society through their many achievements in music, food, dance, poetry, literature, architecture, entertainment, sports, and across a broad spectrum of artistic expression; and

WHEREAS, In 2001, the Latino Caucus saw a need to recognize and honor distinguished Latinos for their contributions and dedication to California and the United States' economy and cultural life with the annual Latino Spirit Awards. These recipients are outstanding individuals who have greatly contributed to the wonderful music, poetry, literature, journalism and entertainment of California, the United States and the world; and

WHEREAS, Latinos in California have challenged the frontiers of social and economic justice, thereby improving the working conditions and lives of countless Californians; and

WHEREAS, Latino entrepreneurs in the United States are the fastest growing group of business owners in our economy; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature urges all Californians to join in celebrating Cinco de Mayo, the historic day to honor the valiant spirit of the brave Mexicanos who defended the town of Puebla against the French invaders, to honor the Mexican Americans of today who have fought, died, and lived to protect the freedom of the United States; and be it further

*Resolved,* That the Legislature declares May 5 through May 9, 2008, as Cinco de Mayo Week; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 38

Senate Concurrent Resolution No. 57—Relative to the Officer Loren D. Scruggs Memorial Highway.

[Filed with Secretary of State May 14, 2008.]

WHEREAS, Officer Loren D. Scruggs of the California Highway Patrol grew up and attended high school and college in Santa Maria in Santa Barbara County, and, after joining the CHP, served his entire career in that community; and

WHEREAS, On April 23, 1971, Officer Scruggs, at the age of 35 years, was killed in the line of duty near the Betteravia Avenue offramp on State Highway Route 101 (U.S. 101); and

WHEREAS, Officer Scruggs had stopped a vehicle for a registration violation, but was approached by another driver who asked for directions, and who subsequently pulled out a gun and shot Officer Scruggs, and the killer fled but his body was later found with self-inflicted wounds; and

WHEREAS, It is appropriate to commemorate Officer Scruggs' service to his community and this state through the dedication of a portion of State Highway Route 101 in his honor; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the portion of State Highway Route 101 from the south edge of the Santa Maria River Bridge to Santa Maria Way in Santa Barbara County is hereby designated as the Officer Loren D. Scruggs Memorial Highway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of erecting the appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources covering the cost, to erect those signs; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 39

Senate Concurrent Resolution No. 94—Relative to Cook With Your Kids Day.

[Filed with Secretary of State May 14, 2008.]

WHEREAS, Our children are California's most precious and joyful responsibility, and we are obligated to do all we can to make the good health of our children our number one goal; and

WHEREAS, Childhood obesity is considered by many to be an epidemic in western countries, particularly in the United States where over 15 percent of children are currently considered obese and where that number is increasing; and

WHEREAS, Overweight children can develop serious health problems, such as diabetes and heart disease, often carrying these conditions into adulthood as an obese adult. Overweight children are at higher risk for developing Type 2 diabetes, metabolic syndrome, high blood pressure, asthma and other respiratory problems, sleep disorders, liver disease, eating disorders, and skin infections; and

WHEREAS, Research shows that children are more open to tasting new foods they help prepare; and

WHEREAS, Children who help their parents shop for groceries and help prepare the food they buy are empowered to make decisions about what they eat and are more likely to choose healthier foods; and

WHEREAS, Children who help their parents shop for groceries and help prepare their own food are more connected with the agricultural system that produced their food; and

WHEREAS, Most children do not shop for the family's groceries. Indeed, parents are responsible for putting healthy foods in the kitchen at home and leaving unhealthy foods at the store; and

WHEREAS, Children who are connected with their food supply at a young age become more conscious consumers as adults; and

WHEREAS, When buying groceries, parents can share with children the benefits of healthy snacks and the importance of choosing fruits and vegetables over convenience foods that are high in sugar and fat; and

WHEREAS, Studies show that parents' presence at mealtime leads to kids eating healthier meals. In terms of preventing obesity, it is important to understand that the example parents give their children will influence what they eat; and

WHEREAS, When children have a reward to work toward, they are more likely to succeed and the best reward a child can be given is time with their parents; and

WHEREAS, The best way to get children on board with a new and active lifestyle is for parents to commit to the changes themselves; and

WHEREAS, Making changes can be challenging, especially when families today juggle busy schedules, time and money constraints, and other stressors and demands from daily living, but if families work together and support each other's efforts, success is more likely; and

WHEREAS, Children cannot change their exercise and eating habits themselves. Children need the help and support of their families and caregivers, which is why successful prevention and treatment of childhood obesity starts at home; and

WHEREAS, Families work hard toward healthy habits and behaviors to create a happy home environment and support these efforts by serving fruits and vegetables with meals and removing high-calorie and high-fat foods from the home and buying them only occasionally; and

WHEREAS, Once the changes are incorporated into a family's everyday life, the children will be well on their way to maintaining a healthy weight and improving their overall health; and

WHEREAS, Parents and children should select recipes and preparation methods that are lower in fat, put colorful food on the table, such as green and yellow vegetables, fruits of various colors, and whole-grain breads, and refrain from eating in front of the television or computer, which fosters mindless munching; and

WHEREAS, Experts say that if families gathered around the dinner table more often and made sharing news and telling stories an event, it would provide benefits to children, such as improved academic performance and higher self-esteem; and

WHEREAS, As the breadbasket of the world, California agriculture produces 41 percent of the nation's specialty crops, such as fruits, vegetables, and tree nuts, so there is an abundance of healthy produce available to California families; and

WHEREAS, Celebrity Chef Guy Fieri of the Food Network, and other celebrity chefs, have helped to make cooking with kids a fun and healthy family activity; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature recognizes the second Saturday in May as "Cook With Your Kids Day" in order to encourage parents and children to spend time in the kitchen together and prepare a healthy meal; and be it further

*Resolved,* That parents are encouraged to cook with their kids at least once per week, spend quality time and make healthy food choices with their kids, commit to new healthy habits, and set achievable goals for their family; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 40

Senate Concurrent Resolution No. 99—Relative to Motorcycle Awareness Month.

[Filed with Secretary of State May 14, 2008.]

WHEREAS, Motorcycle riding is a popular form of efficient transportation and recreation for more than one million people in California; and

WHEREAS, Motorcycles provide a means of transportation that uses fewer resources, causes less wear and tear on public roadways, and increases available parking areas; and

WHEREAS, It is important that drivers of all vehicles be aware of one another and learn to share the road and practice courtesy; and

WHEREAS, It is especially important that the citizens of California be aware of motorcycles on the streets and highways and recognize the importance of motorcycle safety; and

WHEREAS, The safety hazards created by automobile operators who have not been educated to watch for motorcyclists on the streets and highways of California are of prime concern to motorcyclists; and

WHEREAS, The American Brotherhood Aimed Toward Education (ABATE) of California is an organization that is actively promoting the safe operation, increased rider training, and increased motorist awareness of motorcycles; and

WHEREAS, It is important to recognize the need for awareness on the part of all drivers, especially with regard to sharing the road with motorcycles, and to honor motorcyclists' many contributions to the communities in which they live and ride; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature recognizes the contribution of motorcyclists to their communities, and proclaims May 2008 as Motorcycle Awareness Month; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 41

Senate Concurrent Resolution No. 100—Relative to California Letter Carriers Food Drive.

[Filed with Secretary of State May 14, 2008.]

WHEREAS, Five million Californians, including two million children, live below the federal poverty level and face the daily threat of hunger; and

WHEREAS, The number of Californians unable to meet their basic nutritional needs is growing and requests for food assistance continues to rise in California's communities; and

WHEREAS, The annual National Association for Letter Carriers (NALC) National Food Drive, also known as the Stamp Out Hunger Food Drive, plays a critical role in America's effort to aid families in need, especially in providing high-quality and high-protein food; and

WHEREAS, Letter carriers and numerous volunteers help take donations collected from citizens along the carriers' postal routes and deliver them to community food banks, pantries, and shelters; and

WHEREAS, The NALC Food Drive is the largest one-day food drive in the nation and has delivered over 70 million pounds of food to community food banks, pantries, and shelters in each of the past four years; and

WHEREAS, California food banks are critical to local communities, distributing over 200 million pounds of nutritious food and fresh produce every year to more than two million hungry families; and

WHEREAS, Food donations to California food banks have dropped significantly, including United States Department of Agriculture commodities falling 60 percent over the last four years; and

WHEREAS, The NALC Food Drive will help fill this gap and provide thousands of pounds of food to California food banks and ultimately help families, seniors, and children put healthy food back on the table; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the California Legislature recognizes May 10, 2008, as the day of the California Letter Carriers Food Drive, which is part of NALC's annual Stamp Out Hunger Food Drive; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

## RESOLUTION CHAPTER 42

Senate Concurrent Resolution No. 101—Relative to Week of the Student Leader.

[Filed with Secretary of State May 14, 2008.]

WHEREAS, Leadership opportunities for students exist in fine arts, clubs and organizations, athletics, and student government; and

WHEREAS, Students are afforded opportunities to experience leadership in a very practical way; and

WHEREAS, Student leaders contribute to the advancement of school climate and culture, building school spirit and pride; and

WHEREAS, Student leaders provide inspiration and motivation, develop programs, and provide opportunities for other students to become involved in their school; and

WHEREAS, Student leaders recognize the achievements of and honor other students and adults; and

WHEREAS, Student leaders not only volunteer for community service, but also work to create a positive relationship with members of their local community; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the third week in April each year be proclaimed Week of the Student Leader in honor of the many outstanding contributions and services provided by students to their peers, the school population, and their local communities; and be it further

*Resolved,* That the student leaders of the secondary schools of California be commended for their support of and contributions to quality schooling in the state; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 43

Senate Concurrent Resolution No. 98—Relative to Lyme Disease Awareness Month.

[Filed with Secretary of State May 20, 2008.]

WHEREAS, Lyme disease is an often-misunderstood illness that can cause serious health problems if not caught early and properly treated; and

WHEREAS, Lyme disease is a bacterial infection caused by the bacterium Borrelia burgdorferi and is primarily transmitted to its host by the bite of a tick. The disease was first identified in North America in the 1970s in Lyme, Connecticut, for which it was named, and since that time, the disease has since been found in all 50 of the United States. The reach of Lyme disease is global, having been reported in more than 50 countries on six continents and several islands; and

WHEREAS, Lyme disease is a complex, multisystem illness. Early signs of infection may include rash and flu-like symptoms, including fever, muscle aches, headaches, and fatigue. Usually, the disease responds well to prompt treatment with appropriate antibiotics. If untreated or inadequately treated, however, Lyme disease can invade multiple organs of the body, including the brain and nervous system. In those instances, patients can become increasingly disabled over time, suffering chronic pain, neurological impairment, and a host of other symptoms that can lead to financial hardship, job loss, broken families, an increase in the number of people on disability or welfare, and even death; and

WHEREAS, In California, the Lyme disease bacterium is transmitted by the western blacklegged tick (Ixodes pacificus). This tick is most common in the coastal regions and along the western slope of the Sierra Nevada range, but has been found in 56 of California's 58 counties; and

WHEREAS, Ticks have three life stages: larval, nymphal, and adult, and both nymphs and adults can transmit diseases to humans. Ticks attach themselves to host animals such as deer, rodents, and birds, and as the host animals migrate to new areas, so do the ticks. In some areas of California, Lyme disease infection rates of nymphal ticks have been found to be as high as 42 percent, thus, the infection rate in certain regions of California is among the highest in the entire United States. However, since some areas of the state have not been tested for tick infection, the true scope of the problem is not known; and

WHEREAS, Although Lyme disease is the most common vector-borne infection in the United States, the ticks that spread Lyme disease can also spread other diseases at the same time. Among these co-infections are diseases such as babesiosis, anaplasmosis, and ehrlichiosis. The presence of co-infections can complicate the treatment of Lyme disease; and

WHEREAS, Recently, three new borrelial species belonging to the Lyme disease spirochetal complex have been described, thus increasing the number of these bacteria known to occur in California to five and making California the locus of more distinct borrelia species than any other geographical region in the United States; and

WHEREAS, The Legislature finds that this disease presents a health threat to Californians; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby proclaims the month of May 2008 as Lyme Disease Awareness Month; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 44

Senate Concurrent Resolution No. 70—Relative to the Arts Council's Arts Day.

[Filed with Secretary of State May 22, 2008.]

WHEREAS, The Arts Council was established in January 1976 to encourage artistic awareness, participation, and expression; to help independent local groups develop their own arts programs; to promote the employment of artists and those skilled in crafts in both the public and private sector; to provide for the exhibition of artworks in public buildings throughout the state; and to enlist the aid of all state agencies in the task of ensuring the fullest expression of our artistic potential; and

WHEREAS, The Arts Council is dedicated to championing the expansion of the arts, artistic excellence, access to the arts for all residents of the state, and equitable resource allocation across geographic and cultural segments; to the integration of the arts into the educational curriculum as part of life-long learning; to the building of cultural bridges between the state and other nations; to the preservation and advancement of the state's diverse artistic and cultural heritage; and to collaboration between the state's public and private sectors; and

WHEREAS, The stated mission of the Arts Council is to make available and accessible quality art that reflects all of the state's diverse cultures; to support the state's broad economic, educational, and social goals through the arts; to provide leadership for all levels of the arts community; and to present effective programs that add a further dimension to cities, schools, jobs, and the creative spirit; and

WHEREAS, The Arts Council provides organizational and technical assistance to a nonprofit arts industry that contributes more than two billion dollars ($2,000,000,000) to the state's economy and one hundred million dollars ($100,000,000) in state and local tax revenues, and that provides 150,000 nonprofit arts jobs and an additional 500,000 jobs in the commercial entertainment sector; and

WHEREAS, The Arts Council's arts-partnership programs give at-risk and underprivileged youth access to the resources needed for lifetime

success in the workplace, universities, schools, churches, businesses, and social services agencies; and

WHEREAS, The Arts Council has a 25-year history of partnering with, and supporting, local arts agencies and statewide service organizations, which in turn provide programming and services to local constituencies; and

WHEREAS, When the Arts Council celebrated its 25th anniversary, it launched The Year of the Arts—2001, a major public outreach and public awareness campaign to generate support for the importance and impact of the arts in the state. This was the first major public and private sector partnership in the arts designed to build a media and press foundation as the first phase of a multiyear effort to increase the public value for the arts; and

WHEREAS, The Arts Council's support from the General Fund was decreased in the 2003–04 fiscal year from 18 million dollars ($18,000,000) to one million dollars ($1,000,000), a 94-percent reduction that followed previous cuts from the 32 million dollars ($32,000,000) directed to the Arts Council in the 2000–01 fiscal year. Such a dramatic reduction affected the Arts Council's programming and administration more radically than any other occurrence in its 27-year history, and required the Arts Council to position itself in a new and very different role while maintaining its commitment to furthering the arts in the state; and

WHEREAS, In the year 2004–05 fiscal year, the Arts Council's budget remained consistent with that of the 2003–04 fiscal year, and as such, the Arts Council continued its focus on efforts that promoted the public benefit of the arts, including infrastructure support for the state's arts service organizations, grants supporting arts education activities that serve pupils in kindergarten through grade 12, inclusive, and the publishing of "The Arts: A Competitive Advantage for California II," which updated the Arts Council's groundbreaking 1994 economic impact report; and

WHEREAS, The Arts Council collaborated with the Institute for Local Government, an affiliate of the League of California Cities, to publish "The Economic and Cultural Impact of the Arts in California: Local Officials Tell Their Communities' Stories," which describes how the arts bring a competitive edge to local economies, how public art changes the world around us, and how the arts bring people together in the community; and

WHEREAS, Through the efforts of the Arts Council, sales of the Arts Council license plate have increased significantly, providing more funding for the Youth Education in Arts, Artists in Schools, and Creating Public Value for the Arts programs; and

WHEREAS, The Arts Council has collaborated with the State and Consumer Services Agency and the Public Utilities Commission to provide energy conservation and efficiency grants to artists to work with teachers and students to develop creative approaches that promote energy conservation and energy efficiency in the state; and

WHEREAS, The Arts Council also partnered with the Department of Forestry and Fire Protection to create artists' residencies in four migrant centers, coordinating arts activities that promote strategies to increase energy efficiency in buildings. More than 500,000 Californians were indirectly served through exhibitions, public service announcements, and performing arts activities; and

WHEREAS, The Arts Council and the Department of Parks and Recreation are cooperating in a joint pilot project to bring performing artists to 15 state park venues; and

WHEREAS, The Arts Council's special initiatives—the California Music Project, My California: Journey by Great Writers, the California Poet Laureate, Poetry Out Loud, the Next Generation, International Connection, and the Arts Marketing Institute—promote the state's creativity and artistry throughout the state, nation, and world; and

WHEREAS, The Art Council's Arts Day special events, commemorations, and other local community events will help change the perception that the arts are merely a luxury, and instead are an integral part of the economic, educational, and social fabric of our state and our nation; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby recognizes and joins in the commemoration of the Arts Council's more than 30 years of service to the state's residents and visitors; and be it further

*Resolved,* That the Legislature hereby proclaims October 3, 2008, as Arts Day; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 45

Senate Concurrent Resolution No. 72—Relative to California Girls and Women in Sports Day.

[Filed with Secretary of State May 28, 2008.]

WHEREAS, The Girls and Women in Sport Division of the California Association for Health, Physical Education, Recreation and Dance, in

partnership with the California Interscholastic Federation, and many organizations supporting sports opportunities for girls and women, celebrate the 22nd Annual National Girls and Women in Sports Day in communities throughout California; and

WHEREAS, This day exists to acknowledge the past and recognize current sports achievements, the positive influence of sports participation, and the continuing struggle for equality and access for women in sports; and

WHEREAS, National Girls and Women in Sports Day began in 1987, as a day to remember Olympic volleyball player, Flo Hyman, for her athletic achievements and commitment to ensure equality for women's sports; and

WHEREAS, This year, California, and the nation, lost Phyllis Blatz, a trailblazer for equality of girls and women in sports and athletics, to ovarian cancer; and

WHEREAS, The history of girls and women in sports is rich and long, yet there has been little national recognition of the significance of their athletic achievements; and

WHEREAS, Girls' and women's athletics, at all levels, is one of the most effective avenues available through which women in America may develop self-discipline, initiative, confidence, and leadership skills, regardless of background; and

WHEREAS, The bonds built between girls and women through athletics help to break down the social barriers of racism and prejudice, and the communication and cooperation skills learned through sports play a key role in the athlete's contributions at home, work, and to society; and

WHEREAS, There is a continuing need to encourage women of all ages to compete in and contribute to sports at all levels of competition and for recreation and to help prepare the next generation of female sports leaders; and

WHEREAS, Girls and women of all ages are encouraged to increase their self-esteem, confidence, leadership, and cooperative skills via sports and physical activity; and

WHEREAS, A need for increased opportunities exists for girls to participate in and pursue physical activity at the community and scholastic level to increase health and well-being on a daily basis so that they are able to develop lifelong fitness habits at an early age; and

WHEREAS, The government encourages schools and communities to hold events that offer participation opportunities for youth along with acknowledgment for the contributions of female athletes and sports leaders; and

WHEREAS, "All In!" is the theme of this year's 22nd annual national celebration; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature commemorates the accomplishments of female athletes, coaches, officials, and sports administrators for their important contribution in promoting the value of sports participation in the achievement of full human potential, and hereby proclaims February 6, 2008, as California Girls and Women in Sports Day; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 46

Senate Concurrent Resolution No. 79—Relative to Guillain-Barre Syndrome.

[Filed with Secretary of State May 28, 2008.]

WHEREAS, Guillain-Barre Syndrome (GBS) is an autoimmune disorder wherein the body's immune system attacks the peripheral nervous system. GBS causes severe debilitation, usually involving extreme weakness and some degree of temporary paralysis; and

WHEREAS, Approximately one to two people out of every 100,000 are afflicted with GBS each year; and

WHEREAS, GBS is named after two French physicians, Georges Guillain and Jean Alexandre Barre, who, along with Jean Landry and Andre Strohl, diagnosed two soldiers with abnormal increased spinal fluid protein production. GBS is called a syndrome because it is not clear whether a specific disease-causing agent is involved; and

WHEREAS, Both sexes are equally prone to GBS and it strikes people of any age or race. GBS often occurs a few days or weeks after the patient has had symptoms of a respiratory or gastrointestinal viral infection, which is occasionally triggered by surgery or vaccinations; and

WHEREAS, Patients afflicted with GBS experience muscle weakness and a prickly, tingling sensation in the legs, arms, and face. The syndrome affects both sides of the body and may involve paralysis, including the muscles that control breathing; and

WHEREAS, GBS can be devastating because of its sudden and unexpected onset. Patients face both physical and emotional difficulties; and

WHEREAS, There is no known way to prevent GBS and only two key types of therapies to help treat this syndrome; and

WHEREAS, About 85 percent of GBS patients will fully recover, while 10 percent of patients are at risk for relapse; and

WHEREAS, Scientists continue to work collaboratively on preventive methods and refine existing treatments for GBS; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby declares June 1, 2008, as Guillain-Barre Syndrome Awareness Day in order to raise public awareness; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 47

Senate Concurrent Resolution No. 107—Relative to Educational Options Month.

[Filed with Secretary of State May 28, 2008.]

WHEREAS, The State of California recognizes that because pupils learn in a variety of ways, the state's educational system must strive to meet the needs of its entire diverse pupil population by supporting educational options and the sustainability of these programs; and

WHEREAS, In 1975, Senate Bill 445 was enacted (Ch. 448, Stats. of 1975), declaring the purpose of educational options and authorizing the governing boards of school districts and county offices of education to establish and maintain alternative schools and programs for the purpose of, among other things, serving at-risk youth; and

WHEREAS, Educational options include continuation high schools, magnet programs, charter schools, independent study, adult education, opportunity programs, community day schools, pregnant minor programs, county community schools, juvenile court schools, youth authority, and alternative schools, representing over 750,000 students; and

WHEREAS, Educational options, as part of the state's educational system, maximize learning opportunities for pupils who still need to pass the California High School Exit Exam or are deficient in credits, pregnant or parenting, homeless, recovered dropouts, or in some other way classified as "at risk," to develop the positive values and life skills of self-reliance, initiative, resourcefulness, creativity, and responsibility; and

WHEREAS, Educational options often place an emphasis on intensive guidance services to meet the special needs of pupils with a program that will lead to completion with a diploma; and

WHEREAS, Educational options provide a choice of educational pathways in an effort to confront educational and social challenges, to meet the needs of all pupils, and to ensure that pupils have the opportunity to make appropriate postsecondary choices, including, but not limited to, higher education, technical and career training, and the military; and

WHEREAS, The Legislature recognizes the high level of professionalism and specialized training required of a successful educational options educator in order to provide academic and career instruction, character development, and educational experiences that lead to successful citizenship, employment, and higher education; and

WHEREAS, All educators and administrators providing instruction to pupils participating in educational options programs are committed to providing a supportive learning environment that is best suited to the academic, personal, and social needs of the pupils, as well as advocating for a quality education as a means to inspire every pupil to become a self-motivated, responsible learner; and

WHEREAS, Educational options programs and schools issue diplomas to pupils and must fulfill the same state and federal requirements as all traditional schools, including alignment to the California State Content Standards, offering a rigorous curriculum that includes all core academic subjects, as well as participating in all state-mandated testing programs such as the Standardized Testing and Reporting Program and the California High School Exit Exam; and

WHEREAS, Educational options programs and schools are alternative places to learn, not an alternative to learning; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby proclaims the month of May 2008 as Educational Options Month; and be it further

*Resolved,* That the Legislature encourages all Californians to work together to ensure the future success of every pupil participating in educational options in the state; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 48

Senate Concurrent Resolution No. 108—Relative to California Building Safety Week.

[Filed with Secretary of State May 28, 2008.]

WHEREAS, The State of California relies heavily upon the built environment to house our communities and neighborhoods, while protecting the personal safety of our citizens; and

WHEREAS, The safety of the buildings we occupy daily is essential to the health, safety, and welfare of the citizens of California; and

WHEREAS, The safety of our buildings and those who occupy them is ensured each day by the tireless efforts of California building and code enforcement officials; and

WHEREAS, Among the world's most fundamental laws and ordinances are those that provide standards for the safe construction of buildings in which people live, work, and play; and

WHEREAS, The recent actions of the California Building Standards Commission have ensured the timely adoption of the next generation of building codes in California, which have just come online and into use and protect those who live, work, and visit the Golden State; and

WHEREAS, With the next generation of codes coming online in California, the building and code enforcement community has invested much time training on the intricacies and new provisions of the codes; and

WHEREAS, Within recent years, the State of California and the state-built environment have become leaders in the incorporation of sustainable and green building practices; and

WHEREAS, The state has an ongoing effort to ensure that residents and individuals patronizing businesses and homes within California are afforded the highest construction standards available; and

WHEREAS, California Building Safety Week emphasizes the important role local building departments play in the development and maintenance of safe buildings in our communities; and

WHEREAS, Local building departments help to ensure that the health, safety, and general well-being of the public is protected, by reviewing building construction plans, issuing building permits, inspecting buildings during and after construction to guarantee that they comply with the necessary health and safety regulations, and enforcing the preventative work that contributes to the success of keeping the occupants of a structure safe during an emergency; and

WHEREAS, Building accessibility for all individuals is of the utmost importance to local building departments, and many strides have been taken to increase education on this topic and emphasize the vital importance accessibility plays in the community's well-being; and

WHEREAS, Numerous local building departments statewide have developed innovative public education and outreach programs for local business owners and consumers relating to accessibility issues, in order

to facilitate compliance and open-communication between building owners and building users; and

WHEREAS, For construction and building codes to be effective and enforced, understanding and cooperation must exist between building and code enforcement officials and the people they serve; and

WHEREAS, Through the efforts of building and code enforcement officials worldwide, and their cooperative relationship with the construction and development industry, engineers, the design community, the fire service, and model code developers, the administration of these health and life-safety standards is assured; and

WHEREAS, Cities and counties across California are joining to promote building safety through the observation of California Building Safety Week; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature of the State of California hereby declares the week of May 4 through May 10, 2008, as California Building Safety Week, and urges all citizens to participate in California Building Safety Week activities to help promote building safety, to create awareness of the importance of construction and building codes, and to spotlight the role of dedicated code officials in administering those codes; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 49

Senate Concurrent Resolution No. 110—Relative to Black April Memorial Week.

[Filed with Secretary of State May 28, 2008.]

WHEREAS, April 30, 2008, marks the 33rd anniversary of the fall of Saigon on April 30, 1975, to communism; and

WHEREAS, For many Vietnam and Vietnam-era veterans who were directly involved in the war and Vietnamese Americans who have settled in the United States, the Vietnam War was a tragedy full of great suffering and the loss of American, Vietnamese, and Southeast Asian lives; and

WHEREAS, Fifty-eight thousand one hundred sixty-nine people were killed and 304,000 wounded out of the 2.59 million people who served in the Vietnam War. One out of every 10 Americans who served in Vietnam became a casualty of war; and

WHEREAS, After the fall of Saigon, over 135,000 Vietnamese fled to the United States, including former military and government officials and Vietnamese who had worked for the United States during the war and their families; and

WHEREAS, Thousands of people took boats in order to leave Vietnam in the late 1970s to mid-1980s. The successful ones reached refugee camps in Thailand, Malaysia, Indonesia, the Philippines, and Hong Kong, while approximately one-half of the people fleeing Vietnam perished at sea; and

WHEREAS, According to the United States Census for 2000, 447,032 Vietnamese live in California, with the largest concentration of Vietnamese found outside of Vietnam located in Orange County; and

WHEREAS, We must teach our children and future generations important lessons from the Vietnam War, including how the plight of the Vietnamese refugees following the end of war serve as a powerful example of the values of freedom and democracy; and

WHEREAS, We, the people of California, should actively rededicate ourselves to the principles of human rights, individual freedom, and equal protection under the laws of a just and democratic world. Californians should set aside moments of time every year on April 30 to give remembrance to the soldiers, medical personnel, and civilians who died during the Vietnam War era in pursuit of freedom; and

WHEREAS, Vietnamese American communities throughout California will commemorate April 30, 2008, as Black April, a day of remembrance; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That in recognition of the great tragedy and suffering and lives lost during the Vietnam War era, April 23, 2008, through April 30, 2008, shall be proclaimed Black April Memorial Week, a special time for Californians to remember the countless lives lost during the Vietnam War era and to hope for a more humane and just life for the people of Vietnam; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 50

Senate Concurrent Resolution No. 111—Relative to 9-1-1 for Kids Safety Education Month.

[Filed with Secretary of State May 28, 2008.]

WHEREAS, Every year, about 200 million 9-1-1 calls are received at 9-1-1 emergency system centers across the United States; and

WHEREAS, Most calls to 9-1-1 emergency system centers are made by bystanders attempting to help someone in a crisis, often life-threatening, many of those calls are made by children as young as 4 or 5 years old; and

WHEREAS, The result of 9-1-1 calls from children may be measured in saved lives, underscoring the critical importance of training children early in life about the 9-1-1 emergency call number; and

WHEREAS, By educating children how to use 9-1-1 correctly, they can act quickly and confidently to obtain the necessary public safety or medical assistance they need to save lives and property, as well as teach their siblings, family members, friends, and neighbors; and

WHEREAS, The nonprofit organization "9-1-1 for Kids" is the official educational program for local, federal, and international public safety dispatch centers, agencies, and organizations, and is committed to the sole purpose of teaching children how to save lives and property through the proper use of 9-1-1, the nation's universal emergency telephone number; and

WHEREAS, 9-1-1 for Kids has reached over five million children since its inception in 1994, helping to save thousands of lives and properties through its award-winning, student-tested, and teacher-approved 9-1-1 caller training classroom kit and educational support that teaches everyone when it is okay to call 9-1-1, how to dial 9-1-1, and what to say to the 9-1-1 dispatcher; and

WHEREAS, 9-1-1 for Kids has worked proactively to decrease the incidence of accidental and prank 9-1-1 calls, saving our government millions of dollars and helping to maintain the integrity of our 9-1-1 emergency network; and

WHEREAS, Since its inception, 9-1-1 for Kids has branched out to provide comprehensive teen and adult 9-1-1 caller training and disaster preparedness and response education, recognizing America's most compelling 9-1-1 youth heroes each year at 9-1-1 for Kids "Local 9-1-1 Heroes" ceremonies with regional and federal government officials; and

WHEREAS, The goal of the California 9-1-1 for Kids Safety Education Month is to provide all elementary students in California with emergency and disaster response education in their classrooms during this month, and to establish biannual safety educational events in every Head Start program and public elementary classroom in prekindergarten to grade 2, inclusive; and

WHEREAS, Through statewide and local public awareness campaigns, 9-1-1 for Kids, in collaboration with the California National Emergency Numbers Association (CalNENA), the Association of Public Safety

Communications Officials (APCO West), 9-1-1 emergency system centers, law enforcement agencies, and fire departments, will train teachers, parents, school administrators, and other caregivers to conduct at least one activity aimed at educating elementary school children during California 9-1-1 for Kids Safety Education Month; and

WHEREAS, 9-1-1 for Kids is endorsed and supported by the Association of Public Safety Communications Officials (APCO International), the National Emergency Numbers Association (NENA), and the National Association of State 9-1-1 Administrators (NASNA); and

WHEREAS, 9-1-1 for Kids and the California 9-1-1 for Kids Safety Education Month are lead by their distinguished officers, International Ambassador Kathy Ireland; National Chairman Tim Brown, retired Oakland Raiders and the 1987 Heisman Trophy winner; Chairman Emeritus Howie Long, Fox National Football League Show and National Football League Hall of Fame inductee; Executive Director Elise Kim; and International Spokespersons Jessica Simpson, recording artist and actress; and Patrick Long, race car driver; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby designates the month of May 2008 as "9-1-1 for Kids Safety Education Month" in the State of California, dedicated to 9-1-1 caller training and disaster and emergency preparedness and response education for California children, families, and residents; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 51

Assembly Concurrent Resolution No. 135—Relative to Asian and Pacific Islander American Heritage Month.

[Filed with Secretary of State May 28, 2008.]

WHEREAS, The earliest Asian Americans immigrated to the United States in the 1800s; and

WHEREAS, Asian and Pacific Islander Americans have played a critical role in the social, economic, and political development of California throughout its history; and

WHEREAS, The 5 million Asian and Pacific Islander Americans in California are one of the fastest growing ethnic populations in the state; and

WHEREAS, Asian and Pacific Islander Americans represent over 14 percent of California's population and represent ancestries that include Burmese, Cambodian, Chinese, Asian Indian, Filipino, Guamanian, Hawaiian, Hmong, Indonesian, Iu-Mien, Japanese, Korean, Laotian, Singaporean, Thai, Tongan, and Vietnamese; and

WHEREAS, The California Commission on Asian and Pacific Islander American Affairs was established in 2004 and is charged with advising the Governor, the Legislature, and state agencies on issues relating to the social and economic development, rights, and interests of the Asian and Pacific Islander American communities; and

WHEREAS, Asian and Pacific Islander American entrepreneurs have led many of California's businesses to the pinnacle of their respective industries; and

WHEREAS, Asian and Pacific Islander American communities throughout California actively promote their cultural heritage and promote cross-cultural understanding; and

WHEREAS, Asian and Pacific Islander Americans will continue to be an important part of California's diverse tapestry of cultures and ideas; and

WHEREAS, Asian and Pacific Islander Americans have contributed greatly to California's economic success, rural growth, and urban development; and

WHEREAS, Asian and Pacific Islander Americans continue to cultivate and advance the fields of the arts and humanities, business, education, information technology, law, public safety, science, sports, and the environment; and

WHEREAS, Asian and Pacific Islander American refugees have revitalized many of California's communities, while bringing in new ideas and economic opportunities; and

WHEREAS, Asian and Pacific Islander American immigrants and refugees had to overcome tremendous odds and cultural barriers to establish a better life for their families; and

WHEREAS, Asian and Pacific Islander Americans have a proud legacy of service and dedication to the state and to the United States; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature commends Asian and Pacific Islander Americans for their notable accomplishments and outstanding service to the state, and recognizes the month of May 2008 as Asian and Pacific Islander American Heritage Month; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 52

Senate Concurrent Resolution No. 92—Relative to the Associated Chaplains in California State Service.

[Filed with Secretary of State May 30, 2008.]

WHEREAS, The First Amendment of the United States Constitution assures the free exercise of religion; and

WHEREAS, The California Constitution also guarantees the exercise of religious freedom without discrimination or preference; and

WHEREAS, United States Supreme Court decisions affirm that institutionalized persons should be enabled to practice the religion of their choice; and

WHEREAS, Chaplains in state service manage and direct all religious programming within juvenile and adult facilities, prisons, developmental centers, hospitals, and assisted living facilities operated by the state, and invite the active assistance of staff members in each institution as essential elements in the success of every religious program; and

WHEREAS, Chaplains in state service are ordained or licensed, and endorsed by associated religious bodies that require a high standard of confidentiality in their work; and

WHEREAS, Substantial positive public benefits result from religious practice and programming within state juvenile facilities, prisons, developmental centers, hospitals, mental health and veterans hospitals and assisted living centers operated by the state Department of Veterans Affairs; these benefits include reduced stress levels within the institutions and improved institutional performance by reducing conflicts and violence; and

WHEREAS, Addressing spiritual needs of inmates and patients who are confined in juvenile facilities or state prisons or who reside in developmental centers, and hospitals presents unique challenges to the public officers, chaplains, and religious groups; and

WHEREAS, Special relationships exist between the larger community and the unique environment in juvenile facilities, state prisons, state hospitals, and state care facilities; and

WHEREAS, The exercise of professionalism and confidentiality is an essential aspect of the relationship between family members, wards, prisoners, clients, patients, and staff; and

WHEREAS, Chaplains' contacts with family members and volunteers in the community play an important role in the spiritual health of wards, prisoners, clients, and patients; and

WHEREAS, The Associated Chaplains in California State Service ("ACCSS") was established in 1967; and

WHEREAS, ACCSS is the recognized professional training organization that provides service to the departments of the executive branch of government in cooperation with faith communities, and, for 40 years has provided yearly training conferences and other opportunities for professional training and growth of chaplains; and

WHEREAS, ACCSS remains committed to the continued spiritual and professional support of our chaplains as they seek to improve the welfare of wards, prisoners, patients, clients, and employees of state institutions; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature commends 41 years of professional service by the Associated Chaplains in California State Service in assisting chaplains in implementing religious programming and training within the Department of Corrections and Rehabilitation, the State Department of Developmental Services, the State Department of Mental Health, and the Department of Veterans Affairs; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 53

Senate Concurrent Resolution No. 95—Relative to Prostate Cancer Awareness Month.

[Filed with Secretary of State May 30, 2008.]

WHEREAS, The American Cancer Society estimates that one in six men will develop prostate cancer in their lifetime and that there will be approximately 186,320 new cases of the disease in the United States in the current year, resulting in nearly 28,660 deaths; and

WHEREAS, In California, prostate cancer is the most common cancer among men in all race and ethnic groups. African American men are 50 percent more likely to develop this disease than any other group of men; and

WHEREAS, In California, approximately 22,600 men will be diagnosed with prostate cancer this year and each day more than eight California men will die of this disease; and

WHEREAS, While prostate cancer is a leading cause of cancer deaths in men, little is known about this disease and there are usually no symptoms in the early stages; and

WHEREAS, The survival rate approaches 100 percent when prostate cancer is diagnosed and treated early, but drops to 32 percent when the disease spreads to other parts of the body; and

WHEREAS, Early detection is key to survival and the American Cancer Society recommends that every man should be offered screening tests determined by his age and risk factor, including an annual prostate specific antigen (PSA) blood test and digital rectal examination; and

WHEREAS, Men who have several close relatives who have been diagnosed with prostate cancer at an early age should begin their testing at 40 years of age; and

WHEREAS, Men who have a father, son, or brother who was diagnosed with prostate cancer before 65 years of age, and all African American men, should begin testing at 45 years of age; and

WHEREAS, Other men should begin testing at 50 years of age if they have a life expectancy of at least an additional 10 years; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature designates the month of September 2008 as Prostate Cancer Awareness Month in the State of California and that public officials and citizens of California are encouraged to observe the month with appropriate activities and programs; and be it further

*Resolved,* That the Legislature joins communities across our nation to increase the awareness of the importance of early detection and treatment of prostate cancer; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 54

Senate Concurrent Resolution No. 114—Relative to American Stroke Month.

[Filed with Secretary of State May 30, 2008.]

WHEREAS, Stroke is the third leading cause of death in the United States, killing over 150,000 Americans, including 16,000 Californians, each year; and

WHEREAS, Approximately every three minutes someone dies from a stroke; and

WHEREAS, About 700,000 Americans each year suffer a new or recurrent stroke. This means that, on average, a stroke occurs every 45 seconds in the United States; and

WHEREAS, Stroke is a leading cause of serious long-term disability, with stroke victims experiencing functional limitations or difficulties with the activities of daily living; and

WHEREAS, Women and minorities bear a major portion of the burden of cardiovascular disease, but they are often unaware of its life-threatening symptoms, are diagnosed at later stages, and may not get appropriate care and followup; and

WHEREAS, The 2004 stroke death rates per 100,000 population for specific groups were 48.1 for Caucasian males, 47.2 for Caucasian females, 74.9 for African American males, 65.5 for African American females, 44.2 for Asian Pacific Islander males, 38.9 for Asian Pacific Islander females, 41.5 for Latino males, and 35.4 for Latina females; and

WHEREAS, Studies indicate that Latino have a higher rate of hemorrhagic stroke, bleeding in the brain, at a younger age than non-Latino Caucasians; and

WHEREAS, Risk factors for stroke include, but are not limited to, age and family history as well as high blood pressure, diabetes, cigarette smoking, high blood cholesterol, physical inactivity and obesity, and other heart diseases; and

WHEREAS, Americans are more aware of the risk factors and warning signs for stroke than in the past, however, less than one in five adults can correctly classify all stroke symptoms; and

WHEREAS, Warning signs of stroke may include sudden numbness or weakness in the face, arm, or leg, especially on one side of the body, sudden confusion, trouble speaking or understanding, sudden trouble seeing in one or both eyes, sudden trouble walking, dizziness, loss of balance or coordination, and sudden severe headache with no known cause; and

WHEREAS, With some types of stroke, clotbusting medication can be administered to reduce the severity of the stroke and improve the outcome. However, there is a three-hour window in which to administer the medication and the longer any stroke goes undetected, the more damage it may do; and

WHEREAS, New and effective treatments have been developed to treat and minimize the severity and damaging effects of strokes, but much more research is needed; and

WHEREAS, The themes for American Stroke Month 2008 are "Know the Stroke Warning Signs and Act in Time," to educate the public and policymakers about the importance of recognizing a stroke and acting

quickly during a stroke emergency, and "The Power to End Stroke," to reduce the incidence of stroke in those members of our communities who are at particularly high risk of the disease by empowering them to reduce their risk, recognize the warning signs, and respond quickly; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the month of May 2008 shall be recognized as American Stroke Month in California in order to raise awareness of the effects of stroke; and be it further

*Resolved,* That the Legislature urges all Californians to familiarize themselves with the warning signs, symptoms, and risk factors associated with stroke so that we might begin to reduce the devastating effects strokes have on our population; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 55

Assembly Concurrent Resolution No. 132—Relative to National Missing Children's Day.

[Filed with Secretary of State June 3, 2008.]

WHEREAS, According to the United States Department of Justice, every year in America there are an estimated 800,000 children reported missing; and

WHEREAS, An estimated 200,000 children each year are abducted by family members and 58,000 are abducted by nonfamily members with a sexual motive; and

WHEREAS, On average, an estimated 2,200 children are reported to law enforcement as missing each day; and

WHEREAS, The National Center for Missing and Exploited Children (NCMEC) exists as a resource to help prevent child abduction and sexual exploitation, help find missing children, and assist victims of child abduction and sexual exploitation, their families, and the professionals who serve them; and

WHEREAS, The NCMEC's recovery rate of domestically missing children has grown from 62 percent in 1990 to 96 percent in 2007, but too many children remain among the missing; and

WHEREAS, This special day is a time to remember those children who are missing and give hope to their families; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature, in partnership with the NCMEC and its collaborative organizations, declare May 25, 2008, to be National Missing Children's Day; and be it further

*Resolved,* That as part of California's continuing efforts to prevent the abduction and sexual exploitation of children, all Californians are encouraged to take 25 minutes to help children stay safer; and be it further

*Resolved,* That California urges the participation of local government, law enforcement, schools, community organizations, and families to educate all people about child abduction and sexual exploitation, appropriate protective measures, and ways to respond and seek help from law enforcement, social services, and the NCMEC; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 56

Assembly Concurrent Resolution No. 133—Relative to Black Barbershop Health Outreach Month.

[Filed with Secretary of State June 3, 2008.]

WHEREAS, African American men suffer disproportionately from preventable diseases and have a life expectancy lower than that of any other ethnic group; and

WHEREAS, Some of the reasons why African American men suffer far worse health than any other ethnic group include racial discrimination, a lack of affordable health services, poor health education, cultural barriers, poverty, employment that does not carry health insurance, and insufficient medical and social services catering to African American men; and

WHEREAS, More than 13 percent of African Americans over 20 years of age have diabetes; and

WHEREAS, In 2004, African American men were 30 percent more likely to die from heart disease than non-Hispanic Caucasian men; and

WHEREAS, African American adults were 50 percent more likely to have a stroke and 60 percent more likely to die from a stroke than their Caucasian adult counterparts; and

WHEREAS, Early detection and intervention are necessary to address health problems experienced by African American males; and

WHEREAS, The Diabetic Amputation Prevention (DAP) Foundation will launch the Black Barbershop Health Outreach Program to address the growing number of African American men in California affected by diabetes and hypertension; and

WHEREAS, Barbershops owned by African Americans represent a cultural institution that regularly attract large numbers of African American men and provide an environment of trust and an avenue to disseminate health education information; and

WHEREAS, Volunteers for the Black Barbershop Health Outreach Program will measure blood pressures, screen for diabetes, and refer customers to participating physicians or health care facilities if there are abnormal findings; and

WHEREAS, The primary objective of the Black Barbershop Health Outreach Program is threefold: cardiovascular testing, information dissemination, and referral; and

WHEREAS, The goal of the Black Barbershop Health Outreach Program is to use the existing community-based infrastructure of African American-owned barbershops to conduct health care screenings to approximately 2,000 African American men, provide culturally appropriate educational materials about obesity, prostate cancer, proper eating habits, and give information about the signs and symptoms of other diseases affecting the African American community; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature recognizes the month of May 2008 as "Black Barbershop Health Outreach Month" and encourages outreach on health disparities at all barbershops throughout California; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 57

Senate Concurrent Resolution No. 93—Relative to William Saroyan Year.

[Filed with Secretary of State June 4, 2008.]

WHEREAS, William Saroyan was born in Fresno, California in 1908. Saroyan was the fourth child of Armenian immigrants. He embraced his culture's distinctive qualities as an inspiration to his writing. Saroyan's cultural celebration was most notably apparent in his 1940 story, "My

Name Is Aram." This book exemplifies the life and times of the California central valley during the mid-20th century; and

WHEREAS, Saroyan died from cancer on May 18,1981, in Fresno at the age of 72, about a mile from where he was born. His lasting words to the press in the face of the inevitable were, "Everybody has got to die ... but I have always believed an exception would be made in my case." Half of his ashes were buried in the Ararat Cemetery in Fresno and the remaining was interred in Yerevan, Armenia; and

WHEREAS, Published in 1943, Saroyan's novel, "The Human Comedy," was adapted for the silver screen, starring Mickey Rooney. The film received five Oscar nominations, and won Saroyan the award for Best Writing Original Screen Story; and

WHEREAS, Based on an Armenian folk tune, Saroyan cowrote "Come On-a My House," along with his cousin Ross Bagdasarian. It was the song that catapulted the career of Rosemary Clooney; and

WHEREAS, Saroyan was among the most famous American writers of the 1930s and 1940s, and has over 4,000 literary works to his credit, beginning in the late 1920s to the early 1980s, and has long been established as one of America's most gifted and influential writers. At one time, the Armenian American writer was mentioned in the same breath as Ernest Hemingway and John Steinbeck; and

WHEREAS, Saroyan was the first American writer to win both the New York Drama Critic's Circle Award and the Pulitzer Prize for his play, "The Time of Your Life" (1939); and

WHEREAS, Saroyan's theatrical works continue to be performed today at prominent theatrical venues, including New York's Broadway stages, the Oregon Shakespeare Festival, and local theaters throughout the United States; and

WHEREAS, Saroyan, a humanitarian, wrote extensively about his concern for humanity. Excerpts include: "If I have any desire at all, it is to show the brotherhood of man." "In the time of your life, live - so that in that wondrous time you shall not add to the misery and sorrow of the world, but shall smile to the infinite variety and mystery of it." "Seek goodness everywhere, and when it is found, bring it out of its hiding place and let it be free and unashamed." "It is the heart of man that I am trying to imply in this work. I see life as one life at one time, so many millions simultaneously, all over the earth." "Encourage virtue in whatever heart it may have been driven into secrecy and sorrow by the shame and terror of the world"; and

WHEREAS, Saroyan's corpus of total artistic work includes plays, novels, short stories, musical lyrics, drawings, and paintings; and

WHEREAS, Over 40 organizations throughout the state have come together to celebrate the 100th birthday anniversary of the acclaimed

author and playwright with lectures, theatrical performances, art exhibitions, and writing contests; and

WHEREAS, While Saroyan's writing in general is particularly renowned among fellow Armenians, "The Armenian and the Armenian" is an especially stirring declaration of solidarity. The piece is set during the Armenian Genocide, in which over 1,500,000 Armenians were killed. The words evoke notes of grief, rage, resilience, and rebirth, in relation to Armenian cultural and social life. A famous excerpt reads: "I should like to see any power of the world destroy this race, this small tribe of unimportant people, whose wars have all been fought and lost, whose structures have crumbled, literature is unread, music is unheard, and prayers are no more answered. Go ahead, destroy Armenia. See if you can do it. Send them into the desert without bread or water. Burn their homes and churches. Then see if they will not laugh, sing and pray again. For when two of them meet anywhere in the world, see if they will not create a New Armenia"; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature designates the year 2008 as the William Saroyan Year for enriching the cultural diversity of the state, and in particular, for celebrating over 100 years of the cultural contribution of Armenian Americans to the people of the state; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 58

Senate Concurrent Resolution No. 96—Relative to the 2008 State Scientist Day.

[Filed with Secretary of State June 4, 2008.]

WHEREAS, The State of California employs nearly 3,000 professional scientists in over 30 state departments working in more than 230 scientific classifications; and

WHEREAS, State scientists hold graduate degrees in virtually every scientific discipline, including nematology, virology, seismology, epidemiology, toxicology, and many others; and

WHEREAS, State scientists are represented by the California Association of Professional Scientists (CAPS), which is dedicated to professionalism, independence, responsible advocacy, and earning recognition for the important work of state scientists; and

WHEREAS, The work of state scientists protects the public from life-threatening diseases, safeguards our wildlife and abundant natural resources, and protects our air and water from toxic waste and pollution; and

WHEREAS, State scientists are required to make critical decisions every day based on rigorous scientific factfinding and these decisions ultimately impact the lives and property of all Californians; and

WHEREAS, State scientists perform important work in the areas of infectious disease prevention, oil spill prevention and cleanup, public health drinking water monitoring, the protection of agricultural crops, brownfields mitigation, chemical and radiological disaster response, and much more; and

WHEREAS, State scientists host an annual State Scientist Day at the State Capitol to increase public awareness and recognition of the significant contributions made by scientists working in state government while entertaining and educating over 2,000 elementary school students with fun, hands-on science exhibits, including digging for hidden artifacts, viewing live fish in a 1,500-gallon tank, and playing Pollution Prevention "Wheel of Fortune" and Coastal Creature "Jeopardy"; and

WHEREAS, State Scientist Day has sparked an interest in science for thousands of California school children, legislators, state employees, and the public who attend the special event; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That Wednesday, May 21, 2008, shall be recognized as the 20th Annual State Scientist Day, and that this day shall be a tribute to the dedication and professionalism of the state scientists who work on behalf of all Californians; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 59

Senate Concurrent Resolution No. 102—Relative to Justice for Janitors Day.

[Filed with Secretary of State June 4, 2008.]

WHEREAS, For more than two decades, the Service Employees International Union's Justice for Janitors movement has helped low-wage workers achieve social and economic justice and earn broad-based support from the public as well as religious, political, and community leaders; and

WHEREAS, More than 225,000 janitors in cities throughout the United States have united in the Service Employees International Union, America's largest union of property service workers; and

WHEREAS, Over the years, Justice for Janitors has worked to provide better wages, basic benefits, job security, and a better quality of life for janitors, who clean the facilities of some of the largest global companies in major cities and suburbs; and

WHEREAS, Public employee pension funds are major investors in buildings and properties cleaned by janitors represented by Justice for Janitors; and

WHEREAS, Justice for Janitors has been campaigning for "responsible contractor" policies that require janitorial contractors to respect the rights of workers and to pay decent wages and benefits; and

WHEREAS, Pension funds and brokerage companies that invest moneys in real estate are increasingly requiring the contractors who maintain their buildings to adhere to these responsible contractor policies and the use of these policies continues to move into the business mainstream, represented by more than four hundred billion dollars ($400,000,000,000) in real property assets; and

WHEREAS, In recent years, Justice for Janitors, through its partnership with responsible cleaning contractors, the Maintenance Cooperation Trust Fund, state labor agencies, and local district attorneys, has recovered millions of dollars in lost overtime and minimum wages for thousands of janitors in California, Arizona, Nevada, Texas, New Mexico, and Illinois; and

WHEREAS, In California, Justice for Janitors represents workers in the Silicon Valley, the entire San Francisco Bay area, and the Counties of Los Angeles, Orange, San Diego, and Sacramento; and

WHEREAS, On June 15, 1990, janitors in Los Angeles were beaten by police during a peaceful demonstration against a cleaning contractor and the public outrage that was generated from this incident resulted in the contractor signing a union contract soon afterward and recognizing the Service Employees International Union as the bargaining agent for the janitors; and

WHEREAS, In remembrance of June 15, 1990, Service Employees International Union janitors and supporters take action every June 15 in cities nationwide and around the world; and

WHEREAS, In 2008, all of California's union janitors will be seeking better health care, improved wages to keep up with the rising cost of living, and justice through collective bargaining to improve their lives and the lives of their families; and

WHEREAS, Seventy-five percent of janitors in San Diego have no family health care coverage, resulting in the only major market where

the majority of janitors are not provided family health care coverage; and

WHEREAS, Justice for Janitors will be seeking support from the high-tech and biotech companies where janitors work, and from building owners and private equity investors whose buildings are cleaned by cleaning companies; and

WHEREAS, Justice for Janitors will be seeking support from businesses, government agencies, and individuals who are tenants of those building owners and private equity investors; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature designates June 15, 2008, as Justice for Janitors Day in the State of California and that California residents, property owners, businesses, and government entities are encouraged to support the Service Employees International Union's Justice for Janitors in its 2008 contract campaign and in its fight to win and maintain family health care coverage and improved wages and benefits for janitors; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 60

Senate Concurrent Resolution No. 86—Relative to local history instruction.

[Filed with Secretary of State June 13, 2008.]

WHEREAS, A knowledge of place and history is vitally important to the education of youth so that they come to revere and care about the place where they live; and

WHEREAS, Local historical societies are eager to share factual, nonpartisan information about statewide contributions made by their local communities; and

WHEREAS, By developing a better understanding of local history, pupils will understand and value their community; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That all high school social studies teachers, as part of their required continuing education, are encouraged to study independently at their local county historical society and to use the materials available there to instruct their pupils on local history, and all high schools are encouraged to offer instruction covering all of the most important

historical events that occurred in the county in which each school is located; and be it further

*Resolved,* That the California State Grange is encouraged to work with historical societies throughout the state to collect local history information that will be available to assist local educators in teaching local history to their pupils; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 61

Senate Joint Resolution No. 23—Relative to the federal Secure Rural Schools and Community Self-Determination Act of 2000.

[Filed with Secretary of State June 13, 2008.]

WHEREAS, From 1908 to 2000, counties in the United States received 25 percent of the revenues generated on national forest lands in lieu of lost tax revenues that could have been generated had these lands remained in private hands; and

WHEREAS, In the 1990s, the volume and value of timber harvested on national forest lands was dramatically reduced, which led Congress to enact the federal Secure Rural Schools and Community Self-Determination Act of 2000, which provided a six-year guarantee payment option that was independent of the revenue generated on the national forest lands; and

WHEREAS, The Secure Rural Schools and Community Self-Determination Act of 2000, as extended by the United States Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110-28), expired on September 30, 2007, and creates a lapse in funding to critical programs in schools and counties across the United States, including California, in the coming years; and

WHEREAS, Rural schools are dependent on federal revenue-sharing programs, including federal forest payments, for maintaining vital educational services and programs, and to ensure an equitable education for all students; and

WHEREAS, Many of California's county public works programs will be crippled without stable, predictable, long-term funding from the act, causing the local road network to suffer long-term degradation and putting communities at risk for public safety emergencies due to cuts in staffing and operational activities; and

WHEREAS, A number of efforts have been made and are continuing to be made in both the United States House of Representatives and the United States Senate to fully reauthorize the act through 2011, and the Legislature strongly supports these efforts; now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully urges the 110th Congress to reauthorize and fund the federal Secure Rural Schools and Community Self-Determination Act of 2000 to provide a long-term, stable source of funding for schools and counties to maintain vital programs prior to September 30, 2008, to avoid any interruption in county services and school operations; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 62

Senate Concurrent Resolution No. 97—Relative to Autism Awareness Month.

[Filed with Secretary of State June 19, 2008.]

WHEREAS, Autism spectrum disorders (ASD) now impact one out of every 150 children in the United States and is the fastest growing serious developmental disability; and

WHEREAS, California has been the established leader in providing services and supports for the early identification, assessment, intervention, education, and treatment of individuals with ASD that began with the passage of landmark state legislation such as the Lanterman Developmental Disabilities Services Act of 1969 and Assembly Bill 3854 (1974, Burton), relating to autism and public education; and

WHEREAS, Parents and family members have made invaluable contributions through their commitment, caring, and advocacy to important advances in research, education, and treatment for individuals with ASD; and

WHEREAS, In 2005, Senator Perata authored Senate Concurrent Resolution 51 (Chapter 124, Stats. 2005) that established, with the support of Assembly Speaker Nunez and bipartisan backing, the Legislative Blue Ribbon Commission on Autism, which is comprised of, among others, Senator Darrell Steinberg as chair, and Dr. Barbara

Firestone, President and CEO of The Help Group, as vice chair, to identify gaps in programs and services related to the education and treatment of children, adolescents, transitional youth, and adults with ASD, and to provide recommendations that will contribute to the development of a comprehensive and integrated continuum of programs, services, and funding; and

WHEREAS, In 2006, Assembly Member Pavley authored Assembly Bill 2513 (Chapter 783, Stats. 2006), sponsored and supported by the California School Boards Association, California Association of Suburban School Districts, and the Association of California School Administrators, directed the Superintendent of Public Instruction to establish the Superintendent's Autism Advisory Committee (SAAC), and required this multidisciplinary advisory group to develop recommendations by which public and nonpublic schools, including charter schools, can better serve pupils with autism and their parents; and

WHEREAS, The Budget Act of 2006 provided additional funding that expanded the ASD initiative to include additional professional training and development, state and regional ASD resource centers, expansion of ASD support staff, and the development, publication, and dissemination of "ASD: Best Practice Guidelines for Treatment and Interventions"; and

WHEREAS, The State Department of Developmental Services, the regional centers, the State Department of Education and local school districts, the State Department of Health Care Services, and the Centers for Autism Developmental Disabilities Research and Epidemiology (CADDRE) Network are committed to improving the quality of life for individuals with ASD; and

WHEREAS, The University of California, Davis M.I.N.D. Institute, launched in 1998 with inspiration from the parent community and funding from the California State Legislature, is now recognized internationally as a premier research institution that is advancing our knowledge of ASD and other neurodevelopmental disorders; and

WHEREAS, The University of California, Los Angeles and the University of California, San Diego are now both recognized as Autism Centers of Excellence by the National Institutes of Health and have each made significant contributions to the field; and

WHEREAS, The University of California, Santa Barbara is an acknowledged world leader in the early diagnosis and intervention of children with ASD; and

WHEREAS, The University of California, Riverside has launched the S.E.A.R.C.H. Program to help families find necessary resources for their children with ASD; and

WHEREAS, First 5 California has made the issue of autism for children who are five years of age and younger an important priority, including the First 5 California Special Needs Project, which indicates that 19 percent of children suffer from developmental delays or disabilities that are frequently undetected by routine examinations during the first five years of life; and

WHEREAS, The Help Group, the Autism Society of America, Autism Speaks, Families for Early Autism Treatment (FEAT), Protection and Advocacy, Inc., and other nonprofit organizations contribute to the well-being of individuals with autism and their families; and

WHEREAS, Current scientific research has demonstrated that the early identification and intervention of children with ASD can result in significant positive outcomes in many children with ASD; and

WHEREAS, Public information and awareness efforts are of paramount importance in accelerating early identification efforts and the proliferation of early intervention programs and services; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature affirms its commitment to the important issues described in this resolution by declaring April 2008 as Autism Awareness Month in California and emphasizes that each and every individual with an ASD is a valued and important member of our society; and be it further

*Resolved,* That the Legislature recognizes and commends the parents and relatives of individuals with ASD for their sacrifice and dedication in providing for the special needs of individuals with ASD and for absorbing significant financial costs for specialized education and support services; and be it further

*Resolved,* That the Legislature supports the goal of increasing federal funding for basic and applied translational research to learn the root causes of autism and identify the best methods of early intervention and treatment, expand programs for individuals with autism across their lifespan, and promote understanding of the special needs of people with autism; and be it further

*Resolved,* That the Legislature continues to support the important work of the Legislative Blue Ribbon Commission on Autism, the Superintendent's Autism Advisory Committee, The Help Group, the University of California, the First 5 California State and County Commission, Families for Early Autism Treatment (FEAT), Protection and Advocacy, Inc., the Autism Society of America, Autism Speaks, the State Department of Health Care Services, Center for Autism Developmental Disabilities Research and Epidemiology (CADDRE) Network, the California State Council on Developmental Disabilities,

and others as it relates to treatment and services for people with ASD; and be it further

*Resolved,* That the Legislature stresses the need to identify children with ASD and to begin early intervention services immediately after a child has been diagnosed with autism, and that those services, interventions, and supports for individuals with ASD, and their families, must be provided in an integrated, seamless, comprehensive, individually focused, and culturally competent manner, delivered across the child's lifespan; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the State Department of Developmental Services, the State Department of Health Care Services, the Area Boards for Developmental Disabilities, the State Department of Education, the Association of Regional Center Agencies, the University of California, Los Angeles, the Legislative Blue Ribbon Commission on Autism, the Superintendent's Autism Advisory Committee, the California School Boards Association, the California Association of Suburban School Districts, the Association of California School Administrators, The Help Group, the local chapters of the Autism Society of America, Autism Speaks, the United States Department of Health and Human Services, the National Institutes of Health, the federal Centers for Disease Control and Prevention, the State Council on Developmental Disabilities, First 5 California State and County Commission, Families for Early Autism Treatment (FEAT), Protection and Advocacy, Inc., and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 63

Senate Concurrent Resolution No. 88—Relative to education.

[Filed with Secretary of State June 24, 2008.]

WHEREAS, The Partnership for 21st Century Skills brings together business leaders, education leaders, and policymakers to define a powerful vision for 21st century education, and to provide tools and resources to help facilitate and drive change; and

WHEREAS, Businesses are confronted daily with the need for talented and highly trained employees to compete effectively in the global economy. To stay competitive in a global economy, the United States must produce a nation of critical thinkers and problem solvers who have

knowledge of other regions of the world, languages, and cultures to respond to the challenges of the 21st century; and

WHEREAS, Pupils must master not only core subjects such as mathematics, English, and science to cope with the work and life demands of the new economy, but also must apply their knowledge and skills in a real-world environment by building a bridge from their core subjects by thinking critically, analyzing information, comprehending new ideas, communicating, collaborating in teams, and solving problems all in the context of modern life. These skills are 21st century skills; and

WHEREAS, It is the mission of the partnership to bring 21st century skills to every child in the United States by serving as a catalyst for change in teaching, learning, and assessment. In order to accomplish this mission, the partnership has taken action to help education stakeholders lay the foundation for 21st century education. The partnership has developed relationships to help states build an agenda and implementation plan to support the development of a 21st century education environment. The partnership's goal is to work with key states to create a well-aligned education system where curriculum standards, assessments, and classroom practice support the development of 21st century skills; and

WHEREAS, As the United States struggles to keep high school education rigorous and meaningful, the California education system fully and strategically should integrate 21st century knowledge, skills, and assessment; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature supports the California education system in preparing pupils to succeed and prosper in life, in school, and on the job and to ensure that America remains competitive in today's global, knowledge-based economy; and be it further

*Resolved,* That it is the intent of the Legislature to spark dialogue among local community and state leaders as they work to bridge the gap between the knowledge and skills pupils are acquiring in schools and those needed to succeed in the increasingly global, technology-infused world; and be it further

*Resolved,* That the Legislature urges education and business leaders to work together to create an education system that better prepares today's pupils for tomorrow's workplace; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

## RESOLUTION CHAPTER 64

Senate Concurrent Resolution No. 105—Relative to Amyotrophic Lateral Sclerosis Awareness Month.

[Filed with Secretary of State June 24, 2008.]

WHEREAS, Amyotrophic lateral sclerosis (ALS) commonly known as Lou Gehrig's disease, is a progressive and fatal neurodegenerative disease that affects nerve cells in the brain and spinal cord; and

WHEREAS, When motor neurons die, the ability of the brain to initiate and control muscle movement is lost and never regained; and

WHEREAS, As ALS progresses, patients lose the ability to walk, eat, speak, move, and breathe and require 24-hour, seven-day-a-week care; and

WHEREAS, ALS does not usually affect patients' mental capacity, thus resulting in persons with ALS who are alert and aware while being trapped in their bodies; and

WHEREAS, ALS is usually diagnosed between 40 and 70 years of age, with the peak age of onset being around 56 years of age; and

WHEREAS, Every 90 minutes someone in the United States is diagnosed with ALS and every 90 minutes someone else dies of ALS; and

WHEREAS, ALS knows no boundaries and can strike anyone, resulting in all citizens being at risk of having ALS; and

WHEREAS, American veterans have a higher incidence of ALS than the general population, and Gulf War veterans, in particular, have twice the incidence of ALS compared to the general population; and

WHEREAS, Eighty-five percent of patients diagnosed with ALS survive only two to five years from the time of first noticing muscle weakness; and

WHEREAS, More than 2,660 persons with ALS live in California; and

WHEREAS, ALS has no known cause, prevention, or cure; and

WHEREAS, Amyotrophic Lateral Sclerosis Awareness Month increases the public's awareness of ALS patients' circumstances and acknowledges the terrible impact this disease has, not only on patients, but on patients' families as well, and recognizes the need for ALS research and for quality treatment, care, and support of patients and families living with ALS; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature of the State of California hereby proclaims the month of May 2008 as Amyotrophic Lateral Sclerosis Awareness Month in California; and be it further

*Resolved,* That the Legislature encourages continued research in order to find treatments and eventually a cure for ALS and care and support for patients and families; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 65

Senate Concurrent Resolution No. 90—Relative to the Daniel Broeske Memorial Highway.

[Filed with Secretary of State June 26, 2008.]

WHEREAS, Daniel Broeske was born on September 30, 1948, in Russell, Kansas; and

WHEREAS, Daniel Broeske served in the United States Air Force from 1967 to 1971, inclusive; and

WHEREAS, Daniel Broeske graduated from Sonoma State University with a bachelor of arts degree in 1975; and

WHEREAS, Daniel Broeske married Patsy Sandilands in 1979 and their son, Ian Daniel, was born in 1984; and

WHEREAS, Daniel Broeske began his career with the Department of Transportation (Caltrans) in May 1979 in maintenance and in 1999, he moved to construction as a Transportation Engineering Technician; and

WHEREAS, Daniel Broeske had always loved engineering and felt this was the profession that he had always wanted to do. His primary concern on the worksite was safety for the public as well as the highway workers and he was proud to be a Caltrans worker; and

WHEREAS, In 2004, Daniel Broeske received a certificate in recognition of his 25 years of faithful public service with the State of California from Governor Schwarzenegger; and

WHEREAS, In 2004, Daniel Broeske also received a certificate in recognition of his 25 years of service to the citizens of California for his service with Caltrans from Senator Wesley Chesbro; and

WHEREAS, In 2004, Daniel Broeske also received a certificate in recognition and in honor of his 25 years of service and dedication to improving the safety of California's roadways from Assembly Member Patty Berg; and

WHEREAS, Daniel Broeske's family and home were his primary source of joy. Daniel Broeske and his wife, Patsy, built their home in

Willits and raised their son, Ian, in this home from his birth to the day he left for college; and

WHEREAS, Daniel Broeske was very involved with Patsy in volunteering for the American Cancer Society and he attended Celebration on the Hill in Washington, DC with Patsy in 2002 and advocated for cancer research funding; and

WHEREAS, Daniel Broeske dedicated 26 years of service to the State of California and he spent his life making the roads safer for the traveler and on July 11, 2005, just 10 days after his son, Ian, received his commercial pilot's license, he gave his life in that commitment; and

WHEREAS, It is important and fitting that we pay tribute to and commemorate the life and memory of Daniel Broeske; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby officially designates that portion of State Highway Route 101 in Mendocino County, from post mile 32.1 to post mile 33.1, inclusive, as the Daniel Broeske Memorial Highway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 66

Senate Concurrent Resolution No. 109—Relative to the Medal of Honor Recipient Eugene A. Obregon, USMC, Memorial Interchange.

[Filed with Secretary of State June 26, 2008.]

WHEREAS, While serving as an ammunition carrier with Golf Company, Third Battalion, Fifth Marine Regiment, First Marine Division (Reinforced), during the Korean War, Medal of Honor Recipient, Eugene A. Obregon, USMC, was killed in action on September 26, 1950; and

WHEREAS, The machine-gun squad of Medal of Honor Recipient Obregon, USMC, was temporarily pinned down by hostile fire; and during this time, he observed a fellow marine fall wounded in the line of fire; and

WHEREAS, Armed only with a pistol, Medal of Honor Recipient Obregon, USMC, unhesitantly dashed from his cover position to the side of the fallen marine; and

WHEREAS, Firing his pistol with one hand as he ran, Medal of Honor Recipient Obregon, USMC, grasped his comrade by the arm, and despite the great peril to himself, dragged the marine to the side of the road; and

WHEREAS, Still under enemy fire, Medal of Honor Recipient Obregon, USMC was bandaging the marine's wounds when hostile troops began approaching their position; and

WHEREAS, Quickly seizing the wounded marine's rifle, Medal of Honor Recipient Obregon, USMC, placed his own body as a shield in front of the wounded marine and lay there firing accurately and effectively into the approaching enemy troops until he, himself, was fatally wounded by enemy machine-gun fire; and

WHEREAS, By his courageous fighting spirit, and loyal devotion to duty, Medal of Honor Recipient Obregon, USMC, enabled his fellow marines to rescue the wounded marine; and

WHEREAS, Medal of Honor Recipient Obregon, USMC, gallantly and bravely gave his life for his country, thereby upholding the highest traditions of the United States Naval Service and the United States Marine Corps; and

WHEREAS, By fate and courage, Medal of Honor Recipient Obregon, USMC, is one of the valiant Mexican Americans to receive the Congressional Medal of Honor, the nation's highest military honor for bravery; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby redesignates the freeway interchange involving State Highway Routes 5, 10, 60, and 101, commonly referred to as the East Los Angeles Interchange, from the Marine Private First Class Eugene A. Obregon Interchange to the Medal of Honor Recipient, Eugene A. Obregon, USMC, Memorial Interchange, in honor and in recognition of Congressional Medal of Honor Recipient, Eugene A. Obregon, United States Marine Corps, for conspicuous gallantry and bravery while serving his country during the Korean War; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources covering that cost, to erect those signs; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Director of Transportation and to the author for distribution.

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## RESOLUTION CHAPTER 67

Senate Concurrent Resolution No. 117—Relative to Beale Air Force Base.

[Filed with Secretary of State June 26, 2008.]

WHEREAS, Beale Air Force Base has been an integral part of the State of California since the United States Air Force took over Camp Beale in 1948; and

WHEREAS, Beale Air Force Base is situated on 23,000 acres in Yuba County, only 40 miles north of the California State Capitol, providing ample space for expanded mission capabilities and the prospect of adding to the resources of private industry through a recently developed enhanced use lease program; and

WHEREAS, More than 3,000 military personnel stationed at Beale Air Force Base make a strong contribution to the character and economy of the surrounding communities as well as to the State of California; and

WHEREAS, Beale Air Force Base is the home of the 9th Reconnaissance Wing and consistently maintains a high state of readiness in its combat support and combat service support forces for potential deployment for the protection of our great nation; and

WHEREAS, Beale Air Force Base is the home for the RQ-4 Global Hawk, the Air Force's premier high-altitude, long-endurance unmanned aerial vehicle that has played key roles in both the global war on terror and in identifying hot spots during the 2007 wildfires in southern California; and

WHEREAS, Beale Air Force Base is identified by the United States Air Force as being "in the forefront of the Air Force's future in high technology," with its superior bandwidth and communications capacity for conducting complex cyberspace operations; and

WHEREAS, California is home to 77 institutions of higher learning in northern California alone—including eight California State University campuses and four University of California campuses—that stand ready to provide high-tech educational support to any and all missions at Beale Air Force Base; and

WHEREAS, California is home to three of the four learning institutions nationwide that are designated by the National Security

Agency and the Department of Homeland Security as National Centers of Academic Excellence in Information Assurance Education, and all three are within driving distance of Beale Air Force Base; and

WHEREAS, California is well established as the nerve-center for technology, with more than 750,000 people working in high-tech positions, most of whom are classified as computer specialists, which includes computer scientists, programmers, system analysts, and system administrators; and

WHEREAS, California is at the forefront of cyber technology, housing five of the top supercomputer sites in the world at Lawrence Livermore Laboratories and at NASA Ames Research Center; and

WHEREAS, The land where Beale Air Force Base is situated is one of the most geographically safe sites in the nation for businesses to locate, based on the risk of natural hazards; and

WHEREAS, The United States Air Force has announced its intention to establish Cyber Command as a new operation to conduct cyber warfare, electronic warfare and effectively protect critical United States infrastructure networks that support telecommunications systems, utilities, and transportation; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the California Legislature proclaims its support for Beale Air Force Base in Yuba County to be the best and only choice to host the United States Air Force Cyber Command Operations; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 68

Senate Joint Resolution No. 16—Relative to veterans' hospitals.

[Filed with Secretary of State June 26, 2008.]

WHEREAS, The United States Department of Veterans Affairs (VA) is the result of President Lincoln's call to Congress to act for the protection and care of Civil War veterans, to "care for him who shall have borne the battle and for his widow, and his orphan"; and

WHEREAS, The VA provides medical care for veterans, many of whom have risked their lives to protect the security of our nation; and

WHEREAS, New challenges, medical emergencies, and exigencies of treatment have created difficulties, previously unseen, with regard to

the VA's ability to provide the best care and treatment for our veterans; and

WHEREAS, One example of these difficulties is the lack of authority for VA hospitals and pharmacies to fill emergency prescriptions for veterans that are written by physicians that are not affiliated with the VA hospital or pharmacy; and

WHEREAS, The United States Department of Defense hospitals and clinics have the authority to fill prescriptions for active-duty military personnel, retirees, and their dependents that are written by a physician that is not affiliated with the military; a practice that has been met with unblemished success; and

WHEREAS, A similar prescription program, with security safeguards, would be considered an ideal method for the delivery of emergency prescriptions issued by physicians that are not affiliated with the VA hospital or pharmacy in order to ensure the health and welfare of VA patients who use the VA as their primary source of treatment, and who must have the medicines when civilian pharmacies are not available or are closed; and

WHEREAS, The establishment of this type of prescription program would, in keeping with the standardization of military functions, fulfill President Lincoln's oft-quoted statement of caring for our fighting forces and their dependents; now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully urges the President and the Congress of the United States to require the United States Department of Veterans Affairs to consider the establishment of an emergency prescription program for filling prescriptions written by a physician that is not affiliated with a veterans' hospital or pharmacy, for use in United States Department of Veterans Affairs hospitals, that is similar to the program currently used by hospitals administered by the United States Department of Defense; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to the minority leader of each house, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 69

Senate Joint Resolution No. 32—Relative to aviation consumer protection.

[Filed with Secretary of State July 1, 2008.]

WHEREAS, All too often, the flying public has endured episodes of protracted delays on the tarmac prior to takeoff or after landing, and has endured a failure to provide even basic levels of consumer service from many of our nation's commercial airlines; and

WHEREAS, Passenger complaints arising from mishandling and lost baggage, and delays and cancellation of flights, deserve to be heard and responded to in a fair, consistent, and timely manner by airline industry representatives; and

WHEREAS, In the event that passengers have boarded an aircraft and the departure of the aircraft from the airport is delayed more than three hours, or more than three hours have passed following landing of the aircraft and passengers have not disembarked from the aircraft, the air carrier should provide passengers, as needed, with (1) electrical service sufficient to provide passengers with fresh air and light, (2) waste removal service in order to service the holding tanks for onboard restrooms, and (3) adequate food and drinking water and other refreshments; and

WHEREAS, Air carriers should provide clear and conspicuous notice regarding passenger or consumer complaint contact information by providing forms and placing signs at all airport service desks and other appropriate areas in the airport as necessary, including (1) the telephone and mailing address of the employee or officer of the air carrier in charge of consumer complaints and the telephone number and mailing address of the Office of Aviation Enforcement and Proceedings of the United States Department of Transportation, and (2) an explanation of the rights of airline passengers; and

WHEREAS, It is a fundamental duty of government to protect its citizens from these incessant, traumatic, and often preventable situations, and propose standards and procedures for the timely and reasonable conduct of major airlines towards consumers; and

WHEREAS, The Aviation Investment and Modernization Act of 2007 (Sen. No. 1300, 110th Cong., 1st Sess. (2007)) and a related bill, the FAA Reauthorization Act of 2007 (H. Res. No. 2881, 110th Cong., 1st Sess. (2007)) would address many of the problems plaguing airline consumers; now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly,* That the Legislature of the State of California hereby calls upon the United States Congress to approve the Aviation Investment and Modernization Act of 2007 (Sen. No. 1300, 110th Cong., 1st Sess. (2007)) and the FAA Reauthorization Act of 2007 (H. Res. No. 2881, 110th Cong., 1st Sess. (2007)), in order to secure airline passenger rights; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to each Senator and Representative from California in the United States Congress and to the Honorable Chairs of the United States House of Representatives and Senate Transportation Committees.

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## RESOLUTION CHAPTER 70

Assembly Concurrent Resolution No. 80—Relative to the CHP Officer Robert Franklin Dickey Memorial Highway.

[Filed with Secretary of State July 3, 2008.]

WHEREAS, Of all of the promises America offers, none is more precious or more elusive than the right to be free from crime and violence; and

WHEREAS, The men and women of law enforcement have the unenviable task of guaranteeing the public's safety, and it is as difficult and dangerous as it is important, as evidenced by the death of Officer Robert Franklin Dickey of the California Highway Patrol (CHP), who was killed in the line of duty on June 10, 2007; and

WHEREAS, Officer Robert Dickey was born in Brawley on January 4, 1970, to Fred and Carol Dickey; and

WHEREAS, Officer Robert Dickey grew up on the outskirts of El Centro, where he also attended local schools; and

WHEREAS, After graduating from Central Union High School in 1988, Officer Robert Dickey pursued his education at DeVry Technical Institute in Phoenix, Arizona, where he received a Bachelor of Science degree in accounting; and

WHEREAS, Shortly thereafter, Officer Robert Dickey started a roofing business with his father, where he worked until he entered the CHP Academy in 2001; and

WHEREAS, Officer Robert Dickey's love for the CHP began when he was five years old, after a neighbor, who was an officer, spent time telling him stories about the CHP; and

WHEREAS, Upon graduating from the CHP Academy on February 22, 2002, Officer Robert Dickey reported to the central Los Angeles area; and

WHEREAS, On May 1, 2003, Officer Robert Dickey transferred to the Winterhaven area, where he spent the remainder of his career; and

WHEREAS, Officer Robert Dickey had gained the respect of his peers, allied law enforcement agencies, and the community he served,

and his willingness to assist in any endeavor epitomized the California Highway Patrol's motto of "Safety, Service, & Security"; and

WHEREAS, Officer Robert Dickey was a devoted husband, loving father, son, brother, and friend; in his free time, he enjoyed riding dirt bikes, jet skiing, wakeboarding, and playing basketball and racquetball, and he also enjoyed spending time with his wife and young son; and

WHEREAS, Officer Robert Dickey leaves his wife, Yekaterina; his son, Nathan; his mother, Carol; his father, Fred; his brother, Russell; his sister, Julie; a host of family and friends; and the entire CHP family to mourn his passing and celebrate his legacy; and

WHEREAS, On June 11, 2007, Governor Arnold Schwarzenegger ordered Capitol flags to be flown at half-staff in honor of Officer Robert Dickey; and

WHEREAS, We pause to honor Officer Robert Dickey, who made the ultimate sacrifice while performing his sworn duty, and pay tribute to him, a fallen hero, by recalling his devotion, celebrating his life, and honoring his service; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby designates the segment of State Highway Route 8, between Sidewinder Road and Ogilby Road, in the Town of Winterhaven in the County of Imperial, as the CHP Officer Robert Franklin Dickey Memorial Highway; and be it further

*Resolved,* That the Department of Transportation is hereby requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 71

Assembly Concurrent Resolution No. 90—Relative to Kern County Deputy Sheriff William "Joe" Hudnall Jr. Memorial Highway.

[Filed with Secretary of State July 3, 2008.]

WHEREAS, William "Joe" Hudnall, Jr. was born on August 14, 1963, in Kern County, California; and

WHEREAS, His parents were Ethyl Hudnall and William Joseph Hudnall, Sr.; and

WHEREAS, William "Joe" Hudnall, Jr., attended Kern Valley High School in the town of Lake Isabella, California; and

WHEREAS, William "Joe" Hudnall, Jr., was hired by the Kern County Sheriff's Department on September 27, 1997, after putting himself through the P.O.S.T. Academy at his own expense, and was assigned to patrol duties; and

WHEREAS, Deputy Sheriff Hudnall was killed in the line of duty on November 14, 2006, while transporting a prisoner from his duty assignment in Kernville, California, to Bakersfield, California. His patrol unit was struck head on, on State Highway Route 178 in Kern Canyon, by a vehicle operated by a person who was under the influence of a controlled substance; and

WHEREAS, Deputy Sheriff Hudnall was married to Carrie Hudnall, and had two young sons, Chancellor and Creighton, and two adult children from a previous marriage, Joshua and Jennifer; and

WHEREAS, Deputy Sheriff Hudnall was dedicated to, and loved, his job and left a positive impression with everyone he met. He was a wonderful husband and father. His greatest joys were off-road riding with his sons, deep sea fishing, poker, and all family outings; and

WHEREAS, It would be a fitting tribute to Deputy Sheriff Hudnall, and his coworkers who travel on Highway 178 in the Kern Canyon, to name a portion of that highway from the mouth of the canyon eastbound to its intersection with Kernville Road (State Highway Route 155) as the Kern County Deputy Sheriff William "Joe" Hudnall, Jr., Memorial Highway; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby designates the portion of State Highway Route 178 from post mile 13.7 at the mouth of Kern Canyon eastbound to its intersection with Kernville Road (State Highway Route 155) in Kern County as the Kern County Deputy Sheriff William "Joe" Hudnall, Jr., Memorial Highway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of erecting the appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources covering the cost, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

# RESOLUTION CHAPTER 72

Assembly Concurrent Resolution No. 96—Relative to the Deputy Frank M. Pribble Memorial Highway.

[Filed with Secretary of State July 3, 2008.]

WHEREAS, Frank Marion Pribble entered the United States Army in 1962 and served honorably as a military police officer; and

WHEREAS, Deputy Pribble was a longtime resident of San Bernardino County and served as a social editor for a newspaper in Colton; and

WHEREAS, Deputy Pribble joined the San Bernardino County Sheriff's Department in March 1965 and was assigned to the Fontana Station; and

WHEREAS, Deputy Pribble was very well respected and well known throughout the department in this large county, particularly in Fontana where he worked for 10 years and served as a deputy sheriff; and

WHEREAS, Deputy Pribble was a mentor to the new deputies assigned to the Fontana Station and many deputies would wait after their shifts for a chance to ride with Pribble, who would take the new officers around the perimeter of the Fontana beat and carefully instruct them on the hazards of the area; and

WHEREAS, On July 6, 1975, Deputy Pribble was on patrol in a rest area on State Highway Route 10 for a suspect wanted in a drive-by shooting when he was fatally shot in the line of duty; and

WHEREAS, Even during the last moments of his life, Deputy Pribble exhibited selfless regard for life when he told a woman who was trying to assist the wounded officer to "Get out of the way; I don't want you people to get hurt;" and

WHEREAS, By all accounts, Deputy Pribble's last words and thoughts were of his family when he passed away at the young age of 37 years; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby designates the portion of State Highway Route 10 from Post-mile 12.25 to Post mile 15.25 in the City of Fontana, in the County of San Bernardino, as the Deputy Frank M. Pribble Memorial Highway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signage requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources covering the cost, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 73

Assembly Concurrent Resolution No. 108—Relative to hate crimes.

[Filed with Secretary of State July 3, 2008.]

WHEREAS, Hate crimes are acts of terror meant to intimidate and cause fear in our communities to deter the free exercise of enjoyment of any rights or privileges secured by the United States and the California Constitutions, the laws of the United States, and the laws of the State of California; and

WHEREAS, The California Department of Justice reported 1,397 hate crimes in 2005, and 1,306 in 2006; and

WHEREAS, The United States Department of Justice's National Criminal Victimization Survey estimates that an annual average of 210,000 hate crime victimizations occurred nationally from July 2000 to December 2003; and

WHEREAS, The United States Department of Justice's National Criminal Victimization Survey reveals that 56 percent of hate crimes are not reported to the police; and

WHEREAS, The underreporting of hate crimes is the result of a variety of factors that include the victim's lack of knowledge about the criminal justice system, fear of retaliation, linguistic and cultural barriers, immigration status, and prior negative experience with governmental agencies; and

WHEREAS, California needs to remain vigilant in promoting tolerance to address growing white supremacist movements, such as the Aryan Nation and the Aryan Brotherhood, in California that recruit our youth through music, the Internet, and other media and information outlets; and

WHEREAS, The Anti-Defamation League reports that hate rock concerts are organized yearly in southern California by labels like White Heat Productions and Condemned Records which feature bands that encourage hate violence in their lyrics; and

WHEREAS, The Southern Poverty Law Center reports that the number of active hate crime organizations increased from 52 active hate organizations in 2005 to 63 active hate organizations in 2006; and

WHEREAS, The 36 million Californians make up one of the most diverse populations in the United States where 43.8 percent identify as White, 35.2 percent identify as Latino, 6.6 percent identify as Black, 11.1 percent identify as Asian, 0.7 percent identify as Native American, 0.3 percent identify as Native Hawaiian, 1.9 percent identify as multiethnic, 12.3 percent identify as people with disabilities, 50.5 percent identify as female and 26.8 percent identify as foreign-born Americans; and

WHEREAS, All Californians should condemn acts of violence and prejudice on the basis of race, ethnic background, national origin, religious belief, sex, age, disability, or sexual orientation; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the month of June 2008 is hereby designated as Hate Crimes Awareness Month to educate community members on the proper reporting of hate crimes and to increase awareness about diversity and tolerance to improve public safety; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 74

Assembly Concurrent Resolution No. 116—Relative to Adolfo Camarillo Memorial Highway.

[Filed with Secretary of State July 3, 2008.]

WHEREAS, Adolfo Camarillo was born in 1864 in what would become Ventura County and, in 1880, at 16 years of age, took over operations of the 10,000 acre Rancho Calleguas upon the death of his father Juan; and

WHEREAS, Adolfo Camarillo married Isabella Menchaca in 1888 and they moved into an adobe on the ranch and subsequently raised five children; and

WHEREAS, In 1890, Adolfo Camarillo planted two rows of eucalyptus trees, with the help of two Chumash Indians, which arched over State Highway Route 101 for many years; and

WHEREAS, These trees were designated as Ventura County Historical Landmark Number 3 on August 5, 1968, and were identified as the Adolfo Camarillo Heritage Grove in the Negative Declaration for the widening of State Highway Route 101 through Camarillo in 1980; and

WHEREAS, In 1892, Adolfo Camarillo constructed the Queen Anne Victorian Camarillo Ranch House, which is visible to the north from Route 101 and was recommended for designation as a California Point of Historical Interest by the State Office of Historical Preservation on August 5, 2005, and was approved for that designation by the State Director of Parks and Recreation on September 29, 2005; and

WHEREAS, Adolfo Camarillo graduated from the International Business College in Los Angeles in 1895 and was a pioneer in raising lima beans, which became the major crop in Ventura County during that time; and

WHEREAS, Adolfo Camarillo served as a member of the Board of Supervisors of Ventura County from 1907 to 1915; and

WHEREAS, Adolfo Camarillo was a member of the Pleasant Valley School District Board of Trustees for 56 years, serving as presiding officer for a total of 23 years; and

WHEREAS, Adolfo Camarillo donated property for the Southern Pacific Railroad to be constructed through Camarillo in 1898 and this resulted in a station being built that became known as "Camarillo," and the town site for Camarillo was laid out that same year; and

WHEREAS, Adolfo Camarillo gave to the community by donating 50 acres of land for the first high school in Camarillo, which is named for him; and

WHEREAS, Adolfo Camarillo granted land for the new Conejo Grade State Highway Route 101 project in 1937, enabling the highway to be constructed across the entire width of the original Rancho Calleguas from the Conejo Grade to the Union Pacific Railroad, formerly the Southern Pacific Railroad, tracks adjacent to downtown Camarillo; and

WHEREAS, Adolfo Camarillo was a leader in a number of organizations in Camarillo and California, including the Ventura County Fair Board, the Camarillo Chamber of Commerce, Los Rancheros Visitadores, and the California Lima Bean Growers Association, and was a director of the California State Fair Board and of the Bank of A. Levy; and

WHEREAS, Adolfo Camarillo bred and raised a stable of Morgan-Arabian horses, now famously known as the "Camarillo White Horses," which represented the community at many events, including the Pasadena Rose Parades and the opening of the Oakland Bay Bridge in 1936, and were ridden by him at many Los Rancheros Visitadores trail rides, including one featuring former Governor Ronald Reagan; and

WHEREAS, Adolfo Camarillo was known affectionately as "The Last Spanish Don" because he cherished and preserved the Spanish traditions of early California; and

WHEREAS, It is desired by the people of Camarillo that the Legislature of the State of California commemorate the many contributions of Adolfo Camarillo by designating a portion of State Highway Route 101 in his honor; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby commemorates the many contributions of Adolfo Camarillo and designates the portion of State Highway Route 101 from the top of the Conejo Grade to Lewis Road in the City of Camarillo as the Adolfo Camarillo Memorial Highway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources to cover that cost, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author, the Department of Transportation, the City of Camarillo, and the Camarillo Ranch Foundation.

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## RESOLUTION CHAPTER 75

Assembly Concurrent Resolution No. 128—Relative to the Officer Sixto Maldonado, Jr., Memorial Highway.

[Filed with Secretary of State July 3, 2008.]

WHEREAS, Sixto Maldonado, Jr., born on April 9, 1952, in Fresno to proud parents Sixto Sr. and Evangelina Maldonado, was the oldest of six siblings, and attended Arthur E. Mills Elementary School and Riverview Junior High School in Firebaugh, followed by his attendance and graduation from Dos Palos High School in 1971, where he lettered in track and field and flag football, was involved in student government, and played the saxophone as a member of the school band; and

WHEREAS, Mr. Maldonado was a member of the newly-formed Firebaugh Youth Group, served as its president for a number of years while in high school, and was a role model student who was highly respected in his community; and

WHEREAS, Mr. Maldonado grew up in the vicinity of Firebaugh in an unincorporated area still known today as "Del Rio," and worked in the fields as a farm laborer at a very young age to help his parents provide for their family; and

WHEREAS, Mr. Maldonado was a loving and caring person and father figure to his younger siblings and to his extended family members, who viewed him as very respectful, responsible, and trustworthy; and

WHEREAS, Mr. Maldonado worked in a variety of different jobs to help offset costs of his extended education, and in 1972, enrolled and attended 4 C's Business College with a major in business administration; and

WHEREAS, Mr. Maldonado started his law enforcement career as a Firebaugh Police Department Reserve/Dispatcher in 1973, and was also an emergency medical technician for the City of Firebaugh where he drove and assisted on ambulance runs; and

WHEREAS, On July 6, 1974, Mr. Maldonado married Rosie Moran and they had their first and only child on June 28, 1975, Sixto Maldonado III; and

WHEREAS, Officer Maldonado was tragically slain in the line of duty as a Firebaugh police officer on August 19, 1975, at the tender age of 23, leaving behind his wife and son; and

WHEREAS, Officer Maldonado leaves a legacy of his distinguished service to law enforcement, with three brothers and a nephew following in his footsteps and becoming peace officers for the County of Fresno; and

WHEREAS, It is therefore appropriate to designate a portion of State Highway Route 33 in the City of Firebaugh in Fresno County in Officer Maldonado's honor; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby designates the portion of State Highway Route 33 between Bullard Avenue and Douglas Avenue, in the City of Firebaugh, as the Officer Sixto Maldonado, Jr., Memorial Highway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources sufficient to cover the costs, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

## RESOLUTION CHAPTER 76

Assembly Concurrent Resolution No. 142—Relative to Scleroderma Awareness Month.

[Filed with Secretary of State July 3, 2008.]

WHEREAS, Scleroderma is a chronic, disabling autoimmune disease in which the body's soft tissues suffer from an overproduction of collagen; and

WHEREAS, Scleroderma can affect many parts of the body including skin, internal organs, and blood vessels; and

WHEREAS, Scleroderma sufferers often experience damage to the heart, lungs, kidneys, and the gastrointestinal system; and

WHEREAS, Many sufferers develop pulmonary hypertension as a result of constriction of the blood vessels; and

WHEREAS, African Americans are more susceptible to systemic scleroderma; and

WHEREAS, Researchers have yet to identify the exact cause or causes of scleroderma; and

WHEREAS, Researchers have found links between scleroderma and rheumatic disease; and

WHEREAS, An estimated 300,000 Americans suffer from scleroderma, and 80 percent of those are women; and

WHEREAS, The estimated total economic impact of scleroderma treatment is estimated to be in excess of $1.5 billion annually; and

WHEREAS, The morbidity cost associated with scleroderma is an estimated $819,000,000 annually; and

WHEREAS, The direct cost of treatment for scleroderma is estimated to be $462,000,000 annually; and

WHEREAS, There is a significant need for further research focusing on the epidemiology of scleroderma to increase understanding of the causes of the disease and its treatment; and

WHEREAS, The United States Congress has recognized the need to raise awareness of the impact of scleroderma on public health and has designated a National Scleroderma Awareness Month; and

WHEREAS, California should also designate a month as Scleroderma Awareness Month to help educate the public about autoimmune diseases and the need for increased research, funding, and effective treatments for those diseases; and

WHEREAS, The designation of such a month would recognize the efforts of health care providers, patients, and scleroderma advocacy organizations to increase awareness of scleroderma and of the need for increased research on scleroderma; and

WHEREAS, June 2008 would be an appropriate month to designate as Scleroderma Awareness Month; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature proclaims the month of June 2008 as Scleroderma Awareness Month; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of the resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 77

Assembly Concurrent Resolution No. 69—Relative to the Compton Community College District.

[Filed with Secretary of State July 8, 2008.]

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature requests that the Task Force on the Future of Compton Community College be established; and be it further

*Resolved,* That the Special Trustee of the Compton Community College District is requested to convene, and serve as the permanent chairperson of, the Task Force on the Future of Compton Community College. All of the following, or their respective designees, shall be invited to participate in the meetings of the task force:

(a) From Compton Community College:

(1) The Provost of the College.

(2) The President of the Board of Trustees.

(3) The President of the Faculty Senate.

(4) The President of the Advisory Board.

(5) The Student Body President.

(6) The chief executive officer of the local affiliate of the union representing the faculty members of the college.

(7) The chief executive officer of the local affiliate of the union representing the classified employees of the college.

(8) A former member of the Board of Trustees.

(b) Local elected officials:

(1) The City Attorney of Compton.

(2) The Mayor of Compton.

(3) The Mayor of Lynwood.

(4) The Mayor of Paramount.

(c) Community representatives:

(1) A resident from the City of Lynwood.

(2) A resident from the City of Paramount.

(3) President of Pastors for Compton.
(4) President of the Compton Chamber of Commerce.
(5) President of the Citizens Committee for Compton College.
(d) Academicians:
(1) President of the Charles Drew University of Medicine and Science.
(2) President of El Camino College.
(3) President of California State University, Dominguez Hills.
(4) Chancellor of the Los Angeles Community College District.
(5) Superintendent of the Compton Unified School District.
(6) Superintendent of the Lynwood Unified School District.
(7) Superintendent of the Paramount Unified School District.
(e) The Compton Community College District advisory committee specified in paragraph (5) of subdivision (f) of Section 71093. Advisory committee members shall also be members of the task force and share in the responsibilities of the task force; and be it further

*Resolved,* That the Special Trustee of the Compton Community College District is authorized to organize the task force into various groups to review, among others, the following topics:
(a) Accreditation.
(b) Campus buildings, standards, property, and construction.
(c) Collective bargaining of staff and faculty.
(d) Curriculum and library services.
(e) Faculty and staff accountability and governance.
(f) Fiscal management.
(g) Safety and security.
(h) Student enrollment, services, rights, and governance; and be it further

*Resolved,* That the task force is requested to prepare a report that shall include, but not necessarily be limited to, a discussion of all of the following:
(a) Development of a plan to restore full accreditation to the college.
(b) A report on comments from the public received when at least one seminar on the history of the accreditation crisis at Compton Community College is held in each city the area of which forms a part of the Compton Community College District.
(c) The designing of a plan to increase enrollment at Compton Community College.
(d) Recommendations for changes in the curricula offered by Compton Community College.
(e) Recommendations for involving interested parties inside and outside of the Compton Community College District in strengthening the operations of the college.

(f) The setting of a timetable for the restoration of the powers of the Board of Trustees of the Compton Community College District.

(g) Any other recommendations for the future of Compton Community College deemed appropriate by the task force; and be it further

*Resolved,* Members of the task force shall serve as volunteers, and shall not receive any compensation or reimbursement for expenses they incur while serving on the task force; and be it further

*Resolved,* That the Compton Community College District is requested to provide staff for the operations of the task force; and be it further

*Resolved,* That the Task Force on the Future of Compton Community College is requested to transmit copies of its report, with any accompanying comments it deems appropriate, to the Governor, the Speaker of the Assembly, and the Senate Committee on Rules; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author and to the Special Trustee of the Compton Community College District for appropriate distribution.

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## RESOLUTION CHAPTER 78

Assembly Concurrent Resolution No. 82—Relative to the Mayor Bob Zirbes Memorial Freeway.

[Filed with Secretary of State July 8, 2008.]

WHEREAS, It was with great sadness and a deep sense of loss that word was received of the death of the Honorable Robert "Bob" Zirbes on February 8, 2007, an immensely respected member of the Diamond Bar City Council and distinguished Californian whose character and deeds in life merit gratitude and respectful acknowledgment by the people of the state; and

WHEREAS, Bob Zirbes was born on September 20, 1959, in Sioux Falls, South Dakota, and in the 1960s, his family moved to the San Gabriel Valley in California; and

WHEREAS, In 1985, Bob and his wife, Jolene, moved to the City of Diamond Bar where they raised their two children, Joanna and Christopher; and

WHEREAS, Committed to making a difference in the community, Bob served as Chairman of the Diamond Bar Planning Commission for a year prior to being elected to the Diamond Bar City Council in 2001, and was reelected to a second term in 2005 and distinguished himself as Mayor from 2003 to 2004. Throughout his years on the city council,

Bob worked diligently to address the concerns and needs of the residents of the area and improve the quality of life for future generations; and

WHEREAS, Through his dedication and perseverance, the City of Diamond Bar redefined its Code Enforcement Program and created a proactive approach to property regulations enforcement, known as the Neighborhood Improvement Program. Bob was the driving force behind the creation of the Home Improvement Program to financially assist homeowners with home repairs; and

WHEREAS, Bob also worked tirelessly behind the scenes to promote economic growth for the City of Diamond Bar, which includes the newly completed Village Center, highlighted by the recent opening of a Target store and the new Brookfield residential community; and

WHEREAS, Prior to his election to the city council, Bob served as President of the Diamond Bar Improvement Association, a nonprofit community betterment organization, where he spearheaded several community service-based efforts, including the annual Paint the Town project; and

WHEREAS, Bob was also a member of several boards and committees, including the city's Sports Park Task Force, Library Task Force, Tres Hermanos Conservation Authority, Walnut Valley Rotary Club, and Miss Diamond Bar Pageant, and was also very involved in the American Youth Soccer Organization program, where he was a referee even when his own children had long outgrown the program; and

WHEREAS, Bob spent his entire professional career in the personnel recruiting and placement industry, and he was the owner and operator of the Truman Agency, Personnel Specialists; and

WHEREAS, Bob was a true gentleman in every sense of the word, and his love of family and commitment to the well-being of the community were evident in every manner in which he conducted his life; and

WHEREAS, The high esteem in which Bob was held by his loving family, his numerous friends, and other individuals fortunate enough to have known him stands as a testament for others who strive for the best in every aspect of their lives, and his memory will live forever in the hearts and minds of those people who knew him; and

WHEREAS, Bob Zirbes is survived by his wife, Jolene; his children, Joanna and Christopher; and a host of family and friends; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature expresses its deepest sympathy at the passing of the Honorable Robert "Bob" Zirbes, and that the portion of State Route 57 from the Orange County line to the Pathfinder Road exit

in the City of Diamond Bar be designated the Mayor Bob Zirbes Memorial Freeway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing that special designation and, upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 79

Assembly Concurrent Resolution No. 98—Relative to Historic State Highway Route 395.

[Filed with Secretary of State July 8, 2008.]

WHEREAS, Former U.S. Highway 395 was a scenic stretch of highway that ran through historic areas of the County of Riverside and provided the only direct route from San Diego to the Lake Tahoe region and northern Nevada, before heading back into California on its way north to Oregon and all the way into Canada; and

WHEREAS, While former U.S. Highway 395 remains largely intact through the Counties of Inyo, Mono, Sierra, Lassen, and Modoc, only sections of former U.S. Highway 395 still exist in portions of the County of San Diego and the high desert area of the County of San Bernardino; and

WHEREAS, Most of the former highway route through southern California has been replaced by Interstate Highways 15 and 215 in the Counties of San Diego, Riverside, and San Bernardino; and

WHEREAS, Former U.S. Highway 395, which remains as Interstate Highways 15 and 215, was the major and most significant connection between San Diego, the Inland Empire, and the eastern Sierra Nevada region; and

WHEREAS, When former U.S. Highway 395 was known as the Cabrillo Parkway (and later the Cabrillo Freeway) in San Diego, now State Route 163, it was the first freeway to be constructed in San Diego and opened to traffic in 1948; and

WHEREAS, Part of the original routing of former U.S. Highway 395 in northern San Diego County includes the old Bonsall Bridge, one of

the earliest automotive crossings over the San Luis Rey River, later becoming part of State Highway Route 76; and

WHEREAS, The portion of former U.S. Highway 395 between Temecula and Lake Elsinore was part of the Butterfield Overland Mail route, the first major overland delivery service to southern California, established September 16, 1858; and

WHEREAS, After its realignment eastward, former U.S. Highway 395 became the first major expressway and freeway system in the southern portion of the County of Riverside in the early 1950s, servicing the Cities of Temecula, Murrieta, Menifee, Sun City, and Perris. Today this is State Highway Route 215; and

WHEREAS, The portion of former U.S. Highway 395 between the Cities of San Bernardino and Hesperia, near modern State Highway Route 395, traverses the Cajon Pass with old State Highway Route 66 and old State Highway Route 91, most famously used by the Mormons in 1851 in their crossing into the valley where they subsequently founded the modern Cities of San Bernardino and Riverside; and

WHEREAS, The heritage in the regions through which former U.S. Highway 395 passed was greatly diminished when the former highway was replaced by suburban streets and Interstate Highways 15 and 215; and

WHEREAS, Recognizing existing highway and road segments that formerly comprised U.S. Highway 395 would help preserve the history of the regions through which that highway passed and would also increase tourism and business in those regions; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby recognizes the original U.S. Highway 395 for its historical significance and importance in the development of California; and be it further

*Resolved,* That the Department of Transportation is requested, upon application by a private entity or by an appropriate local government agency or agencies, to identify any section of former U.S. Highway 395 that is still a publicly maintained highway and that is of interest to the applicant, and to designate that section of highway as "Historic U.S. Highway 395"; and be it further

*Resolved,* That the designation of Historic U.S. Highway 395 pursuant to this resolution shall have no impact upon the future planning or development of adjacent private or public properties; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of erecting the appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources covering that cost, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 80

Assembly Concurrent Resolution No. 107—Relative to the CDF Firefighter John D. Guthrie Memorial Highway.

[Filed with Secretary of State July 8, 2008.]

WHEREAS, As a young man growing up in Perris, California, John Guthrie often volunteered to help the older men fight fires in the rural community and always wanted to be a firefighter; and

WHEREAS, After two years of service in the Navy, Guthrie returned home and signed on with the United States Forest Service as a firefighter, and, in 1954, was stationed at the El Cariso fire station; and

WHEREAS, In 1955, Guthrie was hired by the California Division of Forestry and began working at the Lake Elsinore Station; and

WHEREAS, On July 8, 1959, two teenagers driving down the curvy highway toward Lake Elsinore lost control of their truck and it flew off of the roadway and down a 200-foot embankment, sparking an inferno that became known as the Decker Canyon Fire; and

WHEREAS, More than 500 California Division of Forestry, United States Forest Service, local, and volunteer firefighters were called to fight the Decker Canyon Fire, which swept out of the hills and forced the evacuation of Lakeland Village; and

WHEREAS, Guthrie was a firetruck driver working at the fire station on Old Town Temecula, and when the call went out Guthrie and his crew headed north toward the billowing smoke; and

WHEREAS, Guthrie and his crew were sent off of the main road about a mile east of El Cariso Village into a canyon to start setting backfires and the shifting winds soon pushed a wall of flame back up the canyon toward their truck; and

WHEREAS, With the flames advancing on them, Guthrie ordered the other firefighters back to the truck for protection, despite the fact that there was not room in the truck for him; and

WHEREAS, Guthrie attempted to use a firehose to wet himself down for protection, but the firehose was burned beyond use; and

WHEREAS, The flames rushed over the firetruck, charring it and those inside and outside of it almost beyond recognition and the six-man crew perished, some at the scene and others at hospitals in the days and weeks that followed; and

WHEREAS, Twenty-seven other firefighters were injured fighting the 1,700-acre blaze, some losing ears, fingers, and noses; and

WHEREAS, Guthrie, with over 85 percent of his body burned, began walking out of the canyon before others came to his aid and an ambulance arrived to take him to the closest hospital, which was located in Hemet; and

WHEREAS, Guthrie was the last firefighter to die as a result of the blaze, finally succumbing to his injuries at Redland's hospital on September 14, 1959; and

WHEREAS, Guthrie left behind his wife Carlo and a young son and daughter; and

WHEREAS, It is vital that the sacrifice by John Guthrie and the other firefighters who were killed in the Decker Canyon Fire in order to protect the citizens of California be remembered; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby dedicates that portion of State Highway Route 215 between the Ramona Expressway Exit, at postmile 31.08, and its junction with State Route 74, at postmile 26.31, in honor of John D. Guthrie by officially designating that route as the CDF Firefighter John D. Guthrie Memorial Highway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 81

Assembly Joint Resolution No. 45—Relative to mortgage loans.

[Filed with Secretary of State July 8, 2008.]

WHEREAS, According to the California Department of Housing and Community Development, the state should be producing more than 220,000 new housing units to keep pace with the state's population growth and new household formation to meet its annual need; and

WHEREAS, California has for years failed to produce enough housing units to meet that annual need, leading to a profound imbalance of supply and demand; and

WHEREAS, The imbalance has served to drive up housing costs and reduce affordability throughout the state; and

WHEREAS, California has the nation's highest housing costs, with a state median-home price of nearly five hundred thousand dollars ($500,000); and

WHEREAS, California is home to 21 of the 25 least affordable housing markets in the United States with a homeownership rate, at 58 percent, that is 12 percentage points below the national average and is the second-worst rate of all the states; and

WHEREAS, The traditional federal conforming mortgage loan limit, set at four hundred seventeen thousand dollars ($417,000), is well below the median-priced home in California; and

WHEREAS, The federal conforming mortgage loan limit is the maximum amount of debt that may be guaranteed or purchased by Fannie Mae and Freddie Mac, two federal government-sponsored enterprises in the housing finance market; and

WHEREAS, Loans made at or below the conforming mortgage loan limit enjoy interest rates much lower than loans made above the limit; and

WHEREAS, This interest rate differential means that California homebuyers can, over the life of a mortgage loan, pay up to one hundred fifty thousand dollars ($150,000) more in finance charges than homebuyers in other states; and

WHEREAS, Because of the state's high home prices, nearly 50 percent of California homeowners and homebuyers in 2007 paid higher interest rates on nonconforming (jumbo) loans; and

WHEREAS, The loan limits for the Federal Housing Administration (FHA), a critical component of the federal government's home purchase lending policy, are tied to the conforming loan limit; and

WHEREAS, Many California borrowers are ineligible for FHA mortgages, including foreclosure rescue products such as FHA-secured loans, because of the loan caps on those loans; and

WHEREAS, Economists attribute the state's, and the nation's, worsening economic condition to the current slump in the housing market; and

WHEREAS, The housing slump in California is marked by low production and increased unemployment; and

WHEREAS, It is estimated that the housing slump cost the state of California nearly two billion dollars ($2,000,000,000) in tax revenue in 2007; and

WHEREAS, The National Association of Realtors estimates that an increase in the conforming mortgage loan limit will produce nearly

400,000 new home sales in the nation and generate over forty billion dollars ($40,000,000,000) in economic activity; and

WHEREAS, While Congress and the President of the United States recently acted to increase the federal conforming mortgage loan limit and the FHA loan limit, the increase expires on December 31, 2008; and

WHEREAS, The Legislature recognizes that the Congress of the United States is now considering critical reforms to the Federal Housing Administration and government-sponsored enterprises, including Fannie Mae and Freddie Mac, that are designed to ensure the ongoing financial health of those institutions and provide adequate protections to United States taxpayers; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature respectfully memorializes the Congress of the United States to enact, and the President of the United States to sign, a permanent increase in the conforming mortgage loan limit and the FHA loan limit, to the levels to which these limits were increased in the Economic Stimulus Act of 2008 (HR 5140), to increase homeownership in California and help stimulate the California economy; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 82

Assembly Joint Resolution No. 54—Relative to the State Children's Health Insurance Program.

[Filed with Secretary of State July 8, 2008.]

WHEREAS, The Congress and the President of the United States created the State Children's Health Insurance Program (SCHIP) in 1997 as a bipartisan effort to help states cover uninsured children; and

WHEREAS, California's Healthy Families Program, which provides coverage for nearly 900,000 children in working families whose parents earn too much to qualify for Medi-Cal but cannot afford private insurance, depends on federal SCHIP dollars for two-thirds of its funding; and

WHEREAS, The Healthy Families and Medi-Cal programs have earned overwhelming support among Californians and bipartisan support among California policymakers, with a track record of success in

dramatically reducing the number of uninsured children in California and improving their health and performance in school; and

WHEREAS, On August 17, 2007, the federal Centers for Medicare & Medicaid Services (CMS) issued a directive asserting that states must comply with a series of restrictions that would impair the ability of California to provide health care coverage to children with SCHIP funds under the state's current program and any expansion of income levels above those in the present program; and

WHEREAS, Both the federal government and the State of California have an obligation to protect the health care coverage that is already provided to low-income children, and to ensure fairness by not denying coverage to children who are in economic circumstances identical to those of children already enrolled in the program, as would happen under the CMS directive; and

WHEREAS, Certain requirements of the directive, including a 12-month uninsurance period before a child may enroll and cost-sharing comparable to private sector cost-sharing, contradict existing California law that has been in place for more than 10 years; and

WHEREAS, Current program specifications, which better encourage access to health care services for low-income children, represent policy that the Legislature and all California governors since the inception of the program have embraced; and

WHEREAS, Implementation of the provisions of the directive would be poor public health policy that would adversely impact the health and well-being of thousands of children currently eligible for health coverage in California's Healthy Families Program; and

WHEREAS, If the state is unable to meet all of the requirements of the directive, approximately 34,000 California children could lose their health insurance and the Healthy Families Program will be prohibited from using SCHIP funds to cover additional uninsured children in working families of three persons or more with annual incomes as low as forty-four thousand dollars ($44,000); and

WHEREAS, Recently CMS issued additional directives applying similar bureaucratic requirements to Medicaid, which shift costs to states and jeopardize health services for vulnerable children and families; and

WHEREAS, The nonpartisan United States Government Accountability Office has issued an opinion concluding that CMS cannot legally implement the August 17th directive without first sending the directive to Congress and the Comptroller General for review under the Congressional Review Act (Public Law 104-121) before the directive is in effect; and

WHEREAS, Governors of 28 states, including both Republicans and Democrats, signed a letter to the Secretary of the United States

Department of Health and Human Services on September 17, 2007, objecting to the CMS directive and urging that it be rescinded; and

WHEREAS, The intent of Congress in creating SCHIP was to support and encourage state flexibility for providing health coverage for uninsured children, and it is counter to that intent for CMS to impose bureaucratic obstacles that arbitrarily restrict the states' authority to design coverage initiatives that meet the needs of their children and families; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California urges the President and the Congress of the United States to rescind the federal Centers for Medicare & Medicaid Services' directive of August 17, 2007; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 83

Assembly Joint Resolution No. 56—Relative to unemployment benefits.

[Filed with Secretary of State July 8, 2008.]

WHEREAS, The United States economy is experiencing an economic downturn, due largely to the subprime mortgage and credit market crises, producing a serious loss of jobs in February 2008, for a second month in a row; and

WHEREAS, In March 2008 the total number of workers in the United States collecting unemployment benefits surpassed 2.83 million, which is greater than the number who received benefits after unemployment claims surged following Hurricane Katrina; and

WHEREAS, The United States workforce is experiencing higher rates of long-term joblessness compared to prior recessions. In February 2008, the long-term unemployed accounted for 17.5 percent of all jobless workers, compared to 11.1 percent when the last recession began in March 2001, and 11.9 percent when the July 1990 recession began; and

WHEREAS, More than three million workers are expected to run out of their maximum 26 weeks of state unemployment benefits in the next

year, without having any additional unemployment benefits provided by the federal government; and

WHEREAS, The California economy has been especially hard hit by the economic downturn, increasing the state's unemployment rate by nearly a full percentage point in the past year, to 5.9 percent in January 2008, and leaving more than one million workers unemployed, including over 70,000 construction workers; and

WHEREAS, From January to March 2008, the number of Californians collecting unemployment benefits has averaged 486,000 per month, which is nearly 100,000 more workers compared to the same period last year; and

WHEREAS, Almost 220,000 California workers ran out of their 26 weeks of state unemployment benefits in the six months from August 2007 to January 2008, and in the next six months another 240,000 more workers will find themselves jobless and without any additional unemployment benefits to support their families; and

WHEREAS, A federal extension of unemployment benefits by the United States Congress would stimulate the California and national economies, while also helping to mitigate the housing crisis; and

WHEREAS, Every dollar of unemployment benefits circulating in the economy boosts economic growth by $2.15, reflecting the fact that benefits are spent immediately on housing, gas, food, and other basic necessities. A major study also found that providing unemployment benefits reduces the chances that a worker will be forced to sell the family home by almost one-half, which has special significance to California given the state's foreclosure crisis; and

WHEREAS, Congress waited until three months after the last recession ended, in March 2002, to provide for a 13-week federal extension of unemployment benefits, which limited the stimulative impact of the extension on the national economy and on the states hardest hit by unemployment; and

WHEREAS, If the average unemployed worker in California collected 10 weeks of a 13 week federal extension of unemployment benefits, over six months an additional $1.4 billion in economic stimulus would support the struggling California economy and those communities hardest hit by unemployment; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California supports immediate Congressional action to extend federal unemployment benefits by at least 13 weeks for all states, and avail an additional 13 weeks of federal benefits to high unemployment states, including California; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the President pro tempore of the United States Senate, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 84

Assembly Joint Resolution No. 58—Relative to school Medicaid services.

[Filed with Secretary of State July 8, 2008.]

WHEREAS, California's school districts are committed to teaching our children and ensuring that our students are healthy and ready to learn; and

WHEREAS, One of the newly enacted federal Centers for Medicare and Medicaid Services (CMS) regulations, set to take effect in the 2008–09 school year, would eliminate the Title XIX reimbursement for the Medicaid (Medi-Cal) Administrative Activities (MAA) program and for transportation services rendered in connection with the Local Educational Agency (LEA) Medi-Cal Billing Option Program, resulting in the loss of millions of dollars to local educational agencies; and

WHEREAS, The elimination of reimbursement funding for the MAA program and transportation services is being implemented by the CMS through the regulatory rulemaking process, rather than by congressional action, as required by the federal budget process; and

WHEREAS, In 1988, Congress amended the Social Security Act to ensure that states could obtain federal Medicaid reimbursement for school health-related services delivered to students in the school setting by local educational agencies; and

WHEREAS, Congress, in passing the Omnibus Budget Reconciliation Act of 1989 (OBRA 89), established the Early Periodic Screening, Diagnosis, and Treatment program as a comprehensive child health program within Medicaid; and

WHEREAS, The federal government, in implementing OBRA 89, directed states to develop linkages with other agencies, and specifically cited schools as a focal point for (1) identifying children with problems, (2) increasing student access to both preventive and curative health services, (3) assuring appropriate use of health care resources, and (4) for coordinating services to avoid duplicating efforts that increase service costs and stress to the child and family; and

WHEREAS, In the last completed billing cycle (2005–06), California received $145 million in reimbursements for MAA activities performed by local educational agencies; and

WHEREAS, The federal government mandates that school districts provide medical services pursuant to the Americans with Disabilities Act and the Individuals with Disabilities Education Act (IDEA) without full funding; and

WHEREAS, 1.4 million children, or 14.8 percent of California students, suffer from asthma or asthma-like symptoms resulting in, according to the State Department of Public Health, the loss of $40.8 million annually to schools from preventable absences of children between the ages of 12 and 17; and

WHEREAS, The 2006–07 California Physical Fitness Test conducted in grades 5, 7, and 9 indicates that in many of the six physical fitness areas tested, over 30 percent of California students fall outside the Healthy Fitness Zone, which means they are overweight or at risk of becoming overweight, as indicated by body mass index and skinfold measurements, putting these students at risk for diabetes, heart disease, and other obesity-related diseases in childhood and adulthood; and

WHEREAS, Seventy-two percent of Latino children in California have experienced tooth decay, 26 percent of whom have experienced rampant decay; and

WHEREAS, California school districts received reimbursement for services delivered to over 383,491 special education students in the 2004–05 fiscal year, and these revenues were distributed to supplement services provided to students; and

WHEREAS, School districts must address health barriers to learning to ensure a student's full participation in the instructional process, and ensure that these services conform to the federal government's Early Periodic Screening, Diagnosis, and Treatment program to increase health access for disadvantaged children; and

WHEREAS, Many California school districts choose to reinvest reimbursements from school Medi-Cal services (the LEA billing option) and MAA in Healthy Start programs into the services of school nurses and health assistants and into health care items, such as glasses, that children would not otherwise be able to obtain; and

WHEREAS, California school districts provide critical services to students, including referral to, coordination of, and sometimes provision of vision care, dental care, school entry physicals, school immunization clinics, and assistance for students with chronic diseases such as asthma, diabetes, and life-threatening allergies; and

WHEREAS, California school districts opt to invest MAA reimbursements into school outreach and enrollment activities that result in the enrollment of uninsured students in health coverage; and

WHEREAS, California schools demonstrate that they are successful in reaching uninsured families by being second only to Medi-Cal as the place where parents report learning about low- or no-cost health care; and

WHEREAS, Sixty-three percent of school districts serving California's most underserved children participate in the MAA program, and many of these districts partner with managed care health plans, teacher organizations, and community-based organizations to assist with students' health insurance enrollment and maintenance efforts; and

WHEREAS, All of these programs have provided incentives for school districts and community health care providers to better coordinate care necessary to improve student health outcomes; and

WHEREAS, A substantial reduction in Medi-Cal reimbursements would erode California school districts' efforts to close the achievement gap between healthy and unhealthy students; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature expresses its opposition to newly enacted CMS regulations that would eliminate reimbursement for Medicaid School-Based Services programs (the LEA billing option and the MAA program); and be it further

*Resolved,* That California school districts continue to take full advantage of the Medicaid School-Based Services programs to improve health access and health outcomes, and to decrease the health disparities between the students of California; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 85

Senate Concurrent Resolution No. 71—Relative to the Tom Lantos Tunnels at Devil's Slide.

[Filed with Secretary of State July 10, 2008.]

WHEREAS, Tom Lantos has served as a member of the United States Congress House of Representatives since January 3, 1981, and is currently serving his 14th and last term; and

WHEREAS, Tom Lantos was born in Budapest, Hungary, on February 1, 1928, and was 16 years old when Nazi Germany occupied his native country; and

WHEREAS, Tom Lantos was a member of the anti-Nazi underground movement and later was part of the anti-Communist student movement, and is the only Holocaust survivor to ever serve in the United States Congress; and

WHEREAS, An American by choice, Tom Lantos received a B.A. and M.A. in economics from the University of Washington and a Ph.D. in economics from the University of California, Berkeley; and

WHEREAS, For three decades prior to being elected to the Congress, Tom Lantos was a professor of economics at San Francisco State University, an international affairs analyst for public television, and a consultant to a number of Bay Area businesses, and served in senior advisory roles to members of the United States Senate; and

WHEREAS, As a member of the House of Representatives, Tom Lantos worked diligently to address quality of life issues in Bay Area communities, with a strong record on environmental protection and efforts to reform the nation's energy policy. As a former professor and chairman of the Millbrae Board of Education, Tom Lantos has also been a consistent supporter of public education; and

WHEREAS, Tom Lantos led a major investigation of waste, fraud, abuse, and mismanagement at the Department of Housing and Urban Development, and has been a leader in congressional oversight of federal programs; and

WHEREAS, As Chairman of the House Committee on Foreign Affairs, Tom Lantos has been a strong voice for responsible international involvement and an advocate for participation in international organizations, with an emphasis on human rights, having also founded the Congressional Human Rights Caucus and serving as its cochairman; and

WHEREAS, Tom Lantos has been married to Annette Lantos for over 50 years, and they are the parents of two daughters, Annette Tilleman-Dick and Katrina Swett, and have 17 grandchildren and two great-grandchildren; and

WHEREAS, Tom Lantos obtained one hundred fifty million dollars ($150,000,000) in federal funds for construction of a bypass of the hazardous coastal State Highway Route 1 at Devil's Slide and led the bipartisan congressional effort urging the President to declare the area eligible for federal disaster assistance, resulting in San Mateo County

being eligible for FEMA's Public Assistance Program that provides 75 percent reimbursement for repair or replacement of disaster-damaged public facilities; and

WHEREAS, In April 2007, Tom Lantos successfully pushed for expedited federal small business loans to private, for-profit coastal area businesses that have lost significant clientele due to the closure of State Highway Route 1; and

WHEREAS, Tom Lantos was a staunch advocate of the tunnel project option for the Devil's Slide Bypass, which prevented the construction of a destructive and environmentally damaging highway bypass over Montara Mountain, which was the plan initially proposed by the Department of Transportation and supported by many people; and

WHEREAS, It is therefore appropriate to designate the portion of State Highway Route 1 adjacent to and including the future Devil's Slide Tunnels in San Mateo County as the Tom Lantos Tunnels at Devil's Slide; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the portion of State Highway Route 1 adjacent to and including the future Devil's Slide Tunnels in San Mateo County is hereby designated as the Tom Lantos Tunnels at Devil's Slide; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources sufficient to cover the cost, to erect those signs; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 86

Senate Concurrent Resolution No. 84—Relative to the Jay-D Ornsby-Adkins Bridge.

[Filed with Secretary of State July 10, 2008.]

WHEREAS, Jay-D Ornsby-Adkins was born on December 9, 1985, in Middle Swan, Western Australia, to Robyn Ornsby and Shad Adkins, attended Ione Elementary School in Ione, Amador County, and graduated from Independence High School in Sutter Creek, Amador County, in 2005; and

WHEREAS, Jay-D Ornsby-Adkins proudly pursued a career in the United States Army and graduated from basic training on December 8, 2006, at Fort Knox, Kentucky; and

WHEREAS, Jay-D Ornsby-Adkins was assigned to Delta Company 1st Battalion, 15th Infantry Regiment, at Fort Benning, Georgia, where he continued to train, advance his skills, and prepare for combat, and earned the expert badge for grenade, rifle sharpshooter, and pistol marksman; and

WHEREAS, On March 9, 2007, Jay-D Ornsby-Adkins was deployed to Iraq as a member of Delta Company 1st Battalion, 15th Infantry Regiment; and

WHEREAS, On April 28, 2007, while on patrol, Private First Class Ornsby-Adkins and three other members of his unit died in combat; and

WHEREAS, The Legislature wishes to honor this young man who made the ultimate sacrifice for our country and recognize him in the community in a permanent manner; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Highway 49 Amador Creek Bridge, Bridge No. 26-0043, be designated the Jay-D Ornsby-Adkins Bridge; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing that special designation and, upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 87

Senate Concurrent Resolution No. 103—Relative to the Senator Chuck Poochigian Highway.

[Filed with Secretary of State July 10, 2008.]

WHEREAS, Charles S. "Chuck" Poochigian is a third generation resident of central California who was born and raised on a family farm in the Lone Star area of eastern Fresno County, between Fresno and Sanger, near the Highway 180 corridor; and

WHEREAS, Chuck and his wife, Debbie, were married in 1977 and have three grown children, a daughter-in-law, and a grandson; and

WHEREAS, Chuck Poochigian received his bachelor's degree in Business Administration from California State University, Fresno in 1972, and his law degree from the Santa Clara University School of Law in 1975, he served for six years as a member of the California Air National Guard, and he practiced general civil and business law from 1975 until November 1988; and

WHEREAS, In 1988, Poochigian was chosen by Governor George Deukmejian to serve on his senior staff, and assisted the Governor in the selection of key administration officials and members of over 375 state boards and commissions, as well as certain judicial appointments; and

WHEREAS, In 1991, Governor Pete Wilson named Poochigian as his Appointments Secretary, with the primary focus on assisting the Governor in his selection of judges for California's trial and appellate courts; and

WHEREAS, Poochigian was elected to the California State Assembly in 1994, and to the California State Senate in 1998, and over the course of his legislative career he represented eastern parts of central California from Bakersfield to Lodi; and

WHEREAS, As a legislator, Poochigian focused his energy on major public policy issues while being attentive to the particular needs of his constituents in the rich agricultural region of central California, and held key positions including serving as the Chair of the Assembly Appropriations Committee, as the Assistant Republican Leader in the Assembly, as the Republican Caucus Chair and the Assistant Republican Leader in the Senate, and as a legislative appointee to the Little Hoover Commission appointed by both Democratic and Republican leaders; and

WHEREAS, Poochigian received numerous awards and recognition for outstanding public service, including an Outstanding Senator Award, numerous Legislator of the Year Awards, a Technology Leader Award, a Distinguished Legislator Award, a Distinguished Service Award, two President's Recognition Awards, a Distinguished Alumnus Award, and, along with his wife Debbie, a 2007 Distinguished Service Award; and

WHEREAS, Poochigian was a highly respected leader in Sacramento and a staunch advocate for sound fiscal planning, living within our means, and ensuring that the people of central California received a fair share of infrastructure funding, including the distribution of moneys for transportation and school construction; and

WHEREAS, Poochigian authored numerous bills that involved comprehensive reform and required bipartisan consensus, including laws dealing with the expansion of higher education opportunities, special education funding, workers' compensation system reform, and public safety; and

WHEREAS, Poochigian worked tirelessly to support the rights of crime victims and their families, led the fight against identity theft, worked to protect children from dangerous sexual predators, authored bills to incarcerate persons who commit felonies using firearms, and was an advocate for tough penalties for repeat offenders; and

WHEREAS, Poochigian's reputation for strong leadership and hard work was recognized by the California Journal magazine, which ranked him Assembly Republican "Rookie of the Year" for 1996, and he was also ranked among the top five legislators in the 80-member State Assembly in the following separate categories: effectiveness, integrity, intelligence, problem solving, potential, and overall; and

WHEREAS, In ratings released in March 1998, Poochigian was recognized as one of the top five Assembly Members in the categories of integrity and hard work, in the June 1999 California Journal he was described as "A voice of reason highly respected for his problem-solving skills," and in August 2004, the California Journal selected him as the Senate recipient of its "Minnie Award" for integrity; and

WHEREAS, Senator Poochigian now practices law with the Fresno-based firm of Dowling, Aaron & Keeler; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby designates the section of State Highway Route 180 between Clovis Avenue and General Grant Grove Park, in the County of Fresno, as the Senator Chuck Poochigian Highway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 88

Assembly Concurrent Resolution No. 24—Relative to correctional facilities.

[Filed with Secretary of State July 11, 2008.]

WHEREAS, Immigration policy and controlling our nation's borders are clear, fundamental responsibilities of the federal government; and

WHEREAS, The federal government has failed to discharge its fundamental responsibilities, and, as a consequence, high-impact states like California face extraordinary costs associated with incarcerating undocumented foreign nationals; and

WHEREAS, The State Criminal Alien Assistance Program (SCAAP), governed by the federal Immigration and Nationality Act, requires the federal government to reimburse the State of California and local government for the costs of incarcerating undocumented foreign nationals; and

WHEREAS, SCAAP provides federal payments to states and localities that incur costs for incarcerating criminals who were born outside the United States or one of its territories and have no reported or documented claim to United States citizenship, have at least one felony or two misdemeanor convictions for violations of state or local law, and who are incarcerated for at least four consecutive days during the reporting period; and

WHEREAS, The United States Department of Justice through the Bureau of Justice Assistance (BJA) administers SCAAP, in conjunction with the Bureau of Immigration and Customs Enforcement, Department of Homeland Security; and

WHEREAS, The annual cost of incarcerating an inmate at a state prison is now $43,287, according to statistics from the Legislative Analyst's Office; and

WHEREAS, For the last reporting period by the BJA, the State of California received $85,953,191 in reimbursement for 30,646 eligible inmates, a return of $2,805 per inmate; and

WHEREAS, Much of the incarcerating costs are borne by counties, most of which traditionally operate with slim budgets and staffing; and

WHEREAS, For the last reporting period by the BJA, counties and cities in California received $35,157,447 in reimbursement for 61,068 eligible inmates, a return of $576 per inmate; and

WHEREAS, Despite the continued increasing costs associated with the incarceration of undocumented foreign nationals, no funds are provided for SCAAP, for the purposes of assisting states, in the President's 2007–08 budget request; and

WHEREAS, The federal government has not met its national immigration policy obligations or adequately compensated the State of California or its local governments for the costs of incarcerating undocumented foreign nationals in its prisons and jails; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby urges the Governor to demand

the BJA to reimburse the State of California for all costs of incarcerating undocumented foreign nationals; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 89

Assembly Concurrent Resolution No. 140—Relative to College and Career Pathways Month.

[Filed with Secretary of State July 11, 2008.]

WHEREAS, Career technical education programs integrate rigorous academics that are taught through the lens of business, using real-world applications to provide multiple pathways for students to enter both career and college, and the State Department of Education has designed one of the best delivery models in the nation with the California Partnership Academies; and

WHEREAS, Career technical education, as delivered through career-themed academies and pathways programs, has had a significant positive influence on the students, schools, and the State of California by improving high school graduation rates, test scores, dropout rates, and college success; and

WHEREAS, California students who are enrolled in career technical education are preparing for both college and careers and should be recognized for their accomplishments; and

WHEREAS, According to the 2006 California Regional Occupational Centers and Programs Accountability Research Study, which was authored by Dr. Doug Mitchell from the University of California at Riverside, California pupils who participate in career technical programs in high school improve their grade point average at a higher rate than comparison pupils, earn higher wages than comparison group peers, are more successful in securing job raises and promotions than comparison group peers, and enroll in postsecondary educational institutions at a similar rate to their comparison group peers; and

WHEREAS, Philanthropic organizations should be recognized for their contribution to college and career pathways programs in California; and

WHEREAS, California has received significant financial support for college and career pathways programs from nonprofit organizations like the James Irvine Foundation and the Desert Healthcare District; regional agencies, such as the Riverside County Economic Development Agency

and Workforce Development Board; and private business philanthropy, such as the assistance provided by the Ford Motor Company Fund; and

WHEREAS, California regional and local college and career pathways programs should be recognized for their success; and

WHEREAS, Career Pathways Initiative, the career technical program created by the Coachella Valley Economic Partnership, has been recognized as a national best practice regional career technical program worthy of emulation, and additionally, in 2007, Black Oak Mine Unified High School, Whittier Union High School, and Coronado Unified High School received the 2007 biannual award for exemplary technical education programs from the State Department of Education; and

WHEREAS, Ford Partnership for Advanced Studies (Ford PAS), developed by Ford Motor Company Fund, is a program that provides curriculum, professional development, and technical assistance resources to communities wishing to increase career technical education pathways. California will host the Ford PAS National Networking Conference in Rancho Mirage from June 23 to 26, 2008; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature proclaims the month of June 2008 as College and Career Pathways Month to recognize the importance of career technical education for the students, schools, and State of California; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 90

Assembly Joint Resolution No. 40—Relative to the South Coast Air Basin.

[Filed with Secretary of State July 11, 2008.]

WHEREAS, Section 110 (a) of the federal Clean Air Act (42 U.S.C. Sec. 7410 (a)) and federal regulations at 40 CFR 52.220 et seq. require each state to adopt a plan known as the State Implementation Plan (SIP) for implementation, maintenance, and enforcement of primary and secondary national ambient air quality standards in each air quality control region of the state; and

WHEREAS, The South Coast Air Basin is designated as nonattainment for the national ambient air quality standards (NAAQS) for ozone and fine particulate matter (PM 2.5), and the SIPs demonstrating attainment with these standards are due to the United States Environmental

Protection Agency (EPA) by June 2007 and April 2008, respectively; and

WHEREAS, A California Air Resources Board (CARB) report delivered in January 2007 to the South Coast Air Quality Management District (SCAQMD) showed that each year the South Coast Air Basin suffers 5,400 premature deaths, 2,400 hospitalizations, 140,000 cases of asthma and other lower respiratory problems, and 980,000 lost work days because of exposure to PM 2.5 above the state standard; and

WHEREAS, The Southern California Association of Governments (SCAG) is the designated Metropolitan Planning Organization (MPO) pursuant to 23 U.S.C. Sec. 134(d) for the southern California Counties of Los Angeles, Riverside, San Bernardino, Ventura, Orange, and Imperial; and

WHEREAS, The SCAG region is the nation's gateway for domestic and foreign goods, with over 43 percent of all containerized goods passing through the Ports of Los Angeles and Long Beach. More than $256 billion in trade goes through the ports each year supporting a national total of more than 3.3 million jobs; and

WHEREAS, The region pays a heavy price for being the nation's loading dock, receiving an extremely disproportionate share of the diesel pollutants from trucks, ships, aviation, and other sources of goods movement; and

WHEREAS, Growth in the movement of goods through the southern California region's ports is projected to triple over the next 25 years; and

WHEREAS, Toxic diesel air pollution from goods movement sources, such as marine vessels, locomotives, and trucks will increase in the face of this growth unless more protective control actions are undertaken; and

WHEREAS, Diesel emissions are responsible for 70 percent of the cancer risk from air toxics emissions in California; and

WHEREAS, Residents of the South Coast Air Basin are exposed to 52 percent of the national exposure of PM 2.5 above the federal standard; and

WHEREAS, Approximately 80 percent of the emissions associated with these pollutants are not within the authority of local jurisdictions; and

WHEREAS, Both SCAQMD and SCAG have recognized the need by all levels of government to address the situation relating to PM 2.5 exposure; and

WHEREAS, Efforts have been made to reduce PM 2.5 emissions and ameliorate the air quality crisis of the South Coast Air Basin by working through collaborative partnerships with the goods movement industry

and public agencies, the severe air quality conditions and the associated health impact give rise to the need for greater attention, action, and cooperation by all levels of government given the extreme peril placed on the public's health, safety, and welfare; and

WHEREAS, Actions must be taken to secure significant emission reductions from heavy-duty diesel trucks, ocean-going vessels, locomotives, aircraft, and off-road equipment to address these serious public health impacts; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature respectfully memorializes the President of the United States to urge that immediate steps be taken to rectify the existing conditions related to PM 2.5 exposure in the South Coast Air Basin including: (1) the establishment of stringent regulations by the United States Environmental Protection Agency for mobile source emissions sufficient to ensure compliance with all air quality standards required by federal law; and (2) appropriation of federal funds for projects to bring about an immediate reduction in PM 2.5 concentrations in the South Coast Air Basin sufficient to ensure compliance with all air quality standards required by federal law and to implement measures to protect the health and safety of residents in areas of high concentrations of PM 2.5; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 91

Assembly Joint Resolution No. 43—Relative to the federal Help America Vote Act of 2002.

[Filed with Secretary of State July 11, 2008.]

WHEREAS, The State of California is among those states that protect the right to vote of any person who has a mental disability, impose strict requirements for canceling a person's voter registration, and allow a cancellation only if that person is found to be legally incompetent in a formal judicial proceeding; and

WHEREAS, In Missouri, advocates for the mentally ill have sued the state in their effort to make it easier for people under guardianship for mental incapacity to vote, and in New Jersey voters approved an

amendment to the state's constitution to replace language forbidding an "idiot or insane person" to vote; and

WHEREAS, In Maine, a federal ruling a few years ago held that a provision of that state's constitution, twice affirmed by a referendum of the voters, was discriminatory because it barred voting by people under guardianship for mental illness. Also, in recent local elections held in Alabama, South Carolina, and elsewhere, there were accusations of ballots being cast on behalf of nursing home residents who were mentally incompetent to vote; and

WHEREAS, Rhode Island is among a growing number of states presently grappling with the question of who is too mentally impaired to vote, and the issue is drawing attention because of increasing efforts by the mentally ill and their advocates to secure voting rights for persons with a mental disability. In addition, there is mounting concern from psychiatrists and others who work with the elderly about the rights and risks of voting by people with conditions like Alzheimer's disease and dementia; and

WHEREAS, State laws vary and are inconsistently applied, according to Jennifer Mathis, deputy legal director for the Bazelon Center for Mental Health Law, an advocacy group in Washington, D.C.; Ms. Mathis has said that most states fall into one of two categories: about 18 states bar voting by people under guardianship or who are non compos mentis ("not master of one's own mind"), a determination that is often not clearly defined, and another 18 states prohibit voting if there is a specific determination that the person lacks voting competence; and

WHEREAS, Last August, the American Bar Association approved a recommendation from its Commission on Law and Aging that a person should be precluded from voting on the basis of mental incapacity only if "the person cannot communicate, with or without accommodations, a specific desire to participate in the voting process"; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of California calls on the Congress and the President of the United States to amend the Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et seq.) to ensure that eligible citizens of the United States who wish to vote may only be denied the right to vote if they cannot indicate, with or without help, a specific desire to participate in the voting process; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader

of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 92

Assembly Joint Resolution No. 53—Relative to greenhouse gas emissions.

[Filed with Secretary of State July 11, 2008.]

WHEREAS, California has implemented more stringent motor vehicle air emissions regulations than the federal government for over 40 years; and

WHEREAS, In recognition of the pioneering role of the state in protecting public health and welfare from motor vehicle emissions, the United States Congress enacted subdivision (b) of Section 209 of the federal Clean Air Act (42 U.S.C. Sec. 7543(b)) that allows the Administrator of the United States Environmental Protection Agency (Administrator) to waive federal preemption of state motor vehicle standards established; and

WHEREAS, Once a waiver is granted to California for that regulation, other states may adopt the vehicle emission standards established by the California; and

WHEREAS, According to legal papers filed by the California Attorney General, of the approximately 98,000 comments in the docket of the United States Environmental Protection Agency, more than 99.9 percent of those comments supported the petition of the state; and

WHEREAS, Notwithstanding that support, on December 19, 2007, Administrator Stephen Johnson denied the waiver request of California, dated December 21, 2005; and

WHEREAS, According to the Congressional Research Service, California has requested waivers of preemption under subdivision (b) of Section 209 of the federal Clean Air Act (42 U.S.C. Sec. 7543(b)) for vehicle emission standards more than 50 times since that provision was enacted, and the Administrator has never denied such a request, but instead always granted the requests, in whole or in part; and

WHEREAS, The Administrator sought to justify the denial of the waiver on the basis that the national fuel economy standards for vehicles enacted by the federal Energy Independence and Security Act of 2007 would be ''more effective'' at reducing emissions than the California standards; and

WHEREAS, An analysis by the State Air Resources Board shows that the California standards, once fully adopted, would result in, by 2020, twice the amount of carbon dioxide cumulative reduction emissions in California and an 80 percent greater reduction in carbon dioxide emissions nationally, than would be achieved under the federal act; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California hereby encourages the United States Congress and the President of the United States to support the Reducing Global Warming Pollution from Vehicles Act of 2008 (Sen. No. S. 2555, 110th Cong., 2nd Sess. (2008)) and the Right to Clean Vehicles Act of 2008 (H. Res. No. 5560, 110th Cong., 2nd Sess. (2008)), which would permit California and other states to implement their standards to reduce greenhouse gas emissions from motor vehicles; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 93

Assembly Concurrent Resolution No. 99—Relative to school nurses.

[Filed with Secretary of State July 23, 2008.]

WHEREAS, California's credentialed school nurses are pivotal members of a coordinated public school health system, delivering services to children and thereby eliminating health disparities and barriers and supporting academic success for all children; and

WHEREAS, School nurses provide vital links between public and private resources and programs; collaboration between schools and health and human services agencies to bring school and community services to schools; and support efforts to connect families to insurance programs to meet the needs of children and families; and

WHEREAS, In addition to providing valuable health care services to pupils, school nurses perform duties as health managers, managing treatment and medication for pupils with a variety of ailments, including, but not limited to, attention deficit disorder, diabetes, and asthma; and

WHEREAS, When children dealing with serious medical conditions such as cancers, transplants, seizures, and cardiac conditions are released

from the hospital, school nurses provide vital services by reintegrating the sick children back into the general population of the school; and

WHEREAS, There is a severe shortage of California school nurses, with only one school nurse per 4,000 pupils, a ratio that fails to meet federal standards of one school nurse per 750 pupils; and

WHEREAS, In order to encourage nurses to seek employment by public schools, as well as to retain nurses already employed by public schools, it is vital that salaries are increased for school nurses; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby urges school districts to take the steps necessary to increase school nurse salaries; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 94

Assembly Concurrent Resolution No. 122—Relative to the Robert and Pat Nimmo Memorial Highway.

[Filed with Secretary of State July 23, 2008.]

WHEREAS, Robert Nimmo was born in Balboa, California in 1922 to a pioneer ranching family; and

WHEREAS, Robert Nimmo married Patricia Anne Stone in 1950, and together they had three children, Mary, Augusta, and Kathleen; and

WHEREAS, Robert Nimmo enrolled at the California Polytechnic State University, San Luis Obispo in 1940 and later joined the Cal Poly Rodeo Team; and

WHEREAS, Robert Nimmo served from 1943 through 1946 as a pilot in the United States Army Air Corps; and

WHEREAS, Robert Nimmo served from 1950 through 1952 as Company Commander, 161st Ordnance Company; and

WHEREAS, Robert Nimmo's crew was later assigned to the 448th Bombardment Group, 8th United States Air Force, flying missions over France and Germany during the landing at Normandy on June 6, 1944; and

WHEREAS, Robert Nimmo worked with the California State Military Department in various military assignments from 1955 through 1970; and

WHEREAS, Robert Nimmo became a member of the California National Guard at Camp San Luis Obispo, later earned the position of

commanding officer of San Luis Obispo's 161st Ordnance Depot Company, and later became installation commander at Camp San Luis; and

WHEREAS, Robert Nimmo retired with the rank of colonel and in 1964 graduated from the United States Army Command and General Staff College; and

WHEREAS, Robert Nimmo was appointed in 1970 by Governor Ronald Reagan to serve as United States property and fiscal officer for the State of California from 1970 through 1973; and

WHEREAS, Robert Nimmo served as a California State Assembly Member from 1972 through 1976, representing the Counties of Monterey, San Luis Obispo, and Santa Barbara; and

WHEREAS, Robert Nimmo served as a California State Senator from 1976 through 1980, representing the Counties of Monterey, San Luis Obispo, Santa Barbara, and Santa Cruz; and

WHEREAS, Legislation authored by Robert Nimmo effectively advocated for local constituents; and

WHEREAS, This legislation included the development of facilities at California Polytechnic State University, San Luis Obispo, improvements to schools in the Atascadero Unified School District, conservation efforts devoted to Morro Bay State Park, and the protection of Moonstone Beach; and

WHEREAS, Robert Nimmo served on the Assembly Agriculture, Energy and Diminishing Materials, Resources and Land Use, Elections and Reapportionment, Employment and Public Employees, Natural Resources and Conservation, Water, and Retirement Committees; and

WHEREAS, Robert Nimmo served on the Senate Rules, Finance, Agriculture, Local Government, Water Resources, and Revenue and Taxation Committees; and

WHEREAS, Robert Nimmo was an unwavering and vigorous advocate for the California agricultural community; and

WHEREAS, Robert Nimmo was appointed by President Ronald Reagan as the Administrator of Veterans Affairs; and

WHEREAS, Robert Nimmo served on the Atascadero city council from 1990 to 1994; and

WHEREAS, Robert Nimmo served as Mayor of Atascadero from 1992 through 1994; and

WHEREAS, Robert Nimmo worked tirelessly on many issues with the city council, including local economic development, housing, and transportation projects, and was recognized for conducting meetings cordially and with earnest respect to all members and stakeholders; and

WHEREAS, Patricia Nimmo was born in Salinas in 1926; and

WHEREAS, Patricia Nimmo's family moved to Carrizo Plains in San Luis Obispo County in 1929, where she lived with her ranching family for the next 11 years; and

WHEREAS, Patricia Nimmo moved to Atascadero in 1955 with her husband Robert Nimmo; and

WHEREAS, Patricia Nimmo established Nimmo Realty Corp. in Atascadero and worked as a real estate broker for more than 40 years; and

WHEREAS, Patricia Nimmo was a wonderfully energetic participant in the Republican Women's Federation, the Atascadero Chamber of Commerce, and St. William's Church in Atascadero; and

WHEREAS, Robert Nimmo and Patricia Nimmo were an inseparable couple, both devoted to serving their community; and

WHEREAS, Patricia Nimmo was the victim of a tragic car accident while walking with her husband near Highway 41; and

WHEREAS, Robert Nimmo died on November 7, 2005; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby designates the portion of State Highway Route 41 between Creston Road and El Camino Real in the County of San Luis Obispo as the Robert and Pat Nimmo Memorial Highway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing that special designation and, upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 95

Assembly Concurrent Resolution No. 127—Relative to Garden Grove Police Officers Memorial Highway, honoring Myron L. Trapp, Andy R. Reese, Donald R. Reed, Michael L. Rainford, and Howard E. Dallies, Jr.

[Filed with Secretary of State July 23, 2008.]

WHEREAS, The City of Garden Grove has had more police officers killed in the line of duty than any other municipal police agency in Orange County; and

WHEREAS, On October 6, 1959, Garden Grove Police Officer Myron L. Trapp and other officers responded to a call of an assault with a deadly weapon. A man watching a baseball game on television was upset with a road crew working on the street in front of his house and fired two shots from a rifle in their direction. Sergeant Trapp tried to talk the suspect out of the house using a bullhorn. As another officer approached the front door, Sergeant Trapp saw the suspect walking toward the door with the rifle. Sergeant Trapp ran to the front to warn the other officer and the suspect fired once through the door. The bullet passed by the first officer and struck Sergeant Trapp, fatally wounding him; and

WHEREAS, Garden Grove Reserve Officer Andy R. Reese was one of the first reserve officers to work for the City of Garden Grove. He had retired from the military, moved to Garden Grove, and joined the police department. He was a professional reserve officer who could do it all. In the early years of the Garden Grove Police Department, all new officers were required to ride with Officer Reese as a requirement before being sent to an academy. On May 30, 1970, Officer Reese was directing traffic at Brookhurst and Trask Streets during the Strawberry Festival parade. An impatient motorist decided to pass the slow moving traffic and struck Officer Reese, fatally injuring him; and

WHEREAS, Garden Grove Police Officer Donald R. Reed began his law enforcement career as a Garden Grove Police Officer in 1977. Officer Reed quickly earned a reputation as a streetwise police officer with an expertise in narcotics. On June 7, 1980, Officer Reed and three other officers entered the Cripple Creek Bar to serve a felony arrest warrant on a man in the bar. Officer Reed talked to the subject and began to escort him to the back door to prevent an incident inside the bar. As they walked out the door, the man turned and fired a semiautomatic handgun and struck Officer Reed in the chest, fatally wounding him; and

WHEREAS, Garden Grove Police Officer Michael L. Rainford began his law enforcement career with the Garden Grove Police Department as a reserve officer. Officer Rainford quickly earned the respect and trust of all who worked with him and was noted for his ever-present smile and cheerful personality. On November 7, 1980, five months after the loss of Officer Reed, Officer Rainford was on patrol when he saw a traffic violation on Harbor Boulevard and followed the violator onto the westbound Garden Grove Freeway on-ramp. It was a normal car stop for a traffic violation, however, Officer Rainford never made it to the violator. He was struck by a drunk driver and fatally injured; and

WHEREAS, Garden Grove Police Officer Howard E. Dallies, Jr., began his law enforcement career with the Orange County Sheriff's Department and went to the Placentia Police Department before becoming a Garden Grove Police Officer five years later. Officer Dallies was known for being a quiet, patient, and sincerely polite man. On March 9, 1993, at approximately 2:45 am, Master Officer Dallies stopped the driver of a motorcycle on Aldgate Street, east of Brookhurst Street. As Officer Dallies approached the motorcycle, the driver fired six shots at Officer Dallies, striking him four times. Master Officer Dallies was rushed to the hospital, where he died from his wounds; and

WHEREAS, It is appropriate to recognize and honor these fallen officers' sacrifice; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby designates the eight mile portion of State Highway Route 22 in the City of Garden Grove, as the Garden Grove Police Officers Memorial Highway, honoring Myron L. Trapp, Andy R. Reese, Donald R. Reed, Michael L. Rainford, and Howard E. Dallies, Jr.; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of erecting the appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources covering the cost, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 96

Assembly Joint Resolution No. 31—Relative to Medicare Part D.

[Filed with Secretary of State July 23, 2008.]

WHEREAS, The federal government created the Medicare Part D prescription drug program as part of the Medicare Modernization Act of 2003; and

WHEREAS, Over 4.3 million California seniors are eligible for the Medicare Part D program, approximately one million of whom are also eligible for California's Medi-Cal program and are therefore considered dual eligibles; and

WHEREAS, The Medicare Modernization Act of 2003 provides for Part D drug coverage only through enrollment in private plans rather

than allowing Medicare beneficiaries the option of obtaining Part D coverage administered by the Medicare program itself; and

WHEREAS, The Medicare Modernization Act of 2003 prohibits the Secretary of Health and Human Services from negotiating lower drug prices on behalf of Medicare beneficiaries; and

WHEREAS, Medicare Part D participants frequently reach the "doughnut hole," a coverage gap in which they must pay the full cost of their prescription drugs; and

WHEREAS, Medicare Part D participants face "lifetime penalties" if they enroll in the program after their initial enrollment period; and

WHEREAS, Medicare Part D participants face a confusing choice between 55 stand-alone private drug plans with varying premiums, copayments, deductibles, and coverage; and

WHEREAS, The Medicare Part D program does not provide adequate information for participants to make decisions based on plan performance, deficiencies, or consumer complaints; and

WHEREAS, Dual eligibles frequently have many fewer prescription drugs available to them and face dramatically higher copayments under Medicare Part D than they did under Medi-Cal; and

WHEREAS, Dual eligibles frequently face problems accessing prescription drugs due to programmatic delays in assignment to Part D plans and a lack of a meaningful back-up or safety-net coverage when systems fail; and

WHEREAS, California has already spent millions of dollars to remedy problems with the implementation and operation of the Medicare Part D program; and

WHEREAS, California has limited regulatory power over the private drug plans offering coverage to California seniors; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature calls on the Congress and the President of the United States to require that the federal government negotiate for the lowest available prices for prescription drugs under the Medicare Part D program; and be it further

*Resolved,* That the Legislature calls on the Congress and the President of the United States to negotiate for the lowest available prices for prescription drugs under the Medicare Part D program; and be it further

*Resolved,* That the Legislature calls on the Congress and the President of the United States to eliminate the "doughnut hole" gap in coverage in the Medicare Part D program; and be it further

*Resolved,* That the Legislature calls on the Congress and the President of the United States to reduce the "lifetime penalty" for late enrollment in the Medicare Part D program; and be it further

*Resolved,* That the Legislature calls on the Congress and the President of the United States to eliminate out-of-pocket costs for dual eligibles and provide for a true safety-net, including Medicaid wraparound coverage, that ensures that dual eligibles have continuous comprehensive access to prescription drugs; and be it further

*Resolved,* That the Legislature calls on the Congress and the President of the United States to ensure that California is fully reimbursed for the costs of remedying problems with the implementation and operation of the Medicare Part D program; and be it further

*Resolved,* That the Legislature calls on the Congress and the President of the United States to give California greater regulatory jurisdiction over Medicare Part D plans; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 97

Assembly Joint Resolution No. 41—Relative to endangered species.

[Filed with Secretary of State July 23, 2008.]

WHEREAS, Some of the world's most remarkable species are threatened by global warming, industrial fisheries, marine pollution, oil spills, and other factors; and

WHEREAS, More than one-half of the world's 19 penguin species are in danger of extinction, yet only one, the Galapagos penguin, is currently listed under the federal Endangered Species Act; and

WHEREAS, Polar bears, the largest of the world's bear species, live only in the Arctic, and are also threatened with extinction as global warming causes catastrophic environmental change in the Arctic that is rapidly melting away the bears' essential Arctic sea-ice habitat; and

WHEREAS, Rising concentrations of carbon dioxide and other greenhouse gases in the atmosphere are causing global average temperatures to increase, and the temperature increases in the Arctic and Antarctic are far greater than the global average; and

WHEREAS, In the Arctic, rising temperatures have already resulted in decreasing extent of sea ice, with the minimum extent of sea ice in 2007 1,000,000 square miles below the average minimum of the past several decades, and less than forecast by most climate models for the year 2050; and

WHEREAS, The United States Geological Survey has concluded that under a "business as usual" greenhouse gas emissions trajectory, two-thirds of the world's polar bears will be extinct by midcentury, including all of the bears in Alaska; and

WHEREAS, On July 11, 2007, in response to a scientific petition, the United States Fish and Wildlife Service announced it is officially in the process of considering protecting 10 penguin species, including the emperor, northern and southern rockhopper, macaroni, Humboldt, African, white-flippered, erect-crested, Fiordland crested, and yellow-eyed penguin; and

WHEREAS, On May 14, 2008, in response to a scientific petition, the United States Department of the Interior issued a decision to list the polar bear as a threatened species under the federal Endangered Species Act due to the melting of the polar bear's sea ice habitat, but concurrently issued a "special rule" to waive full protection of the polar bear and its habitat; and

WHEREAS, This protection would provide a vital safety net for these threatened penguin species and for polar bears on the brink of extinction, and also help alert the public to the preventable tragedy of their decline, including the fact that a rapid, dramatic reduction in greenhouse gas emissions is necessary to prevent the extinction of these species; and

WHEREAS, The United States Fish and Wildlife Service has missed the deadline to issue a 12-month petition finding for the 10 penguin species; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature commends the United States Department of the Interior for its decision to list the polar bear as a threatened species under the federal Endangered Species Act, and respectfully memorializes the department to extend to the polar bear and its habitat all of the protections mandated by that act; and be it further

*Resolved,* That the Legislature respectfully memorializes the United States Fish and Wildlife Service to advance the 10 penguin species proposed for protection to the next stage in the federal Endangered Species Act listing process, if that agency determines that the decision is scientifically justified, with a formal proposal to list them as threatened or endangered; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to

the United States Department of Fish and Wildlife, and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 98

Assembly Joint Resolution No. 49—Relative to California gray whales.

[Filed with Secretary of State July 23, 2008.]

WHEREAS, Each year, the California gray whale (Eschrichtius robustus of the Eastern North Pacific stock) migrates along the California coast to feeding grounds in the Arctic, a journey of 8,500 to 11,000 miles; and

WHEREAS, The California gray whale is important for public education, recreational value, aesthetic appeal, economic significance, and scientific interest to the people of California; and

WHEREAS, Whale watching contributes to local economies in direct revenues and in the overall economic well-being of coastal communities, including the creation of jobs; and

WHEREAS, Whale watching generates tens of millions of dollars in California annually; and

WHEREAS, The California gray whale migrates past one of the most heavily industrialized coastlines in the world, exposing the California gray whale to marine pollution, marine vessel traffic, industrial noise, activities associated with the development of the outer continental shelf resources, fishing entanglements, bottom trawling, industrial development, and military and nonmilitary sonar activity; and

WHEREAS, Marine mammals, including the California gray whale, are vulnerable to underwater sound, including high-intensity mid-frequency sonar systems used off the California coast; and

WHEREAS, These sonar systems blast across large areas with levels of underwater noise loud enough to have resulted in deaths of marine mammals in incidents around the world; and

WHEREAS, The significant threats posed by global warming, melting sea ice, and the impact of increased sea water temperature in the Arctic feeding grounds of the California gray whale have very serious implications for the species; and

WHEREAS, The federal government placed the gray whale on the endangered and threatened species list in 1970 when its estimated population was approximately 12,000 and removed it in 1994 when the population rose to 23,000; and

WHEREAS, Prewhaling population estimates used as a factor in determining species recovered status of the gray whale are now known to be erroneous and account only for a fraction of actual historical populations; and

WHEREAS, A major collapse in 1999 and 2000 is estimated to have wiped out one-third to almost one-half of the population; and

WHEREAS, There has been no proper population estimate published by the National Marine Fisheries Service since 2001; and

WHEREAS, There is no habitat protection for the Pacific Coast Feeding Aggregation in California, Oregon, or Washington State; and

WHEREAS, There are inconsistencies in the protection states give to gray whales; and

WHEREAS, Oregon lists the gray whale as endangered; and

WHEREAS, Washington lists the gray whale as sensitive; and

WHEREAS, California, by law, defers to the federal government and lists the gray whale as recovered; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature respectfully requests the United States Congress and the President of the United States to call upon the National Marine Fisheries Service to undertake an immediate and comprehensive assessment of the California gray whale. This assessment should include all current research covering the migration routes, population dynamics, and mortality of the California gray whale, and the impacts of threats to the California gray whale, including the impact of global warming on critical feeding grounds; and be it further

*Resolved,* That the National Marine Fisheries Service publish, and make available to the public, the results of the comprehensive assessment of the California gray whale; and be it further

*Resolved,* That, if the results of the comprehensive assessment or the body of scientific evidence warrants it, the National Marine Fisheries Service is requested to change the status of the gray whale to endangered; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the National Marine Fisheries Service, the President and Vice President of the United States, the Speaker of the House of Representatives, the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

## RESOLUTION CHAPTER 99

Assembly Joint Resolution No. 52—Relative to commercial motor vehicles.

[Filed with Secretary of State July 23, 2008.]

WHEREAS, The State of California is committed to protecting the safety of motorists on its highways and to protecting taxpayers' investment in our highway infrastructure; and

WHEREAS, The Senate and Assembly of the State of California resolved jointly to urge the Congress of the United States to oppose proposals to increase truck size or weight limitations in 1997 Assembly Joint Resolution 8 and 2003 Senate Joint Resolution 7 because of the concern that longer combination vehicles and other larger trucks present to highway safety; and

WHEREAS, There are proposals to remove the federal freeze on the size or weight of commercial motor vehicles, including triple-trailer trucks, in legislation reauthorizing federal transportation funding, which will be considered in the United States Congress in 2009; and

WHEREAS, Recent events have focused public concern on the quality of our highway infrastructure, especially bridges; and

WHEREAS, Federal and state studies have found that increasing the size and weight of commercial motor vehicles may accelerate the deterioration of bridges; and

WHEREAS, The 2007 National Bridge Inventory maintained by the Federal Highway Administration classified 6,977 bridges in California as having been rated structurally deficient or functionally obsolete; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That California does hereby reaffirm its opposition to removing the federal freeze on increases in the size or weight of commercial motor vehicles because of the impact that these increases would have on highway infrastructure, especially bridges; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Majority Leader of the Senate, and each Senator and Representative from California in the Congress of the United States.

## RESOLUTION CHAPTER 100

Assembly Joint Resolution No. 62—Relative to West Coast sea turtle protection.

[Filed with Secretary of State July 23, 2008.]

WHEREAS, California is a coastal state that is dedicated to protection of our ocean resources, fisheries, and marine wildlife; and

WHEREAS, Sea turtles, fish, and marine mammals are a central component of California's natural heritage and marine biodiversity; and

WHEREAS, According to the National Marine Fisheries Service, the waters off the central California coast are a critical foraging area for Pacific leatherback sea turtles; and

WHEREAS, According to the National Marine Fisheries Service and the United States Fish and Wildlife Service in its "Recovery Plan for the U.S. Pacific Populations of the Loggerhead Turtle (Caretta caretta)," the waters off the California coast are a significant migratory corridor and foraging area for North Pacific loggerhead sea turtles; and

WHEREAS, Scientists have determined that the populations of Pacific leatherback and North Pacific loggerhead sea turtles have declined by approximately 95 percent and 80 percent to 86 percent, respectively, in the last 25 years, as reported by Duke University in 2004; and

WHEREAS, Prominent sea turtle biologists from Drexel University and Indiana-Purdue University predict that the death of more than 1 percent of the adult female Pacific leatherback sea turtle population each year could lead to the extinction of the species, as published in 2000 in the journal Nature, indicating the catch of small numbers of Pacific leatherback sea turtles is a serious threat to their future survival; and

WHEREAS, Scientists at the 2003 annual meeting of the American Association for the Advancement of Science estimated that the Pacific leatherback sea turtle could become extinct if existing by-catch rates are not reduced; and

WHEREAS, The National Marine Fisheries Service biological opinion and incidental take statement on the Hawaii-based pelagic, deep-set longline fishery predicts that current population trends indicate a high probability that North Pacific loggerhead sea turtles will be effectively extinct within approximately 50 years; and

WHEREAS, Injury and mortality from interactions with longline fishing gear are direct contributors to the rapid decline, and potential extinction, of Pacific leatherback and North Pacific loggerhead sea turtles, according to a study published by Duke University scientists in 2004; and

WHEREAS, Data collected from fishing vessels have revealed that shallow-set longlines that are targeting swordfish snare loggerhead turtles at a rate 10 times greater, and leatherback sea turtles at a rate approximately 3 times greater, than deep-set longlines, as reported by scientists at Dalhousie University and Duke University; and

WHEREAS, The National Marine Fisheries Service is considering approval of an exempted fishing permit (EFP) to authorize shallow-set longlining to target swordfish within the Exclusive Economic Zone (EEZ) of the California coast where commercial pelagic longline fishing has never been permitted; and

WHEREAS, The proposed EFP would allow longline fishing inside the Pacific leatherback conservation area, an area closed to selected types of fishing gear that are known to impact Pacific leatherback sea turtles; and

WHEREAS, In 1989 with the enactment of Section 9028 of the Fish and Game Code, the California Legislature prohibited pelagic longline fishing in the EEZ off the California coast by banning the use of hook and line fishing gear longer than 900 feet; and

WHEREAS, The National Marine Fisheries Service is also considering authorizing the placement of a shallow-set longline fishery to target swordfish on the high seas (High Seas Swordfish Fishery) off the West Coast of the United States in an area known to be used by Pacific leatherback and North Pacific loggerhead sea turtles; and

WHEREAS, Longlining for swordfish has been prohibited on the high seas off the West Coast of the United States since 2004 when the federal government determined that by-catch of North Pacific loggerheads by the High Seas Swordfish Fishery would violate the federal Endangered Species Act's jeopardy prohibition and determined that the "reasonable and prudent alternative" was to close the shallow-set (swordfish) component of the High Seas Swordfish Fishery; and

WHEREAS, A high seas swordfish fishery off the West Coast of the United States will also result in the intentional and incidental capture of Yellowfin, and Bigeye tuna, which populations are already considered to be overfished or are experiencing overfishing by the Inter-American Tropical Tuna Commission (IATTC) or US Stock Assessments or both; and

WHEREAS, On December 27, 2007, the National Marine Fisheries Service found merit in a formal petition asking that California's waters be designated as critical habitat area for the endangered Pacific leatherback sea turtle under the federal Endangered Species Act and a study to make a final determination is currently underway; and

WHEREAS, On November 16, 2007, the federal government announced it had found merit in a formal petition request to list the North

Pacific loggerhead sea turtles found off the West Coast of the United States as endangered under the federal Endangered Species Act and a study to make a final determination is ongoing; and

WHEREAS, The federal Endangered Species Act requires the National Marine Fisheries Service to give highest priority to the protection of threatened and endangered species; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California acknowledges the severe decline of Pacific leatherback and North Pacific loggerhead sea turtle populations and supports efforts to recover and preserve these populations; and be it further

*Resolved,* That the Legislature of the State of California requests the National Marine Fisheries Service to delay consideration of, or deny, the swordfish longline exempted fishing permit in the West Coast EEZ, until Pacific leatherback sea turtle critical habitat is established, the federal status of the North Pacific loggerhead sea turtle is clarified, and critical habitat is designated for the North Pacific loggerhead sea turtle should its protected status be strengthened to "endangered"; and be it further

*Resolved,* That the Legislature of the State of California requests that the National Marine Fisheries Service defer consideration of any efforts to introduce shallow-set longline fishing off the California coast, both inside and outside the EEZ, until Pacific leatherback sea turtle critical habitat is established, the federal status of the North Pacific loggerhead sea turtle is clarified, and critical habitat is designated for the North Pacific loggerhead sea turtle, if it is designated as "endangered"; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Commerce, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 101

Assembly Joint Resolution No. 48—Relative to student loans.

[Filed with Secretary of State July 24, 2008.]

WHEREAS, Access to quality postsecondary education is vital to the long-term health of California's economy; and

WHEREAS, Three-quarters of Americans between the ages of 18 and 24 participate in some form of postsecondary education, including attending a private or public university, community college, or a vocational program; and

WHEREAS, Without student financial aid programs that include grants and loans, the cost to participate in higher education programs would be prohibitive for many individuals; and

WHEREAS, Increases in college tuition and reductions in federal and state grant programs for low-income students have resulted in a growing reliance on loans to offset higher education costs; and

WHEREAS, The federal government now guarantees most student loans against default and provides banks with subsidy payments in addition to borrower interest payments, resulting in more banks being willing to provide student loans to young people; and

WHEREAS, According to the Project on Student Debt, two-thirds of students graduating from four-year colleges accumulate an average of almost twenty thousand dollars ($20,000) in college loan debt, more than double the average college loan debt of 10 years ago, while, at private, nonprofit colleges, three quarters of all students graduate with student loan debt and one-fourth graduate with almost thirty thousand dollars ($30,000) in student loan debt, while 10 percent accumulate debt in excess of forty thousand dollars ($40,000); and

WHEREAS, Federal law sets the maximum interest rate and fees that lenders may charge for federally guaranteed loans, while private loans may contain higher interest rates and fees; and

WHEREAS, Reports have surfaced that the student loan lending industry is considering discontinuing private college loans to students who had low credit scores or are potential high credit risks, or students attending schools with low graduation rates; and

WHEREAS, Financial aid in the form of grants and federal loans, and private student loans that contain reasonable interest rates and conditions, are crucial to the ability of many of California's students to obtain higher education; now, therefore, be it

*Resolved, by the Assembly and the Senate of the State of California, jointly,* That the California State Legislature memorializes the United States Congress and the President of the United States to ensure that low-income students, through increased funding for grants and direct federal loans and assuring the continued availability of federal Title IV student financial aid programs, continue to have the opportunity to attend institutions of higher education; and be it further

*Resolved,* That the California State Legislature memorializes the United States Congress and the President of the United States to work with states to establish new programs and support existing programs that

work to educate students about the potential benefits and risks associated with student loans and debt, and about additional financial aid options that may be available to students; and be it further

*Resolved,* That the California State Legislature memorializes the United States Congress and the President of the United States to ensure that financial aid programs, including private loan programs, contain reasonable terms and conditions and do not discriminate against or fundamentally reduce access to educational opportunities for low-income students; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 102

Assembly Joint Resolution No. 60—Relative to a speech shield law for America's journalists.

[Filed with Secretary of State July 25, 2008.]

WHEREAS, A free press is vital to the publication of important news within our society so that our government is accountable to its citizens; and

WHEREAS, A journalist's promise of confidentiality to a source is often the only way the public can learn about waste, fraud, and abuse in government and the private sector, and the forced disclosure of confidential sources and information will cause individuals to refuse to talk to journalists, resulting in a chilling effect on the free flow of information and the public's right to know; and

WHEREAS, The most famous confidential source in United States history, W. Mark Felt, also known as Deep Throat, voluntarily revealed his identity as a resident of Santa Rosa 33 years after the Watergate scandal revealed corruption in the highest levels of the Nixon White House; and

WHEREAS, Shield laws promote the free flow of information to the public and prevent government from making journalists its investigative agents by prohibiting courts from holding journalists in contempt for refusing to disclose unpublished news sources or information received from those sources; and

WHEREAS, California's shield law was first enacted in 1935 and later incorporated as subdivision (b) of Section 2 of Article I of the California Constitution in 1980 to provide that a journalist may not be held in contempt for refusing to disclose a news source or unpublished information gathered for news purposes; and

WHEREAS, California's shield law was broadened in 2000 to also provide that no testimony or other evidence given by a journalist under subpoena in a civil or criminal proceeding may be construed as a waiver of immunity rights provided by the California Constitution, that a journalist subpoenaed in any civil or criminal proceeding shall be given at least five days' notice, except in exigent circumstances, and that a judge must set forth findings on the record stating why the testimony of a journalist is essential to guarantee the defendant's constitutionally guaranteed right to a fair trial when presiding over a criminal trial wherein a journalist is asserting protection under the media shield law; and

WHEREAS, In O'Grady v. Superior Court (2006) 139 Cal.App.4th 1423, the application of California's shield law was further broadened to include the gathering and collection of news by journalists publishing information through the Internet; and

WHEREAS, Thirty-five states—Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, and Washington—and the District of Columbia have statutory shield laws giving journalists some form of privilege against compelled production of confidential or unpublished information; and

WHEREAS, Fourteen states—Hawaii, Idaho, Iowa, Kansas, Massachusetts, Mississippi, Missouri, New Hampshire, South Dakota, Texas, Vermont, Virginia, West Virginia, and Wisconsin—have established varying confidentiality privileges for journalists through their courts; and

WHEREAS, In 2007, legislation was introduced in six states—Kansas, Massachusetts, Missouri, Texas, Utah, and West Virginia—to establish a statutory shield law and in New York to expand its shield law; and

WHEREAS, In 2008, legislation was introduced in three states—Hawaii, Maine, and Wisconsin—to establish a statutory shield law and in Washington to expand its shield law; and

WHEREAS, Pending measures in the Congress of the United States would establish a federal shield law for journalists through the enactment of the Free Flow of Information Act; and

WHEREAS, The pending Free Flow of Information Act establishes that a federal entity may not compel a journalist to divulge confidential sources unless a court determines by a preponderance of the evidence that (1) it is necessary because all reasonable alternatives have been exhausted, (2) it is essential to a criminal investigation, it is necessary to prevent imminent harm to national security or to individuals, or it is necessary to identify a person who has violated medical and financial privacy laws, and (3) taking into account the public interests, nondisclosure of a confidential source would be contrary to the public interest; and

WHEREAS, The pending Free Flow of Information Act stipulates that the testimony or documents sought by a federal entity from a journalist should be narrowly and appropriately tailored in scope; and

WHEREAS, A 2008 University of Arizona survey found that there were 335 federal subpoenas in 2006 seeking information obtained by a reporter following a promise of confidentiality and, of these, 21 sought the names of confidential sources and 13 sought other information obtained under a promise of confidentiality; and

WHEREAS, Over the last seven years, four federal courts of appeals—the First Circuit, the Fifth Circuit, the Ninth Circuit, and the Circuit for the District of Columbia—have affirmed contempt citations issued to reporters who declined to reveal confidential sources; and

WHEREAS, Federal courts are imposing prison sentences that are increasingly severe on journalists for nondisclosure of confidential sources, most recently demonstrated in 2008 by the United States District Court for the District of Columbia in Hatfill v. Mukasey (D.C. Cir. Mar. 7, 2008, No. 03–1793) ____ F. 3d ____, in which the court ordered fines of up to $5,000 a day on a journalist and expressly prohibited the journalist from seeking assistance from her employer in paying the fines, even though the fine related to activities occurring within the course and scope of her employment; and

WHEREAS, In relation to Miller v. United States (2005) 125 S.Ct. 2977, and Cooper v. United States (2005) 125 S.Ct. 2977, the Attorneys General of 34 states—Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, and Wisconsin—and the District of Columbia stated in an amicus brief submitted to the United States Supreme Court, "A federal policy that allows journalists to be imprisoned for engaging in the same conduct that these State privileges encourage and protect 'buck[s] that clear policy of virtually all states,' and

undermines both the purpose of the shield laws, and the policy determinations of the State courts and legislatures that adopted them"; and

WHEREAS, Confidentiality of certain communications has long been protected in order to further important interests, both public and private, including communications between doctor and patient, lawyer and client, and priest and penitent; and

WHEREAS, A May 2005 poll conducted by the First Amendment Center and American Journalism Review found that 69 percent of Americans agree with the statement: "Journalists should be allowed to keep a news source confidential"; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California respectfully urges the Congress of the United States to enact a shield law for America's journalists; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 103

Senate Concurrent Resolution No. 83—Relative to California Indian Heritage Month.

[Filed with Secretary of State August 6, 2008.]

WHEREAS, President George W. Bush proclaimed November 2007 as National American Indian Heritage Month in recognition of American Indians and Alaskan Natives; and

WHEREAS, California is home to more Native American Indian tribes than any other state in the United States; as of the last census, over 430,000 American Indians were living in the state in 2006, and their history forms an integral part of the state's history that needs to be told; and

WHEREAS, In recognition of the sovereignty of the California Indian nations to be self-governing, self-supporting, and self-reliant, Californians are working to protect and enhance tribal resources; and

WHEREAS, California Indians, through their rich cultural traditions and proud ancestry, have made vital contributions to the strength and diversity of our society; and

WHEREAS, Native American Indians have given much to the United States and to California and, in recognition of this fact, it is fitting that the honor is returned by recognizing Native American Indians for their rich history and commitment to the State of California; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature proclaims that the month of November 2008 be recognized as California Indian Heritage Month, encourages the observance of this event with activities that celebrate the uniqueness of Americans, and takes this opportunity to commend California Indian nations for their outstanding contributions to this great state; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 104

Senate Concurrent Resolution No. 118—Relative to Sea Otter Awareness Week.

[Filed with Secretary of State August 6, 2008.]

WHEREAS, Sea otters play a critical role in the marine ecosystem as a keystone species. They are an integral part of California's world-renowned kelp forests and its coastal economy; and

WHEREAS, Sea otters prey on kelp-eating sea urchins and other marine herbivores, promoting healthy kelp forests that, in turn, support numerous fish species and invertebrates. Without sea otters, these rich ecosystems collapse; and

WHEREAS, Sea otters serve as a sentinel species of the coastal nearshore ecosystem. If sea otters are unable to thrive, their plight signals that there are significant problems with the overall health of the coastal ecosystem; and

WHEREAS, An increased southern sea otter population could provide one hundred million dollars ($100,000,000) in annual economic benefits to California through tourism and recreation-related jobs; and

WHEREAS, Despite years of effort, the sea otter remains one of the most critically imperiled Pacific marine mammals; and

WHEREAS, The state population of sea otters has declined, or failed to increase, in eight out of the last 12 years, and scientists remain concerned about the long-term viability of the species due to its high disease and mortality rates; and

WHEREAS, The fate of the sea otter is linked directly to the health of our oceans; and

WHEREAS, The public should be educated about the need to protect California's sea otter population and the coastal waters in which they live; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby proclaims the last week of September as Sea Otter Awareness Week in the State of California, and urges all Californians to be aware that the imperiled sea otter is an integral part, and a symbol of, California's coastal nearshore ecosystem and serves as an indicator for the overall health of California's marine ecosystems, and, thus, there is a need to protect both the sea otter and the coastal waters in which it lives; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 105

Senate Concurrent Resolution No. 121—Relative to Valley Fever Awareness Month.

[Filed with Secretary of State August 6, 2008.]

WHEREAS, Valley fever (coccidioidomycosis), a progressive, multisymptom, respiratory disorder, is a debilitating disease; and

WHEREAS, It is caused by the inhalation of tiny airborne fungi that live in soil, but are released into the air by soil disturbance or wind; and

WHEREAS, Valley fever attacks the respiratory system, causing infection that can lead to symptoms that resemble a cold, influenza, or pneumonia redundant; and

WHEREAS, Left untreated or mistreated, infection can spread from the lungs into the bloodstream, causing inflammation to the skin, permanent damage to lung and bone tissue, and swelling of the membrane surrounding the brain, leading to meningitis, which can be devastating and even fatal; and

WHEREAS, Once serious symptoms of valley fever appear, including pneumonia and labored breathing, treatment must be prompt with antifungal drugs that are disagreeable and often toxic, especially for patients who have them injected beneath the base of their skulls for meningitis, causing side effects such as nausea, fever, and kidney damage; and

WHEREAS, Within California alone, valley fever is found in portions of the Sacramento Valley, all of the San Joaquin Valley, desert regions, and portions of southern California; and

WHEREAS, In the last 10 years, infection rates in California and Arizona have risen 400 percent, from an estimated 1,600 cases in 1996 to over 8,000 cases in 2006; and

WHEREAS, Central valley prison inmates are being infected by valley fever at epidemic levels, contributing significantly to the state's prison health care costs; and

WHEREAS, Valley fever kills between 100 and 200 more Americans every year than tuberculosis; and

WHEREAS, Valley fever most seriously affects the young, the elderly, those with lowered immune systems, and those of African American and Filipino descent; and

WHEREAS, Valley fever has been a disease studied for the past 100 years, but still remains impossible to control and difficult to treat; and

WHEREAS, There is no known cure to date for valley fever; however, researchers are closer than they ever have been to finding a much needed vaccine to cure this devastating disease; and

WHEREAS, The research effort to find a vaccine and a funding partnership, including funding from the State of California, were approved by the Legislature and signed by Governor Wilson in 1997; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature does hereby proclaim August 2008 as Valley Fever Awareness Month; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 106

Senate Concurrent Resolution No. 85—Relative to the Pacific bluefin tuna.

[Filed with Secretary of State August 7, 2008.]

WHEREAS, The Pacific bluefin tuna is rapidly approaching the fate of the collapsed Atlantic bluefin tuna population, which has declined by more than 80 percent since 1975, due to overfishing and the lack of effective conservation and protection efforts; and

WHEREAS, The economic losses for California coastal communities as a result of the diminishing bluefin tuna population in the Pacific Ocean

include decreased security of the pelagic (open ocean) seafood market and fishing industry, decreased reliability and productivity of coastal goods and services, and depletion of jobs and income for those communities and stakeholders involved in the pelagic seafood fishing industry; and

WHEREAS, The populations of all other bluefin tuna species, except Pacific bluefin tuna have been declared overfished and have been designated as "endangered" or "critically endangered" by the International Union for Conservation of Nature (IUCN); and

WHEREAS, Complete information on the status of the Pacific bluefin tuna requires further study while emerging data suggests the fishing pressure on this species is likely to increase due to the high worldwide demand for bluefin tuna and the decreased supply from Atlantic and Southern bluefin tuna populations; and

WHEREAS, The commercial catch of Pacific bluefin tuna for California's coast from 1950 to 1998 averaged 11,434,390 pounds per year; however, since 1999, the average catch has spiraled down to an average of 294,544 pounds of tuna per year, a devastating drop; and

WHEREAS, Overfishing has caused dramatic shifts in bluefin tuna populations that have pushed the species closer to extinction on a global scale; and

WHEREAS, The potential crisis facing the Pacific bluefin tuna population could portend future oceanic ecological losses because of the loss of habitat and the inability of the ocean environment to recover from a biological disruption of such significance that could adversely affect the sustainability of current marine life; and

WHEREAS, The declining tuna population off California's coast is one of several factors accounting for the rising numbers of its prey, the Humboldt squid (Dosidicus gigas), which can invade and devour marine life in the tuna's absence, thereby drastically altering the composition and structure of the pelagic community for the coast of California; and

WHEREAS, Tuna swim in enormous schools, often numbering in the thousands, which allows the capture of entire schools of bluefin tuna, threatening global bluefin tuna populations and significantly facilitating overfishing of the bluefin tuna; and

WHEREAS, The Pacific bluefin tuna is a slow growing, long-lived endothermic fish that migrates thousands of miles across the open ocean to feed and spawn; and

WHEREAS, The Pacific bluefin tuna is caught by the fishing fleets of nations that capture the tuna at their spawning areas near Japan, Taiwan, and the Philippines before they have a chance to spawn, which further decimates the Pacific bluefin tuna population; and

WHEREAS, Research institutions, agencies, and organizations that support and promote bluefin tuna protection range from local research institutes and state agencies, to federal organizations and nonprofits, to international councils and committees; and

WHEREAS, The current national and international regulatory structure of undeclared fishing stocks is failing to provide prospective management and protection for the Pacific bluefin tuna population against growing pressures due to a lack of sufficient data which would allow full analysis of current and future threats throughout the migratory range of the species and help to prevent the collapse of the Pacific bluefin tuna as has been found in other bluefin tuna populations; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the state Legislature acknowledges the potential devastation to the Pacific bluefin tuna species, and supports efforts to recover and preserve the population; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Governor, the Fish and Game Commission, the Department of Fish and Game, the Ocean Protection Council, the National Oceanic and Atmospheric Administration, the National Marine Fisheries Service, the Inter-American Tropical Tuna Commission, and the Western and Central Pacific Fisheries Council to seek their assistance in working with the Pacific Regional Fishery Management Council and other appropriate authorities for the cessation of illegal, unreported, and unregulated bluefin tuna overfishing, the implementation of a robust stock assessment for Pacific bluefin tuna to evaluate and enhance conservation efforts for the status of this highly valuable resource, and the imposition and enforcement of catch limits for Pacific bluefin tuna in the United States Exclusive Economic Zone.

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## RESOLUTION CHAPTER 107

Senate Joint Resolution No. 28—Relative to nutrition.

[Filed with Secretary of State August 7, 2008.]

WHEREAS, Scientific studies have linked consuming too much sodium to high blood pressure, which is a major risk factor for heart disease and stroke; and

WHEREAS, The National Academy of Sciences recommends that adults consume no more than 2,300 milligrams of sodium each day, roughly the amount of a teaspoon of salt. However, for persons with a higher risk of having high blood pressure, including persons over 50

years of age and African Americans, the National Academy of Sciences recommends that no more than 1,500 milligrams of sodium be consumed each day; and

WHEREAS, Americans typically consume about 4,000 milligrams of sodium each day; and

WHEREAS, The American Medical Association cites estimates that 150,000 lives could be saved annually if Americans were to reduce their sodium consumption by 50 percent, which is a goal the American Medical Association states can be attained within a decade; and

WHEREAS, Other industrialized countries have already begun grappling with the problem of too much sodium consumption. For instance, according to the American Medical Association, in Finland, government and industry have collaborated to bring about a 40-percent decrease in sodium consumption since the late 1970s. In the United Kingdom, government has set voluntary sodium reduction targets for about 70 types of processed foods; and

WHEREAS, The majority of salt in our food is added by restaurants and food processors and not by individuals; now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly,* That the Legislature of the State of California urges the federal Food and Drug Administration to respond to the issue of sodium consumption by revoking the "Generally Recognized as Safe" classification and reclassifying sodium as an additive; and be it further

*Resolved,* That the Legislature of the State of California urges the United States Department of Agriculture and the United States Department of Health and Human Services to respond to the issue of sodium consumption by setting new food guidelines addressing the amount of sodium in food; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President of the United States, to each Senator and Representative from California in the Congress of the United States, to the Secretary of the United States Department of Agriculture, to the Secretary of the United States Department of Health and Human Services, and to the Commissioner of the federal Food and Drug Administration.

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## RESOLUTION CHAPTER 108

Senate Concurrent Resolution No. 77—Relative to fall prevention.

[Filed with Secretary of State August 11, 2008.]

WHEREAS, In 2003, nearly one-half million older Californians fell more than once; and

WHEREAS, The risk factors associated with falls increase with age, including factors such as age-related physiological changes; and

WHEREAS, Approximately 20 to 30 percent of older adults who fall suffer moderate to severe injuries, resulting in almost 80,000 hospitalizations per year; and

WHEREAS, The consequences of falling are often life-threatening to older adults, with 25 percent of injury-related deaths occurring among persons over 65 years of age and 34 percent of injury-related deaths in those over 85 years of age resulting from fall-related hip fractures; and

WHEREAS, California spends $2.4 million annually in health care costs resulting from nonfatal falls; and

WHEREAS, Research shows that a well-designed fall prevention program that includes risk factor assessments, a focused physical activity program, and improvement of the home environment can reduce falls 30 to 50 percent; and

WHEREAS, Best practice fall prevention activities in California include evidence-based programs designed to reduce falls and the fear of falling; and

WHEREAS, A number of programs have been developed to help reduce falls in older adults with proven success; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the first week of fall each year is declared "Fall Prevention Awareness Week," and that the private sector and state and local governments promote policies and programs to help reduce the incidence and risks of falls among older adults; and be it further

*Resolved,* That the Legislature hereby urges the California Department of Aging and the area agencies on aging to incorporate fall prevention in their upcoming state and local area master plans, and recommends the California Health and Human Services Agency develop standardized definitions and reporting methods that will improve available information on falls; and be it further

*Resolved,* That the Legislature recommends that fall prevention guidelines be incorporated into state and local planning documents that affect housing, transportation, parks, recreational facilities, and other public facilities; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

## RESOLUTION CHAPTER 109

Senate Concurrent Resolution No. 122—Relative to the National Senior Games.

[Filed with Secretary of State August 11, 2008.]

WHEREAS, The National Senior Games Association is a nonprofit member of the United States Olympic Committee dedicated to motivating adults over 50 to lead a healthy lifestyle through the Senior Games Movement; and

WHEREAS, The first National Senior Games was held in St. Louis, Missouri, in 1987 and included approximately 2,500 athletes; and

WHEREAS, The Bay Area Sports Organizing Committee (BASOC) and Stanford University bid for and won the right to host the 2009 Summer National Senior Games, between the dates of August 1 and August 15, 2009, under the direction of the 2009 Senior Games Local Organizing Committee; and

WHEREAS, The traditional one-year-out ceremony for the 2009 Summer National Senior Games will be held on August 1, 2008, to commemorate and to announce the upcoming games; and

WHEREAS, The 2009 Summer National Senior Games will include an estimated 12,500 athletes 50 years of age and older, competing in 18 medal sports and 7 demonstration sports at Stanford University and venues in the County of San Mateo, Oakland, Palo Alto, the Port of Redwood City, San Francisco, San Jose, and Sunnyvale; and

WHEREAS, Stanford University has been the venue for many championships and international sporting events including the 1984 Olympic Games, 1985 Super Bowl, 1994 World Cup, and 1999 Women's World Cup; and

WHEREAS, The 2009 Summer National Senior Games will be the single largest participatory multisport event ever held in the world for adults over 50 years of age, and will be the West Coast premiere of the event; and

WHEREAS, The 2009 Summer National Senior Games have committed to make this event as environmentally sustainable as possible through its Sporting Green Initiative and to create a model for future events, and to inspire sponsors, competitors, volunteers, and spectators to a higher level of sustainability; and

WHEREAS, The over 50 years of age population is the fastest growing and most affluent demographic in the United States today, and the 2009 Summer National Senior Games will bring over $35 million to the local economy; and

WHEREAS, The citizens of the Bay Area embrace in their own lives the benefits and value of sport, athletics, fair play, and competition in both indoor and outdoor disciplines; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly concurring,* That the Legislature hereby commends the 2009 Senior Games Local Organizing Committee, the National Senior Games Association, the Bay Area Sports Organizing Committee, and Stanford University for holding the 2009 Summer National Senior Games in the state; and be it further

*Resolved,* That the Legislature encourages the residents of the state to be role models for healthy aging and lifelong fitness and to compete, if possible, in the 2009 Summer National Senior Games; and be it further

*Resolved,* That the Legislature urges residents of the Bay Area to lend their talent and expertise and share pride in their state and community with others as volunteers and spectators; and be it further

*Resolved,* That the Legislature urges the business community of the Bay Area to also support the 2009 National Senior Games as official sponsors and organizers of volunteers among their employees; and be it further

*Resolved,* That the Legislature wishes each and every contestant who comes here the very best on the field of play, with the knowledge that they are all winners and role models for citizens of all ages; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 110

Senate Concurrent Resolution No. 113—Relative to the Emanuel Fritz Forest Ecosystem Research Area.

[Filed with Secretary of State August 13, 2008.]

WHEREAS, In 2002, with the help of the Save-the-Redwoods League as well as over 20 conservation organizations, 12 state and federal agencies, 17 private foundations, 70 businesses, and over 1,400 private donors, the Mendocino Land Trust acquired 7,334 acres of redwood forest timberlands in the lower Big River watershed in Mendocino County and transferred the property to the Department of Parks and Recreation; and

WHEREAS, With this acquisition and transfer, an agreement of terms and conditions was signed that permanently dedicated the property to

estuarine and wildlife protection, as well as recreation consistent with that protection, and it further set a new goal for the forest, specifically, "to support late seral forest characteristics and associated natural functions"; and

WHEREAS, Up to this time, Big River had experienced a 150-year history of intensive timber management, with one unique exception; and

WHEREAS, In 1923, Professor Emanuel Fritz of the University of California at Berkeley successfully set aside a grove of "the best and oldest second growth of the entire redwood region" at Big River, for the purposes of ongoing studies of redwood forest growth; and

WHEREAS, From 1923 through 1983, Dr. Fritz conducted decadal surveys of redwood survivorship and growth on the one-acre plot that he discovered, establishing one of the most complete records of older second growth redwood to date; and

WHEREAS, The plot was named the "Wonder Plot" for its outstanding growth over those decades, with volume figures Dr. Fritz called "astronomic, even for California Redwood"; and

WHEREAS, The plot is a natural wonder by virtue of its unique setting, accumulation of some 300,000 plus board feet of biomass equivalent since the area was first logged, and the fact that it is now nearly equivalent to the old growth in the parks of the northern redwood region of the state and still vibrantly growing; and

WHEREAS, Dr. Fritz's knowledge, enthusiasm, and vision were instrumental in helping North Coast timber interests and communities to make a successful transition from pioneer logging to science-based forest management, thereby earning him the affectionate title, among California foresters, of "Mr. Redwood;" and

WHEREAS, The sustainable growth, harvest, and utilization of redwood and other native conifer species as renewable forest products remains a major backbone of the North Coast's economy, employing thousands and contributing to the prosperity and vitality of the region; and

WHEREAS, Dr. Fritz was a leading educator and conservationist, trained in German forestry techniques of sustained-yield production, who tirelessly advocated for North Coast timberland owners to hold onto their cut-over lands and invest in more sustainable forms of timber management; and

WHEREAS, Dr. Fritz's accomplishments include publishing 270 articles, being the father of the State Forest System (1940s) including the nearby Jackson Demonstration State Forest, being the author of the Forest Practice Act (1945), and receiving many honors including the Gifford Pinchot Medal from the Society of American Foresters; and

WHEREAS, It is appropriate to memorialize Professor Emanuel Fritz's life and service as a conservationist and educator by dedicating the grove he discovered in the lower Big River watershed in his honor; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby dedicates the portion of the lower Big River watershed in Mendocino County consisting of all of the contiguous river flat east and northeast of Big River from the mouth of Laguna Creek to approximately one mile upstream in memory of Professor Emanuel Fritz; and be it further

*Resolved,* That the "Wonder Plot" located in the lower Big River watershed shall be designated as the Emanuel Fritz Forest Ecosystem Research Area to be dedicated to basic research in forest ecosystem dynamics; and be it further

*Resolved,* That the Department of Parks and Recreation is requested to determine the cost of erecting appropriate signs near the mouth of Laguna Creek, consistent with the signage requirements for the state park system, showing that special designation and, upon receiving donations from nonstate sources covering the costs, to erect those signs; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Department of Parks and Recreation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 111

Senate Concurrent Resolution No. 112—Relative to services for older adults.

[Filed with Secretary of State August 18, 2008.]

WHEREAS, California's aging population is growing rapidly and is becoming increasingly diverse; and

WHEREAS, The population of Californians who are over 60 years of age is expected to double by the year 2020, and to triple by the year 2050; and

WHEREAS, The number of older adults from ethnic minorities is expected to surpass the number of older adults who are white by the year 2050; and

WHEREAS, The current population of older adults is expected to live longer and remain healthier than earlier populations; and

WHEREAS, Cultural traditions, mores, and customs affect the health and well-being of people as they age; and

WHEREAS, Knowledge of and sensitivity to cultural differences can improve the ability of health professionals, social workers, and service providers to positively affect health and well-being; and

WHEREAS, Culturally competent health care personnel are able to better engage in discussions with patients about medical decisions in the context of the patient's individual cultural beliefs and values, thereby reducing health care disparities; and

WHEREAS, Increasing the cultural competency of all levels of health care personnel was identified as a top priority of California's delegates to the White House Conference on Aging; and

WHEREAS, Planning now for a stronger cultural awareness in the delivery of aging services will give the state an advantage as the aging population increases; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature urges the State of California to more fully provide culturally appropriate services in all areas of service delivery to older adults; and be it further

*Resolved,* That the Legislature urges the University of California to incorporate cultural competency in its health services professional education programs addressing geriatrics and gerontology; and be it further

Resolved, That the Legislature urges the California Health and Human Services Agency to incorporate cultural competency in all programs and systems devoted to serving older Californians; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 112

Senate Concurrent Resolution No. 115—Relative to California Lung Cancer Awareness Week.

[Filed with Secretary of State August 18, 2008.]

WHEREAS, In 2007, over 213,000 Americans were diagnosed with lung cancer, and over 160,000 died from the disease; and

WHEREAS, Lung cancer is the leading cause of cancer deaths nationally. In 2007, over 17,900 Californians were diagnosed with lung cancer and over 13,000 died; and

WHEREAS, Cigarette smoke is a factor in 60 percent of those diagnosed with lung cancer; and

WHEREAS, People diagnosed with lung cancer have a five-year survival rate of 15.5 percent, compared to a five-year survival rate of 64.8 percent, 89 percent, and 99.9 percent for those diagnosed with colon, breast, and prostate cancer, respectively; and

WHEREAS, Recent studies indicate that more research into early detection and treatment methods is necessary to further the effort to improve lung cancer survival rates; and

WHEREAS, The National Cancer Institute reports that 16 percent of lung cancer patients are diagnosed in the early stages; and

WHEREAS, Lung cancer patients diagnosed in the early stages and treated immediately have a 92 percent 10-year survival rate, in contrast to a 2 percent five-year survival rate when diagnosed in Stage IV; and

WHEREAS, The August 2001 Report of the Lung Cancer Progress Review Group of the National Cancer Institute stated that funding for lung cancer research was "far below the levels characterized for other common malignancies and far out of proportion to its massive health impact"; and

WHEREAS, This report has also identified as its highest priority, the creation of integrated, multidisciplinary, multiinstitutional research consortia organized around the problem of lung cancer, rather than around specific research disciplines; and

WHEREAS, Lung cancer kills more people annually than breast cancer, prostate cancer, colon cancer, liver cancer, melanoma, and kidney cancer combined; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby proclaims the first week of August as California Lung Cancer Awareness Week; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 113

Senate Concurrent Resolution No. 119—Relative to the CHP Officer John Bailey Memorial Freeway.

[Filed with Secretary of State August 18, 2008.]

WHEREAS, California Highway Patrol Officer John Bailey was born on June 17, 1969, in Ann Arbor, Michigan. He graduated from Catoctin High School in Thurmont, Maryland, in 1987; and

WHEREAS, Prior to beginning his career with the Department of the California Highway Patrol, CHP Officer Bailey enlisted in the United States Army while a senior in high school. He honorably served his country in the United States Army and then in the California Air National Guard. CHP Officer Bailey served in various missions during his military career, the most recent during Operation Iraqi Freedom, for one year in Tikrit, Iraq. CHP Officer Bailey was a Sergeant First Class and was classified as active duty at the time of his death; and

WHEREAS, CHP Officer Bailey, badge number 14664, joined the Department of the California Highway Patrol on November 6, 1995. On May 10, 1996, after successfully completing academy training, he reported to the Barstow area as an officer; and

WHEREAS, CHP Officer Bailey made significant contributions to traffic safety and assisting the motoring public while assigned to the Barstow and Rancho Cucamonga area offices; and

WHEREAS, CHP Officer Bailey served nine years and nine months as a sworn peace officer for the Department of the California Highway Patrol and was known by his fellow officers for his dedication to the department and to the protection of the citizens of our state; and

WHEREAS, The calling to be a peace officer is one of the highest vocations of public service and any individual who accepts this calling is worthy of the highest respect and honor the community, state, and nation can provide; and

WHEREAS, CHP Officer John Bailey was killed in the line of duty during the evening hours of February 25, 2006. He was on a traffic stop on State Highway Route 15 near State Highway Route 395 in the City of Hesperia, when a drunk driver collided into his patrol motorcycle; and

WHEREAS, CHP Officer Bailey tragically succumbed to his injuries as a result of the collision; and

WHEREAS, CHP Officer Bailey is survived by his wife, Teresa, daughters Hannah and Megan, sons Jared and Dylan, mother Lavonne, father Leonard, sister Aimee, and many beloved family members and friends; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby designates the portion of State Highway Route 15 between State Highway Routes 10 and 210, in the City of Rancho Cucamonga and the County of San Bernardino, as the CHP Officer John Bailey Memorial Freeway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signage requirements for the state highway system, showing this special

designation and, upon receiving donations from nonstate sources sufficient to cover the cost, to erect those signs; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 114

Senate Joint Resolution No. 19—Relative to health professionals.

[Filed with Secretary of State August 18, 2008.]

WHEREAS, The citizens of the United States and the residents of the State of California acknowledge January 15th as the birthday of Dr. Martin Luther King, Jr., and mark the third Monday in January as a federal and state holiday to commemorate his lifework as a civil rights leader, an activist, and an internationally acclaimed proponent of human rights who warned, "He who passively accepts evil is as much involved in it as he who helps to perpetrate it"; and

WHEREAS, Dr. King challenged Americans to remain true to their most basic values, stating, "The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy"; and

WHEREAS, In 2002, for the first time in American history, the Bush administration initiated a radical new policy allowing the torture of prisoners of war and other captives with reports from the International Red Cross, The New England Journal of Medicine, The Lancet (a British medical journal), military records, and first-person accounts stating that California-licensed health professionals have participated in torture or its coverup against detainees in United States custody; and

WHEREAS, In honor of the birthday of Dr. Martin Luther King, Jr., a broad coalition of medical, human rights, and legal organizations are petitioning the State of California to warn its medical licensees of the legal prohibitions against torture and the risks of prosecution, and are demanding that the United States government remove California-licensed health professionals from coercive interrogation and torture of detainees; and

WHEREAS, Representatives of Californians to Stop Medical Torture are carrying petition signatures to the California State Senate, asking that the Senate warn California-licensed physicians, psychologists, nurses, and other health care workers of possible future prosecution for

participation in torture — cruel and degrading practices that have become a national shame; and

WHEREAS, Health professionals licensed in California, including, but not limited to, physicians, osteopaths, naturopaths, psychologists, psychiatric workers, and nurses, have and continue to serve nobly and honorably in the armed services of the United States; and

WHEREAS, United States Army regulations and the War Crimes Act and, relative to the treatment of prisoners of war, Common Article III of the Geneva Conventions and the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT) require that all military personnel report and not engage in acts of abuse or torture; and

WHEREAS, CAT defines the term "torture" as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity"; and

WHEREAS, In 2002, the United States Department of Justice reinterpreted national and international law related to the treatment of prisoners of war in a manner that purported to justify long-prohibited interrogation methods and treatment of detainees; and

WHEREAS, Physicians and other medical personnel and psychologists serving in noncombat roles are bound by international law and professional ethics to care for enemy prisoners and to report any evidence of coercion or abuse of detainees; and

WHEREAS, The World Medical Association (WMA) issued guidelines stating that physicians shall not use nor allow to be used their medical knowledge or skills, or health information specific to individuals, to facilitate or otherwise aid any interrogation, legal or illegal; and

WHEREAS, The guidelines issued by the WMA also state that physicians shall not participate in or facilitate torture or other forms of cruel, inhuman, or degrading procedures of prisoners or detainees in any situation; and

WHEREAS, The American Medical Association's (AMA) ethical policy prohibits physicians from conducting or directly participating in an interrogation and from monitoring interrogations with the intention of intervening; and

WHEREAS, AMA policy also states that "[t]orture refers to the deliberate, systematic or wanton administration of cruel, inhumane and

degrading treatments or punishments during imprisonment or detainment. Physicians must oppose and must not participate in torture for any reason ... . Physicians should help provide support for victims of torture and, whenever possible, strive to change the situation in which torture is practiced or the potential for torture is great"; and

WHEREAS, Section 2340 of Title 18 of the United States Code defines the term "torture" as an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control. That section further defines the term "severe mental pain or suffering" as the prolonged mental harm caused by or resulting from: (A) the intentional infliction or threatened infliction of severe physical pain or suffering; (B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (C) the threat of imminent death; or (D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

WHEREAS, In May 2006, the American Psychiatric Association stated that psychiatrists should not "participate directly in the interrogation of persons held in custody by military or civilian investigative or law enforcement authorities, whether in the United States or elsewhere," and that "psychiatrists should not participate in, or otherwise assist or facilitate, the commission of torture of any person. Psychiatrists who become aware that torture has occurred, is occurring, or has been planned must report it promptly to a person or persons in a position to take corrective action"; and

WHEREAS, In August 2006, the American Psychological Association stated that "psychologists shall not knowingly participate in any procedure in which torture or other forms of cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment is used or threatened" and that "should torture or other cruel, inhuman, or degrading treatment or cruel, inhuman, or degrading punishment evolve during a procedure where a psychologist is present, the psychologist shall attempt to intervene to stop such behavior, and failing that exit the procedure"; and

WHEREAS, In June 2005, the House of Delegates of the American Nurses Association issued a resolution stating all of the following: "prisoners and detainees have the right to health care and humane treatment"; "registered nurses shall not voluntarily participate in any

deliberate infliction of physical or mental suffering"; "registered nurses who have knowledge of ill-treatment of any individuals including detainees and prisoners must take appropriate action to safeguard the rights of that individual"; "the American Nurses Association shall condemn interrogation procedures that are harmful to mental and physical health"; "the American Nurses Association shall advocate for nondiscriminatory access to health care for wounded military and paramilitary personnel and prisoners of war"; and "the American Nurses Association shall counsel and support nurses who speak out about acts of torture and abuse"; and

WHEREAS, The California Nurses Association clearly states that "the social contract between registered nurses and society is based upon a code of ethics that is grounded in the basic ethical principles of respect for human rights and dignity, the non-infliction of harm, and because these principles command that registered nurses protect or preserve life, avoid doing harm, advocate in the exclusive interest of their patients, and create a fiduciary relationship of trust and loyalty with recipients of their care"; and

WHEREAS, In March 2005, the California Medical Association stated that it "condemns any participation in, cooperation with, or failure to report by physicians and other health professionals the mental or physical abuse, sexual degradation, or torture of prisoners or detainees"; and

WHEREAS, In November 2004, the American Public Health Association stated that it "condemns any participation in, cooperation with, or failure to report by health professionals the mental or physical abuse, sexual degradation, or torture of prisoners or detainees," that it "urges health professionals to report abuse or torture of prisoners and detainees," and that it "supports the rights of health workers to be protected from retribution for refusing to participate or cooperate in abuse or torture in military settings"; and

WHEREAS, The United States military medical system in Guantanamo Bay, Afghanistan, Iraq, and other foreign military prisons operated by the United States failed to protect detainees' rights to medical treatment, failed to prevent disclosure of confidential medical information to interrogators and others, failed to promptly report injuries or deaths caused by beatings, failed to report acts of psychological and sexual degradation, and sometimes collaborated with abusive interrogators and guards; and

WHEREAS, Current United States Department of Defense guidelines authorize the participation of certain military health personnel, especially psychologists, in the interrogation of detainees as members of "Behavioral Science Consulting Teams" in violation of professional

ethics. These guidelines also permit the use of confidential clinical information from medical records to aid in interrogations; and

WHEREAS, Evidence in the public record indicates that military psychologists participated in the design and implementation of psychologically abusive interrogation methods used at Guantanamo Bay, in Iraq, and elsewhere, including sleep deprivation, long-term isolation, sexual and cultural humiliation, forced nudity, induced hypothermia and other temperature extremes, stress positions, sensory bombardment, manipulation of phobias, force-feeding hunger strikers, and more; and

WHEREAS, Published reports indicate that the so-called "enhanced interrogation methods" of the Central Intelligence Agency reportedly include similar abusive methods and that agency psychologists may have assisted in their development; and

WHEREAS, Medical and psychological studies and clinical experience show that these abuses can cause severe or serious mental pain and suffering in their victims, and therefore may violate the "torture" and "cruel and inhuman treatment" provisions of CAT and the United States War Crimes Act, as amended by the Military Commissions Act of 2006; and

WHEREAS, The United States Department of Defense has failed to oversee the ethical conduct of California-licensed health professionals related to torture; and

WHEREAS, Waterboarding is a crime under the United States War Crimes Act and Chapter 113C (commencing with Section 2340) of Title 18 of the United States Code, is a crime against humanity under international human rights law, is a war crime under humanitarian laws, and is prohibited by the United States Army Field Manual. United States district courts, state courts, including, but not limited to, the Mississippi Supreme Court, and United States military tribunals have convicted defendants of criminal acts in waterboarding cases; and

WHEREAS, Nobel Peace Prize Laureate Dr. Martin Luther King, Jr., said, "Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country and a finer world to live in"; now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly,* That California-licensed health professionals are absolutely prohibited from knowingly planning, designing, participating in, or assisting in the use of condemned techniques at any time and may not enlist others to employ these techniques to circumvent that prohibition; and be it further

*Resolved,* That the Legislature hereby requests all relevant California agencies, including, but not limited to, the Board of Behavioral Sciences, the Dental Board of California, the Medical Board of California, the

Osteopathic Medical Board of California, the Bureau of Naturopathic Medicine, the California State Board of Pharmacy, the Physician Assistant Committee of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Vocational Nursing and Psychiatric Technicians, the Board of Psychology, and the Board of Registered Nursing, to notify California-licensed health professionals via newsletter, e-mail, Web site, or existing notification processes about their professional obligations under international law, specifically Common Article III of the Geneva Conventions, the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), and the amended War Crimes Act, which prohibit the torture of, and the cruel, inhuman, and degrading treatment or punishment of, detainees in United States custody; and be it further

*Resolved,* That the Legislature hereby requests all relevant California agencies to notify health professionals licensed in California that those who participate in coercive or "enhanced" interrogation, torture, as defined by CAT, or other forms of cruel, inhuman, or degrading treatment or punishment may one day be subject to prosecution; and be it further

RESOLVED*,* That the Legislature hereby requests that when California licensed health professionals have reason to believe that interrogations are coercive or "enhanced" or involve torture or cruel, inhuman, or degrading treatment or punishment, they shall report their observations to the appropriate authorities, and if the authorities are aware of those abusive interrogation practices, but have not intervened, then those health professionals are ethically obligated to report those practices to independent authorities that have the power to investigate and adjudicate those allegations; and be it further

*Resolved,* That in view of the ethical obligations of health professionals, the record of abusive interrogation practices, and the Legislature's interest in protecting California-licensed health professionals, the Legislature hereby requests the United States Department of Defense and the Central Intelligence Agency to remove all California-licensed health professionals from participating in any way in prisoner and detainee interrogations that are coercive or "enhanced" or that involve torture or cruel, inhuman, or degrading treatment or punishment, as defined by the Geneva Conventions, CAT, relevant jurisprudence regarding CAT, and related human rights documents and treaties; and be it further

*Resolved,* That no law, regulation, order, or exceptional circumstance, whether induced by state of war or threat of war, internal political instability, or any other public emergency, may be invoked as justification for torture or cruel, inhuman, or degrading treatment or punishment; and be it further

*Resolved,* However, that California-licensed health professionals continue to provide appropriate health care if called upon to deal with a victim of the conduct and torture described in this resolution; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the United States Department of Defense, the Central Intelligence Agency, and all relevant California agencies, including, but not limited to, the Board of Behavioral Sciences, the Dental Board of California, the Medical Board of California, the Osteopathic Medical Board of California, the Bureau of Naturopathic Medicine, the California State Board of Pharmacy, the Physician Assistant Committee of the Medical Board of California, the California Board of Podiatric Medicine, the Board of Vocational Nursing and Psychiatric Technicians, the Board of Psychology, and the Board of Registered Nursing.

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## RESOLUTION CHAPTER 115

Senate Constitutional Amendment No. 4—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 2 of Article XIII A thereof, relating to taxation.

[Filed with Secretary of State August 27, 2008.]

*Resolved by the Senate, the Assembly concurring,* That the Legislature of the State of California at its 2007–08 Regular Session commencing on the fourth day of December 2006, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

That Section 2 of Article XIII A thereof is amended to read:

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. For purposes of this section, the term "newly constructed" does not include that portion of an existing structure that consists of the

construction or reconstruction of seismic retrofitting components, as defined by the Legislature.

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 applies 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 does 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.

(b) The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction

as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction, or other factors causing a decline in value.

(c) For purposes of subdivision (a), the Legislature may provide that the term "newly constructed" does not include any of the following:

(1) The construction or addition of any active solar energy system.

(2) The construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement, as defined by the Legislature, that is constructed or installed after the effective date of this paragraph.

(3) The construction, installation, or modification on or after the effective date of this paragraph of any portion or structural component of a single- or multiple-family dwelling that is eligible for the homeowner's exemption if the construction, installation, or modification is for the purpose of making the dwelling more accessible to a severely disabled person.

(4) The construction, installation, removal, or modification on or after the effective date of this paragraph of any portion or structural component of an existing building or structure if the construction, installation, removal, or modification is for the purpose of making the building more accessible to, or more usable by, a disabled person.

(d) For purposes of this section, the term "change in ownership" does not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action that has resulted in a judgment of inverse condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to state regulations defined by the Legislature governing the relocation of persons displaced by governmental actions. This subdivision applies to any property acquired after March 1, 1975, but affects only those assessments of that property that occur after the provisions of this subdivision take effect.

(e) (1) Notwithstanding any other provision of this section, the Legislature shall provide that the base year value of property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property.

(2) Except as provided in paragraph (3), this subdivision applies 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 applies 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.

(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.

(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 applies 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).

(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 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 presumption may be overcome by presentation of satisfactory evidence to the assessor, who shall not be bound by the findings of the lead governmental agency in determining whether the presumption has been overcome.

(4) This subdivision applies only to replacement property that is acquired or constructed on or after January 1, 1995, and to property repairs performed on or after that date.

(j) Unless specifically provided otherwise, amendments to this section adopted prior to November 1, 1988, are 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, are effective for changes in ownership that occur, and new construction that is completed, on or after the effective date of the amendment.

## RESOLUTION CHAPTER 116

Senate Concurrent Resolution No. 80—Relative to Fire Safe Councils.

[Filed with Secretary of State August 27, 2008.]

WHEREAS, The California wildfires of 2007 have garnered broad public attention due to the severity of the damage and expanse of the areas consumed by those wildfires; and

WHEREAS, The State of California has a compelling interest in reducing the threats of wildfires, including threats to lives, property, and natural resources; and

WHEREAS, The state's increasing population and the threat of catastrophic wildfires will affect vast acres of private and public forests, wildland-urban interface, homes, and public safety; and

WHEREAS, Wildfire has become a significant threat to the state's environmental health and public safety; and

WHEREAS, Wildfire threats present an increased challenge for efforts to reduce carbon emissions; and

WHEREAS, The California Fire Safe Council and other Fire Safe Councils play critical roles in mobilizing Californians to protect their homes, communities, and environment from wildfire; and

WHEREAS, All local Fire Safe Councils work to educate communities, provide wildfire safety planning, fire prevention, and educational programs throughout the state and remain a critical component of statewide fire protection efforts; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature recognizes that the Fire Safe Councils serve as leading community-based wildfire preparedness organizations; and be it further

*Resolved,* That the Legislature recognizes the vital services provided by the Fire Safe Councils for the citizens of California; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 117

Senate Joint Resolution No. 25—Relative to fibromyalgia.

[Filed with Secretary of State August 27, 2008.]

WHEREAS, Fibromyalgia is defined by the American College of Rheumatology as a disabling pain condition. Fibromyalgia symptoms include chronic pain throughout the body, extreme fatigue, sleep disorders, stiffness, weakness, migraine headaches, and impairment of memory and concentration; and

WHEREAS, Fibromyalgia is a common condition with no known cure that affects women, men, and children of all ethnicities; and

WHEREAS, An estimated 10 million people in the United States and millions of people worldwide have been diagnosed with fibromyalgia; and

WHEREAS, There is no test for fibromyalgia, so it often takes an average of five years to receive a diagnosis. Furthermore, medical professionals are frequently inadequately educated on diagnosis and treatment of fibromyalgia; and

WHEREAS, Many fibromyalgia patients find themselves underinsured or uninsured because they are too sick to work or have been denied health care coverage and access to treatments because they have fibromyalgia; and

WHEREAS, Fibromyalgia costs the United States health care system $20 billion annually and strongly impacts families who experience lost wages and extensive out-of-pocket medical costs; and

WHEREAS, The California Legislative Women's Caucus recognizes that 80 percent of fibromyalgia patients are women, that hundreds of thousands of those affected by fibromyalgia live in California, and that there is an urgent need to respond to the vast needs of this patient population; and

WHEREAS, The California Legislative Women's Caucus has taken the National Fibromyalgia Association's Pledge to Care by advocating for improved treatments, expanded research, comprehensive health insurance coverage, and increased awareness of fibromyalgia; now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly,* That the Legislature respectfully urges the Congress of the United States to accelerate the federal investment in fibromyalgia research at the National Institutes of Health, to ensure adequate Medicare and Medicaid reimbursement and coverage of fibromyalgia therapies, and to launch a multifaceted public awareness campaign on fibromyalgia; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of

the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 118

Senate Joint Resolution No. 27—Relative to tax credits for renewable energy technologies.

[Filed with Secretary of State August 27, 2008.]

WHEREAS, A diverse energy portfolio will result in a reduction of greenhouse gas emissions, create jobs, stimulate economic growth and investment, and encourage a secure energy future; and

WHEREAS, A diverse energy portfolio will better position the nation's energy system to respond to new local, regional, and environmental challenges and population growth, and will take advantage of the development of new technologies that will lower the cost of renewable energy; and

WHEREAS, Congress has shown a multiyear commitment to supporting the development of a diverse energy portfolio by implementing and repeatedly extending federal tax credits for renewable energy; and

WHEREAS, Extending the federal investment and production tax credits will ensure continued robust growth of the renewable energy industry, which will help protect the American economy from energy shortages and price spikes that are harmful to business and consumers and are disruptive to investment; and

WHEREAS, In 2008, there were over 42,000 megawatts of renewable energy power generation projects under development in 45 states; and

WHEREAS, The federal investment and production tax credits will provide the market stability and investor confidence that is necessary in the wind, solar, geothermal, small irrigation power, municipal solid waste, noncorn ethanol-based closed-loop and open-loop biomass, and small hydropower sectors to encourage increased investment and growth in these technologies; and

WHEREAS, Extending the federal investment and production tax credits for renewable energy sources will create more than 100,000 jobs, will attract tens of billions of dollars in investment within the next year, and will continue to create thousands of jobs at high, medium, and entry levels; and

WHEREAS, Extending the federal investment and production tax credits for renewable energy sources will foster new business

opportunities within California and generate revenue for local economies; now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly,* That the Legislature of the State of California encourages the President and the Congress of the United States to provide a long-term extension of the investment and production tax credits for all renewable energy technologies; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 119

Senate Concurrent Resolution No. 126—Relative to drug waste.

[Filed with Secretary of State September 2, 2008.]

WHEREAS, The United States Geological Survey conducted a study in 2002 sampling 139 streams across 30 states and found that 80 percent had measurable concentrations of prescription and nonprescription drugs, steroids, and reproductive hormones; and

WHEREAS, Articles reported by the Associated Press in March of 2008 have corroborated the findings of the United States Geological Survey; and

WHEREAS, Exposure, even to low levels of drugs, has been shown to have negative effects on fish and other aquatic species; and

WHEREAS, The effects of trace concentrations of drugs in the environment on human health are unknown; and

WHEREAS, A pathway for prescription and nonprescription drugs to enter the environment is the disposal of unwanted and unused drugs down drains that lead to community sewer systems, which convey untreated wastewater to municipal wastewater treatment facilities; and

WHEREAS, Many of these municipal wastewater treatment facilities discharge to surface waters in the state; and

WHEREAS, Municipal wastewater treatment facilities remove some, but may not remove all, of the drugs that enter the community sewer systems; and

WHEREAS, The safest methods of disposal of unwanted drugs are not well understood by the public and therefore a public education campaign is necessary to educate consumers; and

WHEREAS, A coalition of federal, state, and local agencies and private organizations are organizing a statewide public education campaign from October 4 to October 11, 2008, inclusive, to encourage the public not to flush unwanted drugs down the drain; and

WHEREAS, It is in the best interest of the state to encourage the public not to flush unwanted drugs down the drain; and

WHEREAS, The Legislature has directed the California Integrated Waste Management Board to adopt model programs for the proper collection and disposal of drug waste and to provide recommendations to the Legislature for the implementation of a statewide program by December 1, 2010; and

WHEREAS, During No Drugs Down the Drain Week, the public will be educated about the currently available safe disposal options for unwanted drugs; and

WHEREAS, In many areas, special take-back events or household hazardous waste collection events will be held during No Drugs Down the Drain Week to accept unwanted drugs from the public; and

WHEREAS, Information about No Drugs Down the Drain Week is available at www.nodrugsdownthedrain.org; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby proclaims the week of October 4 to October 11, 2008, inclusive, as "No Drugs Down the Drain Week" for the state, to raise awareness among the public about the environmental problems caused by flushing unwanted drugs down the drain and to encourage the use of proper disposal methods; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Governor and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 120

Senate Concurrent Resolution No. 127—Relative to foster care.

[Filed with Secretary of State September 2, 2008.]

WHEREAS, Each year in California nearly 490,000 reports are made of child abuse and neglect, and some 25,000 children enter foster care; and

WHEREAS, About 75,000 children in California live apart from their families in child welfare supervised out-of-home care; and

WHEREAS, Nearly one-half of the children in foster care in California have been away from their families in out-of-home care for two or more years; and

WHEREAS, Of the 34,000 children leaving foster care in 2007, 54 percent were reunited with their families, 22 percent were adopted, and 13 percent were emancipated; and

WHEREAS, Local courts and communities throughout California have created programs promoting permanency that have resulted in a decrease in the number of children waiting for permanent, safe homes; and

WHEREAS, The Judicial Council is committed to working with the Governor, the Legislature, and local courts and communities to achieve permanency for children who have been abused or neglected; and

WHEREAS, The California Blue Ribbon Commission on Children in Foster Care was appointed by the Judicial Council to recognize that the courts and their partners can improve safety, permanency, well-being, and fairness outcomes for children and families; and

WHEREAS, The Senate and the Assembly are committed to working together to improve outcomes for children in the child welfare system; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby designates November 2008 as Court Adoption and Permanency Month, during which the courts and their local communities are encouraged to join in activities to expedite permanency for children who have been abused or neglected; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 121

Senate Concurrent Resolution No. 128—Relative to California Native American Day.

[Filed with Secretary of State September 2, 2008.]

WHEREAS, California is home to more federally recognized Indian tribes than any other state in the United States; and

WHEREAS, The cultural and governmental contributions of the native peoples of California have shaped the course for the state throughout history; and

WHEREAS, California designated the fourth Friday of every September as California Native American Day; and

WHEREAS, California Native American Day is celebrated in this state by tribes and communities across the state, and is a day for educators of California to teach factual California Indian history in schools; and

WHEREAS, California Indian tribes are committed to contributing to the educational curricula provided by the state and believe in providing new and improved educational resources about the varied cultural histories of, and governance models used by, California Native Americans; and

WHEREAS, Since 1999, the San Manuel Band of Mission Indians, in conjunction with the California State University at San Bernardino, have conducted an annual program to share Native American culture with the children and educators of San Bernardino County; and

WHEREAS, This year the San Manuel Tribal Unity and Cultural Awareness Program and the Santos Manuel Student Union at the California State University at San Bernardino are cosponsors of a five-day conference designed to enhance the awareness of and discuss California Indian culture; and

WHEREAS, The California Indian Cultural Awareness Conference will be held concurrently with California Native American Day and will assist educators by providing new educational resources regarding the rich and varied lives of the California Indian Nations; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature recognizes the importance of California Native American Day, celebrated this year on September 26, 2008, and the concurrent California Indian Cultural Awareness Conference to the enhancement of awareness of California Indian culture; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President of California State University, San Bernardino, the General Council of the Sovereign Government of the San Manuel Band of Mission Indians, and the author for appropriate distribution.

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## RESOLUTION CHAPTER 122

Senate Concurrent Resolution No. 129—Relative to Psoriasis Awareness Month.

[Filed with Secretary of State September 2, 2008.]

WHEREAS, Psoriasis is a genetic disease of the immune system, which requires steadfast treatment and lifelong attention, and affects as

many as 7.5 million Americans, including as many as 882,000 in California alone; and

WHEREAS, Psoriasis causes as much disability as other major diseases, including cancer, arthritis, hypertension, heart disease, diabetes, and depression; and

WHEREAS, Anywhere from 10 (not starting with a number) to 30 percent of people with psoriasis develop psoriatic arthritis, a form of arthritis that causes pain, stiffness, and swelling in and around the joints; and

WHEREAS, Psoriasis is associated with numerous comorbid conditions including Crohn's disease, diabetes, metabolic syndrome, obesity, hypertension, heart attack, cardiovascular disease, and liver disease; and

WHEREAS, There are many myths and misconceptions about psoriasis, which directly impact the quality of life of those with the disease and their families; and

WHEREAS, Psoriasis is commonly and incorrectly considered a mere annoyance, a superficial problem mistakenly thought to be contagious or due to poor hygiene; and

WHEREAS, Psoriasis is a chronic, life-altering, and often debilitating condition for which there are limited effective, safe, and affordable treatment options, and no cure; and

WHEREAS, We must recognize those in the forefront of raising public awareness, increasing funding for research to find new treatments, and ultimately finding a cure for psoriasis; and

WHEREAS, Through education and advocacy there is a hope that one day, with everyone's help, a cure will be found; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby designates August 2008 as Psoriasis Awareness Month in California; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the National Psoriasis Foundation, and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 123

Senate Concurrent Resolution No. 130—Relative to California Firefighters Memorial Day.

[Filed with Secretary of State September 2, 2008.]

WHEREAS, Etched in stone on the grounds of the State Capitol, the California Firefighters Memorial bears the names of over 1,000 men and women who relentlessly put themselves in the face of danger every day; and

WHEREAS, Their tireless efforts culminated in the ultimate sacrifice of giving their own lives for the well-being of others in this state, testifying to the harsh reality of the firefighting profession; and

WHEREAS, Recognition of their humble exits in the name of bravery and selflessness is critical in preserving their memory and honoring their families; and

WHEREAS, On October 18, 2008, firefighters and their families will gather at the State Capitol with their fellow Californians to remember those lost in the line of duty this year and in years past, as part of the 2008 California Firefighters Memorial Annual Ceremony; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby proclaims Saturday, October 18, 2008, as California Firefighters Memorial Day, and urges all Californians to remember those firefighters who have given their lives in the line of duty and to express appreciation to those who every day continue to protect our families, hopes, and dreams; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 124

Assembly Concurrent Resolution No. 21—Relative to the University of California.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, The campuses of the University of California are justly regarded as comprising the premier public institution of higher education in the world; and

WHEREAS, Public and private institutions of higher education throughout the world are cognizant of the prestige of the University of California, and may wish to participate in student exchange programs, and other forms of academic partnership, with the University of California; and

WHEREAS, Through academic partnerships, students of the various campuses of the University of California may greatly benefit from opportunities to study at other institutions and have fellowship with

students from these other institutions who take coursework at the University of California; and

WHEREAS, Among the many distinguished institutions of higher education that would have an interest in student exchange programs, or other forms of academic partnership, are the 103 institutions classified, under the federal Higher Education Act of 1964, as Historically Black Colleges and Universities (HBCUs), and located in 21 states and the District of Columbia; and

WHEREAS, The charter of Howard University, an HBCU located in Washington, D.C., was enacted by Congress and approved by President Andrew Johnson in 1867, and the numerous distinguished alumni of Howard include the late U.S. Supreme Court Justice Thurgood Marshall and Nobel laureate Toni Morrison, and famous members of Howard's faculty include Dr. Charles Drew and another Nobel laureate, Ralph Bunche, who, coincidentally, is an alumnus of UCLA; and

WHEREAS, Hampton University, an HBCU located in Hampton, Virginia, was founded in 1868, and is the alma mater of the renowned educator, Booker T. Washington, who later became the founder of another distinguished HBCU--Tuskegee University, which is located in Tuskegee, Alabama; and

WHEREAS, Fisk University, an HBCU located in Nashville, Tennessee, was founded in 1866, includes W.E.B. DuBois among its many famous alumni, and is internationally renowned for its music program--specifically for its legendary vocal ensemble, the Fisk Jubilee Singers; and

WHEREAS, Morehouse College, a men's institution founded in 1867, which includes Dr. Martin Luther King, Jr. among its alumni, and Spelman College, a women's institution founded in 1881, which includes Marian Wright Edelman among its alumnae, are both HBCUs located in Atlanta, Georgia; and

WHEREAS, All of the HBCUs referenced above, as well as the nearly 100 other HBCUs, are of more than simply historic interest; they are vibrant centers of contemporary scholarship that would be attractive places for students and faculty of the University of California to visit and do important academic work; and

WHEREAS, A student exchange program, or other form of academic partnership, between a campus or campuses of the University of California and one or more of the institutions comprising the Historically Black Colleges and Universities could be very beneficial to all of the students and faculty members who choose to participate; and

WHEREAS, A partnership exists between Harvard Law School and the University of California, Berkeley, Boalt Hall School of Law, in which law students of the University of California attend Harvard Law

School for one of three years, and between Columbia Business School and the University of California, Berkeley, Haas School of Business, which jointly administer the Berkeley-Columbia Executive MBA Program; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature strongly urges the Regents of the University of California to establish a cost-neutral student exchange program, or another form of cost-neutral academic partnership, such as a joint degree program in which students spend up to two years of a four-year degree program at the host campus, between one or more campuses of the University of California and one or more of the institutions that are classified as Historically Black Colleges and Universities; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to each member of the Regents of the University of California and to appropriate presidents of the Historically Black Colleges and Universities.

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## RESOLUTION CHAPTER 125

Assembly Concurrent Resolution No. 145—Relative to pupil instruction.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, A study published in December 2004 of social science textbooks used in California schools and universities by Lawrence DiStasi and the Italian American Textbook Committee, titled The Treatment of Italian Americans in California Textbooks, found that Italian American contributions were largely absent from elementary, secondary, and postsecondary textbooks used in California; and

WHEREAS, Italian Americans are the sixth largest ethnic group in America numbering roughly 25 million people, with nearly 1.5 million residing in California. For much of the 20th century, Italian Americans were the largest immigrant group in the United States, yet they are not appropriately extended proper credit for their role in shaping American culture; and

WHEREAS, As one of the country's greatest success stories, Italian Americans made enormous contributions to our country and state. For example, Amedeo Pietro "A.P." Giannini, born of Italian immigrant parents in San Jose in 1870, established in the Italian neighborhoods across California the first branch banking system in the United States,

known as Bank of America. The philosophy that spun the success of Bank of America was to invest in common people to stimulate rapid economic growth. Mr. Giannini's investments include the movie industry, the Golden Gate Bridge, the Walt Disney Company, and much of today's agribusiness; and

WHEREAS, Italian immigrant Marco Fontana arrived in the United States in 1859 and started the California Packing Company under the Del Monte label. His cannery soon became the largest food processing company in the world. Domenico Ghirardelli settled in San Francisco during the Gold Rush and founded the Ghirardelli Chocolate empire. Andrea Sbarboro is credited as one of the major founders of the California wine industry and Robert Mondavi was instrumental in establishing world class credibility for California's wine industry. The movie industry, the fifth largest employer in Los Angeles County, owes much of its success to numerous Italian artists, including Danny DeVito, John Travolta, and Al Pacino; and

WHEREAS, Italian Americans were among the earliest and largest groups to settle in California, and they played a dominant role in the creation of the state's agriculture, food processing, branch banking, fishing, and wine industries. Little-known facts regarding the experience and contributions of Italian Americans include the following: (1) Between 1880 and 1920, about 4 million Italians immigrated to the United States and nearly one-quarter of Ellis Island immigrants were Italian. Restrictive immigration laws at that time were directly aimed at Italian immigrants and based on anti-Italian attitudes; (2) Although Italians constituted the largest ethnic group in the American military during World War II, an estimated 600,000 Italian immigrants nationwide suffered wartime restrictions including internment and arrest, curfews, and travel restrictions. Some 10,000 Italian Americans were forced to relocate from coastal areas of California; and (3) Italians played a large role in the development of agriculture in California. Their control and development of fruit and vegetable industries in the central valley, truck farming in major urban centers, and their influence on the development of wine and grape industries left a legacy shared by us all; and

WHEREAS, Italian American contributions to California and United States history can be easily incorporated in the current elementary and secondary curriculum content. Including the vital role of Italian Americans in shaping California into the state it is today will help pupils truly understand a significant part of our state's unique culture and will help them understand how the interdependence of people of diverse racial, ethnic, and cultural differences makes our country truly great; and

WHEREAS, In 1996, the Legislature established the California Italian-American Task Force. The highest priority of the task force is the inclusion in the public school curriculum of Italian American history, achievements, and contributions. The task force and scholars have tried to use current law as a basis to promote inclusion of the contributions of Italian Americans in current curriculum, but have been advised that express legislative authority or encouragement is necessary to achieve this goal; and

WHEREAS, Italian American heritage and the contributions made by individual Italian Americans deserve the state's commendation and the designation of a month in their honor for collective reflection and celebration; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature designates the month of October as Italian American Heritage Month; and be it further

*Resolved,* That the Legislature encourages public schools to highlight Italian American achievements and contributions to the culture of California and to take steps to promote the inclusion of the achievements and contributions of Italian Americans to United States and California history and social science in elementary and secondary textbooks during the revision process for those textbooks; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author, members of the State Board of Education, and to school districts for appropriate distribution.

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## RESOLUTION CHAPTER 126

Assembly Joint Resolution No. 21—Relative to public housing agencies.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, Californians are struggling to make ends meet, especially lower income individuals and families. Their incomes are not covering the ever-escalating costs of food, housing, utilities, medical care, clothing, transportation, and individual necessities; and

WHEREAS, Foster youth are one example of lower income Californians who are struggling to make ends meet. Approximately 4,000 youth in California "age out" of foster care each year and do not have families on whom they can depend for assistance. As a result, nearly half of these youth experience homelessness within 18 months after

emancipation, and one quarter are incarcerated within two years after emancipation; and

WHEREAS, For older Californians, a survey conducted in 2007 found that 34 percent of California's population that is 65 years of age and older was below 200 percent of the poverty line with an annual income of $20,400 or less; and

WHEREAS, With a population that includes 3.5 million persons who are 65 years of age or older, California has the largest percentage of elderly population in the nation, and this population is projected to almost double to 6.5 million persons by 2020; and

WHEREAS, The federal poverty guideline for a single person in 2007 was an annual income of $10,210, and for an elderly couple it was $13,690. The official federal measure of poverty is now known to be outdated and does not take into account the higher cost to live in California; and

WHEREAS, The new Elder Economic Security Standard Index (Elder Index) for California finds that the federal poverty guideline covers less than half of the basic costs experienced by adults 65 years of age and older in the state. While the Elder Index has been applied to older Californians, its findings can be extended to other individuals existing at low income or below; and

WHEREAS, The United States Department of Agriculture found that food prices rose 4 percent in 2007, compared to an average 2.5 percent annual rise for the past 15 years. That department predicts that food prices will rise 4.5 percent in 2008; and

WHEREAS, Utility costs have steadily climbed and fuel prices are increasingly driving up transportation costs; and

WHEREAS, Whether the lower income population under discussion is older persons, foster youth, families, or individual Californians, housing costs, in particular, can dominate the budgets of persons residing in this state, and the federal Section 8 Housing Voucher Program (42 U.S.C. Sec. 1437f) was designed to provide persons of low income, very low income, and extremely low income with housing assistance. While Section 8 recipients currently pay about 30 percent of their income for rent, other necessities such as food, medical expenses, transportation, and utilities still exceed their monthly incomes, thus diminishing the value of the Section 8 benefit; and

WHEREAS, As the economy worsens or jobs are lost, more Californians will be driven below the poverty line and become homeless. In 2005, the federal Department of Housing and Urban Development reported that the number of unassisted households with worst case housing needs across the country was 5.99 million, an increase of 16 percent from 2003. That department also found that housing assistance

was distributed unevenly across the nation with the West receiving a lower proportion than the rest of the nation. This finding partially explains the shortage of Section 8 units in California compared to the proportional need in the state; and

WHEREAS, Although shared housing is specifically authorized by statute for Section 8 recipients, more housing authorities should offer shared housing, especially where Section 8 housing is limited; and

WHEREAS, A Section 8 shared housing program that allows two Section 8 recipients to share a two-bedroom rental unit, with a corresponding rent reduction as incentive, would save local public housing agencies money and create additional available housing units for other recipients. If this incentive were extended to more extremely low income special needs populations, such as emancipated foster youth, federal Supplemental Security Income recipients, and elderly Section 8 recipients, more populations would benefit from sharing resources that will enable them to better manage other high-cost necessities, such as transportation, medical costs, tuition, utilities, and food; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature urges each public housing agency in the state that provides housing vouchers or certificates under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f) to include shared housing as an option for all Section 8 recipients, especially extremely low income special needs households, such as foster youth, recipients who receive assistance under the federal Supplemental Security Income program, and the elderly, in the next plan the agency submits to the United States Department of Housing and Urban Development; and be it further

*Resolved,* That the Legislature respectfully memorializes the President and the Congress of the United States to enact legislation reducing the tenant's portion of the rent to 20 percent of monthly income for extremely low income special needs recipients who utilize shared housing; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, to the Secretary of Housing and Urban Development, and to the executive director of each public housing agency in the state.

## RESOLUTION CHAPTER 127

Assembly Joint Resolution No. 37—Relative to the Santa Monica Municipal Airport.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, The Santa Monica Municipal Airport (SMO) is situated on the border separating the Cities of Santa Monica and Los Angeles; and

WHEREAS, SMO is one of the most residentially encroached airports in the entire nation; and

WHEREAS, Jet operations at SMO have increased from less than 2,000 in 1983 to more than 18,500 in 2007; and

WHEREAS, Flight operations at SMO are often hindered or delayed by the proximity of the airport to the Los Angeles International Airport; and

WHEREAS, The safety of the residents who live in proximity to the airport, both in Santa Monica and Los Angeles, is a prime concern of the officials who represent the area at the various levels of government; and

WHEREAS, The Federal Aviation Administration (FAA) has primary jurisdiction over aviation in the United States; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature respectfully memorializes the FAA to engage in a collaborative process to review the safety of flight operations at SMO, and examine the role that SMO plays in the regional aviation transportation system; and be it further

*Resolved,* That the Legislature encourages the FAA to engage in an open and transparent process that includes input from the Cities of Santa Monica and Los Angeles, appropriate local and state elected officials, and affected community organizations; and be it further

*Resolved,* That the Legislature encourages the FAA to honor the decision of the City of Santa Monica to increase safety precautions at SMO and restrict the use of Class C and D aircraft at SMO; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Administrator of the FAA, to the United States Secretary of Transportation, and to each Senator and Representative from California in the Congress of the United States.

# RESOLUTION CHAPTER 128

Assembly Joint Resolution No. 39—Relative to the Winnemem Wintu Tribe.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, The Winnemem Wintu Tribe is a sovereign Indian Nation, located in Shasta and Siskiyou Counties in California, and consists of 122 enrolled and documented members, with its tribal headquarters located in Jones Valley, California, on the site of the Wintu Village named "Tuiimayallii"; and

WHEREAS, The leaders of the Winnemem Wintu Tribe met with representatives of the United States for treaty negotiations, and a treaty was signed by both the tribal leaders and the United States at Reading's Ranch on August 15, 1851; and

WHEREAS, The Winnemem Wintu Tribe was thus recognized by the United States Government as early as 1851; and

WHEREAS, The Winnemem Wintu Tribe again conducted negotiations with the federal government in 1889 through the presentation of a letter known as the "Wintu/Yana Petition" to President Benjamin Harrison; and

WHEREAS, The result of that petition was the sending of special Indian agents from the Department of the Interior to California who were given the task of securing land for landless and homeless Indians, particularly the Winnemem Wintu; and

WHEREAS, Special Indian Agent John Terrell conducted a census of the Winnemem Wintu Tribe in 1915 for inclusion in the government land purchase efforts; and

WHEREAS, The federal government failed in its mission to secure land for the Winnemem Wintu Tribe as a whole, and instead granted individual land allotments to some tribal members (Allotment, non-Reservation Indians), in areas known at the time to be in danger of inundation by the rising waters of the planned Shasta Dam, as cited by Special Indian Agent John Terrell in his correspondence to the Department of the Interior; and

WHEREAS, During the years 1935 to 1943, inclusive, the federal government began removing tribal burials for reinterment in the United States Government Shasta Reservoir Indian Cemetery, held in trust status by the United States; and

WHEREAS, Up through 1985, the Winnemem Wintu Tribe received federal education, housing, and health services offered through the Bureau of Indian Affairs, the United States Forest Services, and the

United States Fish and Wildlife Services, to federally recognized Indian tribes and bands; and

WHEREAS, Title to at least some of the allotments issued to Winnemem Wintu tribal members as recorded in the 1915 census created by United States Indian agents are still held in trust on those members' behalf by the United States, and the United States continues to forward trust income to some members in acknowledgment of those relationships, demonstrating that the special trust relationship between the United States and the Winnemem Wintu Tribe and its members has never been terminated, only misplaced; and

WHEREAS, Since 1985, the Winnemem Wintu Tribe has not been listed as an Indian tribe by the Bureau of Indian Affairs, even though it was never officially terminated as one and although it continues to have land held in trust by the United States on its behalf and have government-to-government relations with other agencies of the federal government; and

WHEREAS, Due to the tribe's omission from the list of federally recognized tribal entities, members of the Winnemem Wintu Tribe have been denied access to federal services such as education, housing, and health services under federal programs established for federally recognized Native American tribes, and the tribe does not receive the protections provided by Congress for members of federally recognized tribes; and

WHEREAS, Numerous state and federal agencies have recognized or currently recognize the Winnemem Wintu Tribe, including, but not limited to, all of the following:

(1) The California Native American Heritage Commission, which lists the Winnemem Wintu Tribe as a legitimate California tribe.

(2) The United States Bureau of Reclamation, which issued the Winnemem Wintu Tribe a permit to hold traditional ceremonies on the Shasta Dam.

(3) The United States Forest Service, which signed a memorandum of understanding committing to consult with the Winnemem Wintu Tribe when working in traditional tribal lands and managing sacred sites.

(4) The United States Forest Service, which has posted information about the Winnemem Wintu Tribe at interpretive facilities at Fowlers Campground, Middle Falls, and at the entrance to Panther Meadows on Mount Shasta.

(5) The Department of Transportation, which signed a memorandum of understanding with the Winnemem Wintu Tribe to consult with the tribe when transit projects encroach upon tribal land.

(6) The federal government, which signed the Cottonwood Treaty of 1851 that was not ratified, but has never been withdrawn.

(7) Until the mid-1980's, members of the Winnemem Wintu Tribe received United States Bureau of Indian Affairs housing, health care, and educational assistance available only to members of recognized tribes; and

WHEREAS, The Winnemem Wintu Tribe can document injustice at the hands of the federal government since the 1851 treaty to recognize the tribe was signed by the United States Representative but lost prior to registry in Washington D.C.; and

WHEREAS, The Winnemem Wintu Tribe is an historic and traditional band of California Indians whose people are the keepers of their religious places and practices and upon whose shoulders is placed the burden of carrying forward the religion, traditions, culture, and teachings of and for their people and who seek restoration of their federal recognition for cultural purposes, not for Indian gaming purposes; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature respectfully memorializes the President and Congress of the United States, and the Assistant Secretary for Indian Affairs in the United States Department of the Interior to reaffirm that the Winnemem Wintu Tribe possesses full federal recognition and all the rights and privileges that arise from that status, excluding Indian gaming, but including immediate inclusion of the tribe in the list published in the Federal Register under the relevant provisions of Title I of the Federally Recognized Indian Tribe List Act of 1994 (Public Law 103-454); and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Assistant Secretary for Indian Affairs in the United States Department of the Interior.

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## RESOLUTION CHAPTER 129

Assembly Joint Resolution No. 42—Relative to domestic violence.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, Domestic violence is a major problem in both California and throughout the United States; and

WHEREAS, Domestic violence is often referred to as intimate partner violence, which includes violence between spouses, couples who are dating, and former spouses or partners; and

WHEREAS, Around the world one in every three women has been beaten, coerced into sex, or otherwise abused during her lifetime; and

WHEREAS, Women 16 to 24 years of age are consistently reported as the group most at risk of abuse; and

WHEREAS, Women of all races are equally vulnerable to violence by an intimate partner; and

WHEREAS, Domestic violence often involves physical, sexual, verbal, emotional, and psychological abuse; and

WHEREAS, Every year almost 6 percent of women in California suffer physical injuries from domestic violence; and

WHEREAS, Women victimized by abuse are more likely to be diagnosed with serious health problems including depression, panic attacks, high-risk behaviors such as substance abuse and sexual risk taking, as well as migraine headaches, chronic pain, arthritis, high blood pressure, inconsistent use of birth control, and delayed entry into prenatal care; and

WHEREAS, In 2006, 134 murders, with 110 female victims and 24 male victims, were the result of intimate partner violence in California; and

WHEREAS, Pregnant women are frequent targets of abuse, and as a result, are placed at risk for low-birth weight babies and preterm labor; and

WHEREAS, Fifty percent of the men who frequently assaulted their wives also frequently abused their children; and

WHEREAS, About 916,000 children were exposed to intimate partner violence at home in 1998; and

WHEREAS, Crime and incarceration of youth are often associated with a history of child abuse and exposure to domestic violence; and

WHEREAS, Nearly one in five women who went hungry because they did not have enough money to buy food were victims of domestic violence; and

WHEREAS, Ten percent of all domestic violence victims are male; and

WHEREAS, A change in any funding or policy discouraging victims to report incidents of domestic violence, whether male or female, would result in victims remaining in violent relationships just to avoid deportation and abandonment of their children, which would cause those children to seek public assistance, end up in foster care, and become more likely to model domestic violence behaviors themselves; now, therefore, be it

*Resolved, by the Assembly and the Senate of the State of California, jointly,* That the California Legislature urges Congress to protect funding

and maintain programs, laws, regulations, and policies that assist victims of domestic violence; and

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 130

Assembly Joint Resolution No. 57—Relative to mercury-contaminated seafood.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, With the advent of health consciousness and the global industrialization of fishing, the rate of seafood consumption has doubled since the 1980s, so that today people in the United States eat about 16 pounds of fresh and frozen seafood every year; and

WHEREAS, Alongside greater seafood consumption, increasing levels of mercury air emissions and other mercury sources are contaminating fish with the potent neurotoxin -- methyl mercury; and

WHEREAS, Methyl mercury, the kind of mercury found in fish, is a potent neurotoxin that can slow brain development in children, harm pregnant and nursing women, attack the nervous system of adults, and lead to a higher likelihood of heart disease; and

WHEREAS, Mercury levels of swordfish and tuna tested in California markets frequently exceeded the federal Food and Drug Administration (FDA) limit of 1 parts per million (ppm) in fish tissue, and in one sample the mercury levels were 230 percent over the FDA limit; and

WHEREAS, Mercury levels of swordfish and tuna tested in restaurants in Chicago, New York, San Francisco, and other cities frequently exceeded the FDA limit of 1 ppm in fish tissue; and

WHEREAS, In March 2004, the United States Environmental Protection Agency (EPA) and the FDA, rereleased an amended consumer advisory notice warning women who may become pregnant, pregnant women, nursing mothers, and young children to avoid exposure to the harmful effects of mercury found in fish; and

WHEREAS, The results of a statewide restaurant survey conducted in the fall of 2007 found that many California restaurants and supermarkets fail to adequately warn people about the dangers of eating mercury-laden seafood; and

WHEREAS, Of the 332 restaurants in 27 counties inspected by 125 volunteer monitors, 50 percent of restaurants were out of compliance with state law that requires posting of mercury in seafood warning signs; and

WHEREAS, The problem with poor public messaging is that most people remain unaware of medical evidence that shows seafood consumers run a high risk of mercury contamination; and

WHEREAS, The state's efforts to enforce its laws requiring warning signs and labeling of mercury-contaminated seafood has been challenged in court by the seafood industry; and

WHEREAS, Other states do not have laws that require the posting of warning signs, testing, or labeling of mercury-contaminated seafood; and

WHEREAS, California and other states do not have the resources or capacity to enforce federal warning signs, require labeling, or conduct testing; and

WHEREAS, California finds that its residents and those of other states remain at risk of unknowingly ingesting methyl mercury; and

WHEREAS, Mercury in seafood limits in Canada, Japan, and the European Union are one-half the United States regulatory limit; and

WHEREAS, Seafood exceeding mercury limits in Canada, Japan, and the European Union is not allowed to be sold; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature urges the United States Food and Drug Administration to take responsibility for, and take actions to reduce, the public's exposure to mercury in seafood by doing all of the following:

(a) Developing, implementing, and enforcing a nationally comprehensive consumer advisory warning system.

(b) Requiring seafood companies and retail food establishments to label seafood with mercury that exceeds the FDA safe mercury level.

(c) Embarking on a public education effort in order to assist people in deciding which fish are healthiest for their diet; and be it further

*Resolved,* That the Legislature urges the United States Food and Drug Administration to assist, rather than seek to prohibit, states from taking stronger action to protect public health and reduce health risks associated with methyl mercury; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the

Congress of the United States, and to the federal Food and Drug Administration.

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## RESOLUTION CHAPTER 131

Assembly Joint Resolution No. 65—Relative to Filipino communities.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, Filipinos and Filipino American communities have played critical roles in the social, economic, and political development of California throughout the state's history; and

WHEREAS, The first recorded arrival of Filipinos in what is now Morro Bay, California was on October 18, 1587, as sailors and crewmen on the Spanish galleons of the Manila-Acapulco mercantile, and Filipinos assisted Father Junipero Serra establish the California mission system in the late 1700s and early 1800s; and

WHEREAS, San Francisco's Presidio was the site from which soldiers headed to the Philippine-American War were deployed, and beginning immediately after the colonization of the Philippines and the Philippine-American war, Filipinos began immigrating to San Francisco, as military personnel and as workers in the service sector of San Francisco as bellhops, dishwashers, servants, and cooks, and by the 1920s established a thriving community around Kearny and Jackson Streets they called Manilatown, and in the post-World War II era, in large Filipino communities in the Fillmore, South of Market, and Excelsior districts; and

WHEREAS, In the first decades of the 20th century, thousands of Filipinos began working in the agricultural fields throughout California, in such cities and regions as the Sacramento-San Joaquin Delta, the central coast (Salinas, Santa Maria, Lompoc, Guadalupe), Imperial Valley, Orange County, the Inland Empire, Delano, Bakersfield, Coachella Valley, and the San Francisco Bay area, becoming a critical element in the growth and the political economy of the state, often enduring harsh labor conditions and poor wages, but creating a strong legacy of mutual support, militant strikes, and organizing for farm labor unionization; and

WHEREAS, These agricultural workers, led by Philip Vera Cruz and Larry Itliong, with their history of strong farm labor unions, would lead the 1965 Delano Grape Strike and partner with Mexican American workers in the creation of the United Farm Workers in Delano in 1967; and

WHEREAS, These agricultural workers also built Agbayani Village, a retirement facility for elderly Filipino farmworkers, called "manongs," located at Forty Acres in Delano, Kern County; and

WHEREAS, At the turn of the century, Filipino students, farmworkers, and laborers in manufacturing and in the service sector began settling in the San Joaquin Delta area near and in Stockton, building a community that became the largest concentration of Filipinos outside of the Philippines through much of the 20th century, establishing a thriving six-block ethnic neighborhood they called "Little Manila" in downtown Stockton at the intersection of Lafayette and El Dorado Streets, which the Stockton City Council designated the "Little Manila Historical Site" in 2000, the first such designation in the country; and

WHEREAS, In the 1920s, Filipinos worked as laborers in the shipyards in Vallejo, and by the time World War II began, thousands of Filipinos worked as shipbuilders, and established a successful Filipino American community and business center in Vallejo; and

WHEREAS, During World War II, thousands of Filipinos from California served in the First and Second Filipino Infantry Regiments and were trained at Salinas and at Ford Ord, California, and stationed at Camp Beale near Sacramento and Camp Cooke near Santa Maria; and

WHEREAS, After discharge from the United States Navy following World War II, many Filipinos settled in National City and elsewhere in the County of San Diego, as well as in the Cities of West Long Beach and Wilmington, where they worked in the Long Beach shipyards, Terminal Island canneries, and as nurses and medical workers in the harbor area, creating flourishing Filipino American communities numbering in the tens of thousands; and

WHEREAS, The Filipino Community Center of the Los Angeles Harbor area in the City of Wilmington continues to serve as a model organization, facilitating community events such as weddings, baptisms, pageants, and fiestas; and

WHEREAS, Numerous other community-based institutions that take responsibility for the services, advocacy, and civic engagement needs of the Filipino American community exist today throughout the state; and

WHEREAS, In 1968, Filipino student organizers were instrumental in the leadership of the Third World Liberation Front that led to the founding of the nation's first College of Ethnic Studies at California State University, San Francisco, which was part of the larger effort to democratize higher education for all; and

WHEREAS, From 1972 to 1986, Filipino American activists organized massive educational and political campaigns to restore civil liberties in

the Philippines during the period of Martial Law in that country, while creating dynamic local responses to international politics; and

WHEREAS, From 1968 to 1977, Filipino American activists and residents of San Francisco's International Hotel challenged local authorities and private development in order to organize a multiracial and popular campaign to support affordable housing for Filipino and Chinese immigrants, placing people and the public good ahead of profit; and

WHEREAS, In 2002, the City of Los Angeles, home to over 120,000 Filipinos, designated a "Historic Filipinotown" district, the largest designation of this kind in the country; and

WHEREAS, From World War II to the present, federal, state and local redevelopment projects, freeway and highway construction, urban decay, demographic shifts, and poor city planning have destroyed a significant number of Filipino American historic sites and ethnic neighborhoods, and many of the remaining Filipino American communities and historic sites are in danger of being lost; and

WHEREAS, The Filipino American community in California numbers well over one million, nearly one-half of the total population of Filipinos in the United States; and

WHEREAS, Preserving our Filipino communities throughout California is critical to our state history and the preservation of Filipino culture, history, traditions, and other elements of this heritage; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature recognizes the critical role that Filipinos and Filipino American communities have played in the social, economic, and political development of California throughout the state's history; and be it further

*Resolved,* That the Legislature encourages all federal, state, and local organizations to promote the preservation of Filipino history and culture, including the preservation of Filipino communities; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 132

Assembly Concurrent Resolution No. 143—Relative to California Hispanic Heritage Month.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, President Lyndon B. Johnson first proclaimed and designated the week that included September 15 and 16 in 1968 as National Hispanic Heritage Week, as a result of a Joint Resolution approved by Congress on September 17, 1968, in recognition of the contributions of Hispanic Americans to American culture and history; and

WHEREAS, The original weeklong commemoration was changed by Public Law No. 100-402, which took effect on January 1, 1989, to National Hispanic Heritage Month to include the 31-day period beginning September 15 and ending on October 15; and

WHEREAS, September 15 is the anniversary of independence for the five Latin American countries of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, and September 16 and 18 are the anniversaries of independence for Mexico and Chile, respectively; and

WHEREAS, The objectives of National Hispanic Heritage Month are to create a greater awareness of the contributions of Hispanic Americans to American culture, to illustrate the diversity of the Hispanic American community, and to encourage a greater curiosity within young people about the rich history and cultural heritage of Hispanic Americans; and

WHEREAS, Hispanic influence is evident in American culture in, among other things, music, art, science, food, humanities, and business and trade; and

WHEREAS, Hispanic Americans from the time of the Revolutionary War to the War on Terrorism subsequent to September 11, 2001, have proudly served this country in the Armed Forces, and, during their course of service, 41 Hispanic Americans, including nine from California, have been awarded the Medal of Honor, the highest honor conferred for military bravery and heroism above and beyond the call of duty; and

WHEREAS, There are nearly 13 million Hispanic Americans in California; and

WHEREAS, Hispanic Americans have contributed to the development and success of California by playing major roles in building this state through agriculture, medicine, science, entertainment, business, education, civil rights, politics, and sports; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby proclaims September 15 to October 15, 2008, inclusive, as California Hispanic Heritage Month and encourages all Californians to observe this event in communities throughout the state; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

## RESOLUTION CHAPTER 133

Assembly Concurrent Resolution No. 144—Relative to the Border Patrol Officer Neil Wilkie Hepburn Memorial Bridge.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, Border Patrol Officer Neil Wilkie Hepburn was born in Dundee, Scotland, on July 3, 1972; and

WHEREAS, Border Patrol Officer Hepburn immigrated to the United States on May 27, 1981, and settled in the desert of southern California; and

WHEREAS, Border Patrol Officer Hepburn met Kristina Kaye at San Diego State University in 1991 and they married on August 3, 1996; and

WHEREAS, In 1996, Border Patrol Officer Hepburn became a United States citizen and graduated from San Diego State University with a degree in criminal justice. While at San Diego State University, he participated in the marching band and symphonic band; and

WHEREAS, In 1998, Border Patrol Officer Hepburn joined the United States Border Patrol and served with Horse Patrol, a specialized unit of the United States Border Patrol, at the Imperial Beach Station for 8 years. He was known for his ability to "MacGyver" everything; and

WHEREAS, Border Patrol Officer Hepburn served as a supervisor at Campo Station IH8 Check Point, as an emergency medical technician, and as a supervisor of the canine program; and

WHEREAS, Border Patrol Officer Hepburn was learning to play bagpipes with other border patrol agents, was a member of the Tierrasanta Parent-Teacher Association, and volunteered as an AYSO soccer coach and as a little league baseball coach in Tierrasanta; and

WHEREAS, Border Patrol Officer Hepburn was a loving husband to Kristina and a devoted father to his seven-year-old son Robby and two-year-old daughter Kayelin; and

WHEREAS, Border Patrol Officer Hepburn lost his life tragically in a head-on collision with a drunk driver while on his way home from work in the early morning hours of September 7, 2007, on State Highway Route 52 in San Diego; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby designates the bridge on State Highway Route 52 that crosses over West Hills Parkway in Santee, California, as the Border Patrol Officer Neil Wilkie Hepburn Memorial Bridge; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing that special

designation and, upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 134

Assembly Concurrent Resolution No. 65—Relative to Red Ribbon Week.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, Californians for Drug-Free Youth, Inc. (CADFY), a statewide parent-community organization, the office of the Governor, the office of the Attorney General, the State Department of Alcohol and Drug Programs, the State Department of Education, the California Parent Teacher Association, and over 100 other statewide agencies, departments, and organizations are cosponsoring October 23 through 31, 2008, as the period that includes Red Ribbon Week; and

WHEREAS, The National Family Partnership, Inc. initiated the Red Ribbon Campaign after Drug Enforcement Administration Agent Enrique "Kiki" Camarena was killed in Mexico by drug traffickers in 1985; and

WHEREAS, Parents, youth, schools, businesses, law enforcement, religious institutions, service organizations, senior citizens, medical and military personnel, sports teams, and anyone concerned about the effects of drugs on our communities will demonstrate their commitment to drug-free, healthy lifestyles by wearing and displaying red ribbons during this weeklong celebration; and

WHEREAS, The theme of this year's effort is "Ask me, See me, Be me. I'm Drug Free"; and

WHEREAS, Securing a safe and healthy future for our children is directly threatened by drug abuse, and awareness of this problem will help individuals in fighting drug abuse; and

WHEREAS, The objective of Red Ribbon Week 2008 will be to promote this view through drug prevention, education, parental involvement, and communitywide support; and

WHEREAS, The Assembly of the State of California has further committed its resources to ensure the success of the Red Ribbon Week celebration; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby proclaims its support for the

Red Ribbon Week celebration by proclaiming the period of October 23 through 31, 2008, as including Red Ribbon Week; and be it further

*Resolved,* That the Legislature encourages all Californians to help build drug-free communities and to participate in drug prevention activities by making a visible statement that we are firmly committed to healthy, productive, and drug-free lifestyles; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, and to the author for appropriate distribution throughout the community.

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## RESOLUTION CHAPTER 135

Assembly Concurrent Resolution No. 120—Relative to USA Entrepreneurship Week.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, USA Entrepreneurship Week will be celebrated throughout the country from November 17 to 23, 2008, inclusive; and

WHEREAS, USA Entrepreneurship Week will be held in partnership with Global Entrepreneurship Week; and

WHEREAS, An entrepreneur is an individual who owns, organizes, and manages a business, and in so doing, assumes the risk of either making a profit or losing his or her investment; and

WHEREAS, The term "entrepreneur" also applies to individuals who take risks in pioneering new social ideas and innovative solutions within existing organizations; and

WHEREAS, Entrepreneurs are engaged citizens who work to improve their local communities, thereby providing better opportunities for business and a better overall environment for the human resources that entrepreneurs need to advance their innovative ideas; and

WHEREAS, According to the Department of Labor, most of the new jobs created in the United States during the past decade have stemmed from the creative efforts of entrepreneurs that have expanded and advanced technology and fueled the recent growth of the economy; and

WHEREAS, Of all new entrepreneurial enterprises, 99.9 percent begin as small businesses or microenterprises; and

WHEREAS, In the country as a whole, and in California in particular, well over 90 percent of all businesses can be characterized as small businesses or microenterprises; and

WHEREAS, Small businesses employ over 50 percent of all workers in the state, and microenterprises, nearly 20 percent; and

WHEREAS, During the past 15 years, businesses in operation for less than 5 years have accounted for approximately 70 percent of the jobs created both nationally and in California; and

WHEREAS, The majority of small business and microenterprise owners use an average of ten thousand dollars ($10,000) to start their own businesses, and the greatest single source of that startup money is personal savings; and

WHEREAS, Seventy percent of young Americans envision starting a business or doing something entrepreneurial as adults, but very few learn how to go about it; and

WHEREAS, Starting a new business or undertaking some form of entrepreneurial activity requires fundamental knowledge and skill to develop the marketing, management, and financial plans necessary to run a successful business; and

WHEREAS, The high interest shown by young people in becoming entrepreneurs and the critical role entrepreneurs have played in advancing the national and state economies make it vital to encourage young people from all academic backgrounds and all walks of life to explore their entrepreneurial potential; and

WHEREAS, Global Entrepreneurship Week, an event sponsored by the Ewing Marion Kaufman Foundation, IBM, Ernst & Young, and hundreds of partner organizations, will be celebrated across the world and is intended to promote awareness of the contributions of entrepreneurs as innovators, as positive forces in the economy, and as important resources for improving communities as places to live and work; and

WHEREAS, USA Entrepreneurship Week will help educate policymakers and community leaders about what they can do to help keep America's entrepreneurial engine running strong; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature supports the goal of USA Entrepreneurship Week from November 17 to 23, 2008, to ignite the national and state consciousness of the importance of entrepreneurship and to remind people of the social and economic contributions made by entrepreneurs; and be it further

*Resolved,* That the Legislature encourages educators, who teach in high schools and in institutions of higher learning, to advance entrepreneurial ideals and spirit to their students; and be it further

*Resolved,* That the Legislature urges all school administrators to ensure that their schools offer students opportunities to learn the basic principles of entrepreneurship; and be it further

*Resolved,* That the Legislature encourages schools, community-based organizations, business groups, and volunteer organizations who work with California youth, to sponsor, organize, and hold events during USA Entrepreneurship Week to fully promote entrepreneurship among the youth within the state; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 136

Assembly Concurrent Resolution No. 139—Relative to the Kimberly Marie Hamilton Memorial Interchange.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, Kimberly Marie Hamilton was born on August 14, 1987, in Fresno, California; and

WHEREAS, Kimberly attended Clovis East High School in Fresno, California, and was an avid golfer and hockey fan; and

WHEREAS, Kimberly spoke often of becoming a teacher, and was loved and respected by family and friends; and

WHEREAS, On May 7, 2004, Kimberly was the victim of a car accident that occurred on Fowler Avenue near Belmont Avenue in the City of Fresno under tragic circumstances involving a construction vehicle; and

WHEREAS, Kimberly's death has affected and touched many people's lives, and has increased the call for better safety practices in and around roadway construction sites; and

WHEREAS, Kimberly continues to be remembered for her sense of humor, laughter, and smile, and is survived by her parents, two brothers, and one sister; and

WHEREAS, The Legislature hereby expresses its deepest sympathy to Kimberly's family, and wishes to designate a highway interchange located near the site of Kimberly's death as the Kimberly Marie Hamilton Memorial Interchange; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the State Highway Route 180 interchange at Fowler Avenue in the City of Fresno be designated as the Kimberly Marie Hamilton Memorial Interchange; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing that special

designation and, upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 137

Assembly Concurrent Resolution No. 141—Relative to the CHP Officer Andrew "Andy" Stevens Memorial Highway.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, California Highway Patrol (CHP) Officer Andrew "Andy" Todd Stevens was born February 25, 1968, in Sacramento, California; and

WHEREAS, Andy Stevens attended Kohler Elementary School in North Highlands. He then attended Carmichael Baptist Academy where he graduated from high school in 1986. Following high school, he attended American River College and Sacramento City College where he studied criminal justice. Law enforcement was his career of choice; and

WHEREAS, In May 1994, Andy Stevens was selected for the position of Cadet at the CHP Academy. Upon graduation, CHP Officer Stevens was assigned to road patrol in Baldwin Park. Later, he worked in San Jose, Golden Gate Communications Center, Golden Gate Division, and the Woodland area. In May 2002, he found his true calling and was assigned as a Commercial Officer in Valley Division, serving the Sacramento area; and

WHEREAS, While working in Woodland, CHP Officer Stevens met an Emergency Medical Technician named Michelle, who was working for American Medical Response Ambulance Company. They were married on October 20, 2002, at Lake Tahoe; and

WHEREAS, CHP Officer Stevens loved to travel. He and Michelle visited locations all over the world, including a very memorable trip to Europe. While in Europe, they rented a Harley-Davidson motorcycle and rode through Germany. Their love of motorcycles also led them to take a three-week ride to Milwaukee to celebrate the 100 Year Anniversary of Harley-Davidson in 2003; and

WHEREAS, CHP Officer Stevens was a blessing to his family and friends. He planned annual neighborhood campouts and was the driving force for many in his cul-de-sac to buy motorcycles. CHP Officer Stevens

could always be counted on to help out. He was deeply involved in his local church. He always demonstrated strong dedication, love, and commitment to family, friends, and the community; and

WHEREAS, CHP Officer Stevens' life was packed with achievements. He was the Director of the Auburn Chapter of the Harley Owners Group and was instrumental in organizing and coordinating numerous charitable events. He was in his second year of organizing the Annual Toy Run in Auburn, which raises toys for over 1,000 disadvantaged children in the community; and

WHEREAS, CHP Officer Stevens was killed on November 17, 2005, in a felonious assault while working road patrol near State Highway Route 16 in rural Yolo County. CHP Officer Stevens had initiated a traffic stop for a Vehicle Code violation and approached the violator's vehicle when he was suddenly and ruthlessly shot by the driver. The driver fled the scene and was apprehended less than 12 hours later. CHP Officer Stevens was laid to rest in Sacramento County after a ceremony attended by thousands of mourners, including his fellow officers, friends, and family; and

WHEREAS, CHP Officer Stevens is survived by his beloved wife Michelle, his parents John and Patricia Stevens, mother-in-law Kathleen, his brother Mark and sister-in-law Nahrain, brother-in-law Ezaria, nieces Jessica and Alyssa, and nephew Michael, and his bassett hounds, Abby and Rocky; and

WHEREAS, CHP Officer Stevens' absence will be felt throughout the CHP and the law enforcement community for years to come. The loss of such a caring and giving person is a loss not just to family, friends, and coworkers, but is truly a loss to the entire community and state that CHP Officer Stevens served; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby designates the section of State Highway Route 16 in Yolo County between County Road 98 and Interstate 505 as the CHP Officer Andrew "Andy" Stevens Memorial Highway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources sufficient to cover the cost, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

## RESOLUTION CHAPTER 138

Assembly Concurrent Resolution No. 149—Relative to firefighters.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, California Department of Forestry and Fire Protection (CDF) firefighters, the men and women of CAL-FIRE, perform an essential public service, and CAL-FIRE is the second largest firefighting agency in the country, operating 804 fire stations and over 1,000 fire engines throughout the state; and

WHEREAS, It is important to recognize the significant duties, responsibilities, hazards, and sacrifices of the approximately 6,900 CDF firefighters; and

WHEREAS, CAL-FIRE was founded 103 years ago and has a long and proud history of public service, and the men and women of CAL-FIRE continue to devote themselves to their jobs, regardless of the potential hazards and dangers to themselves; and

WHEREAS, California is the most fire prone state in the United States and CAL-FIRE is the preeminent agency in wildland and urban interface firefighting in the country, responding to an annual average of over 5,600 wildland fires across the state; and

WHEREAS, CDF firefighters have consistently demonstrated their bravery and skill in responding to such devastating fires as the Oakland Hills Fire of 1991, the Southern California Fire Sieges of 2003 and 2007, and, this year, the Humboldt Fire that burned over 23,000 acres in Butte County and the 41 Fire that burned over 3,000 acres in Madera County; and

WHEREAS, CAL-FIRE efficiently and tirelessly managed an unprecedented siege of dry lightning strikes this year in northern California, which added hundreds of fires to a statewide peak of over 1,700 fires that burned over 700,000 acres by July; and

WHEREAS, In addition to responding to wildfires across California, CDF firefighters play a critical role in responding to a multitude of statewide and national emergencies, including, but not limited to, the Loma Prieta Earthquake of 1989, the Cantara Spill of 1991, the Northridge Earthquake of 1994, the Central California Floods of 1997 and 1998, the Oklahoma City Bombing of 1995, New York City after September 11, 2001, and Hurricane Katrina in 2005: and

WHEREAS, CDF firefighters answer an average of over 350,000 calls a year and only 1.6 percent, approximately, of those calls relate to wildland fires; and

WHEREAS, The firefighters of CAL-FIRE perform the same work as other municipal fire departments, such as responding to structural

fires and automobile accidents, attending to victims of heart attacks and drownings, and rescuing flood and earthquake victims; and

WHEREAS, CDF firefighters continue to work nearly one-third more hours than their municipal counterparts on average as part of their regular duty, often fighting fires for weeks on end without relief during every fire season; and

WHEREAS, Because of drought, bark beetle infestations, and sudden oak death disease, we are facing historically high levels of fuels, and the 2008 fire season looks to be as dangerous as any in recent years; and

WHEREAS, The California Firefighters' Memorial in Capitol Park bears the names of approximately 1,200 firefighters who have died in the line of duty and approximately 75 of those are CDF firefighters who have lost their lives protecting our residents, their homes, parks, and communities; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California hereby recognizes and commends the bravery and selflessness of the firefighters of CAL-FIRE, and expresses its appreciation for their continued service and dedication to the residents of this state; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author, the Director of CAL-FIRE, and the President of the CDF Firefighters.

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## RESOLUTION CHAPTER 139

Assembly Concurrent Resolution No. 152—Relative to Health Care Decisions Week.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, It is important for people to make health care decisions before they are needed; and

WHEREAS, Health care planning is a process, rather than a single decision, that helps people think about the kind of care they would want if they become seriously ill or incapacitated, encourages them to talk with their loved ones and doctors, and assists them in writing down their wishes; and

WHEREAS, Advance directives give people the ability to document their wishes and identify the person to speak for them should they become unable to speak for themselves; and

WHEREAS, A Physician Orders for Life Sustaining Treatment (POLST) form compliments an advance directive by taking an

individual's wishes regarding life-sustaining treatment and turning those wishes into a medical order; and

WHEREAS, Introducing these issues in community settings can help people begin conversations about their health care wishes with a family member, close friend, doctor, or faith leader; and

WHEREAS, California has a number of local coalitions throughout the state that are working to involve individuals and families in health care planning through educational forums, discussion groups, speaker's bureaus, and training; and

WHEREAS, The California Coalition for Compassionate Care and more than 50 of the coalition's member organizations representing health care providers, consumers, regulators, and local coalitions have joined together to sponsor a weeklong focus on health care decisions; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature recognizes the week of October 26 through November 1, 2008, as Health Care Decisions Week in California; and be it further

*Resolved,* That the Legislature encourages all Californians to think and talk with loved ones about their wishes for medical care; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 140

Assembly Concurrent Resolution No. 154—Relative to archival institutions.

[Filed with Secretary of State September 5, 2008.]

WHEREAS, California is proud to be home to more than 4,000 archival institutions that are regularly used by teachers, genealogists, lawyers, and the general public; and

WHEREAS, Much of California's rich and diverse heritage is contained in the documents and records created by and for its residents; and

WHEREAS, Californians benefit greatly from archive collections containing treasured records that detail the history of our nation, state, communities, and individuals; and

WHEREAS, Through these archives, future generations of Californians can more accurately study the past, learn from the accomplishments of

their predecessors, trace their ancestry, understand their community's pride of place, confirm property rights, and maintain laws, while celebrating the history of our state; and

WHEREAS, Archival institutions strengthen and enrich the lives of people by inspiring curiosity, exploration, critical thinking, and dialogue to advance knowledge, understanding, and an appreciation of history; and

WHEREAS, Archivists play a critical role in preserving our historic world by collecting, protecting, and maintaining records in the public trust and making those records available for study and appreciation, whether in a local repository or via the Internet; and

WHEREAS, State and local governments, religious and medical institutions, colleges and universities, libraries, historical societies, museums, businesses, and families throughout California have established archives as a means of preserving our written history; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature recognizes the important role that archival institutions have in the state and proclaims the month of October as Archives Month and encourages all Californians to discover the rich treasures contained in local archival repositories; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 141

Senate Concurrent Resolution No. 132—Relative to the California Highway Patrol Officer Brent William Clearman Memorial Freeway.

[Filed with Secretary of State September 9, 2008.]

WHEREAS, Brent William Clearman was born on January 1, 1973, in Astoria, Oregon. He later relocated to the Bay Area, and lived in such cities as Daly City, Antioch, Vacaville, and Concord, California; and

WHEREAS, Prior to graduation from the California Highway Patrol Academy in 2005, Officer Clearman served his country in the Marine Corps as a sniper, and later moved up to instructor. As such, Officer Clearman shared his extensive knowledge and skills with others, and continued on to teach sniper tactics to law enforcement agencies; and

WHEREAS, After graduation from the California Highway Patrol Academy, Officer Clearman, Badge Number 17843, was assigned to the Oakland area, Beat 370; and

WHEREAS, On August 6, 2006, Officer Clearman was struck by a hit and run driver while investigating a traffic collision in Alameda County. Officer Clearman was immediately transported to a local hospital where he succumbed to his injuries; and

WHEREAS, Officer Clearman is survived by his wife, Cathy Jo, as well as his mother, Carol, his father, William, and sisters, Ann Myenatsu, Tara Stull, and Julie Clearman; and

WHEREAS, Officer Clearman's presence will be felt for years to come throughout the California Highway Patrol and the law enforcement community. Many are saddened by his loss, and will work to preserve his memory; and

WHEREAS, Officer Clearman will always be admired for his firearm marksmanship, work ethic, and dedication to the California Highway Patrol and his family and friends. Officer Clearman was an outstanding man and will not be forgotten; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the portion of State Highway Route 880 in Alameda County between northbound mile marker 26.61 and southbound mile marker 27.63 be designated as the California Highway Patrol Officer Brent William Clearman Memorial Freeway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing the special designation and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 142

Senate Joint Resolution No. 17—Relative to the Ecumenical Patriarchate.

[Filed with Secretary of State September 9, 2008.]

WHEREAS, The Ecumenical Patriarchate, located in Istanbul, Turkey, is the Sacred See that presides in a spirit of brotherhood over a communion of self-governing churches of the Orthodox Christian world; and

WHEREAS, The See is led by Ecumenical Patriarch Bartholomew, who is the 269th in direct succession to the Apostle Andrew and holds

titular primacy as primus inter pares, meaning "first among equals," in the community of Orthodox churches worldwide; and

WHEREAS, In 1994, Ecumenical Patriarch Bartholomew, along with leaders of the Appeal of Conscience Foundation, cosponsored the Conference on Peace and Tolerance, which brought together Christian, Jewish, and Muslim religious leaders for an interfaith dialogue to help end the Balkan conflict and the ethnic conflict in the Caucasus region; and

WHEREAS, In 1997, the Congress of the United States awarded Ecumenical Patriarch Bartholomew with the Congressional Gold Medal; and

WHEREAS, Following the terrorist attacks on our nation on September 11, 2001, Ecumenical Patriarch Bartholomew gathered a group of international religious leaders to produce the first joint statement with Muslim leaders that condemned the 9/11 attacks as "antireligious"; and

WHEREAS, In October 2005, the Ecumenical Patriarch, along with Christian, Jewish, and Muslim leaders, cosponsored the Conference on Peace and Tolerance II to further promote peace and stability in southeastern Europe, the Caucasus region, and Central Asia via religious leaders' interfaith dialogue, understanding, and action; and

WHEREAS, The Orthodox Christian Church, in existence for nearly 2,000 years, numbers approximately 300,000,000 members worldwide with more than 2,000,000 members in the United States; and

WHEREAS, Since 1453, the continuing presence of the Ecumenical Patriarchate in Istanbul has been a living testament to the religious coexistence of Christians and Muslims; and

WHEREAS, This religious coexistence is in jeopardy because the Ecumenical Patriarchate is considered by the Turkish government to be the head of the Greek minority in Istanbul exclusively, rather than the head of the Greek Orthodox Church; and

WHEREAS, The Turkish government has limited the candidates available to hold the office of Ecumenical Patriarch to only Turkish nationals, and there remain less than 2,000 of the Ecumenical Patriarch's flock in Turkey today; and

WHEREAS, The Turkish government closed the Theological School on the island of Halki in 1971 and has refused to allow it to reopen, thus impeding training for Orthodox Christian clergy; and

WHEREAS, The Turkish government does not recognize the Ecumenical Patriarchate as a legal entity, and is therefore confiscating all of its properties along with the majority of the property belonging to the Greek community and its parishes, and imposing high taxes on the Balouki Hospital and Home for the aged, a charity hospital; and

WHEREAS, The European Union, a group of nations with a common goal of promoting peace and the well-being of its peoples, began accession negotiations with Turkey on October 3, 2005; and

WHEREAS, The European Union defined membership criteria for accession at the Copenhagen European Council in 1993, obligating candidate countries to achieve certain levels of reform, including stability of institutions guaranteeing democracy, adherence to the rule of law, and respect for and protection of minorities, human rights, and religious rights; and

WHEREAS, The Turkish government's current treatment of the Ecumenical Patriarchate is inconsistent with the membership conditions and goals of the European Union; and

WHEREAS, Orthodox Christians in California and throughout the United States stand to lose their spiritual leader because of the deliberate actions of the Turkish government; and

WHEREAS, The Archons of the Ecumenical Patriarchate of the Order of Saint Andrew the Apostle, a group of laymen who each have been honored with a patriarchal title, or "offikion," by the Ecumenical Patriarch for their outstanding service to the Orthodox Church, will send an American delegation to Turkey to meet with Turkish government officials, as well as the United States Ambassador to the Republic of Turkey, regarding the Turkish government's treatment of the Ecumenical Patriarchate; now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully requests the Republic of Turkey to: (1) uphold and safeguard religious and human rights without compromise; (2) cease its discrimination against the Ecumenical Patriarchate; (3) grant the Ecumenical Patriarch appropriate ecumenical recognition, ecclesiastic succession, and the right to train clergy of all nationalities; and (4) respect the property rights and religious rights of the Ecumenical Patriarchate; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President of the United States, the United States Ambassador to the Republic of Turkey, the Ambassador of the Republic of Turkey to the United States, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 143

Senate Constitutional Amendment No. 12—A resolution to propose to the people of the State of California an amendment to the Constitution

of the State, by amending Section 19 of Article IV thereof, relating to the California State Lottery.

[Filed with Secretary of State September 17, 2008.]

*Resolved by the Senate, the Assembly Concurring,* That the Legislature of the State of California at its 2007–08 Regular Session commencing on the fourth day of December 2006, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

That Section 19 of Article IV thereof is amended to read:

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) (1) Notwithstanding subdivision (a), there is authorized the California State Lottery, a lottery to be conducted by the State and operated for the purpose of increasing revenues to provide funds for the support of public education and other public purposes.

(2) Notwithstanding any other provision of law or this Constitution to the contrary, the Legislature is hereby authorized to obtain moneys for the purposes of the California State Lottery through the sale of future revenues of the California State Lottery and rights to receive those revenues to an entity authorized by the Legislature to issue debt obligations for the purpose of funding that purchase.

(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.

(g) 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.

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## RESOLUTION CHAPTER 144

Senate Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 12 of Article IV thereof, and by amending Section 20 of, and adding Section 21 to, Article XVI thereof, relating to state finance.

[Filed with Secretary of State September 17, 2008.]

*Resolved by the Senate, the Assembly Concurring,* That the Legislature of the State of California at its 2007–08 Regular Session commencing on the fourth day of December 2006, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

First—That Section 12 of Article IV thereof is amended to read:

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 total state resources available to meet those expenditures. If recommended expenditures exceed estimated resources, the Governor shall recommend the sources from which the additional resources should be provided. The itemized statement of estimated total state resources available to meet recommended expenditures submitted pursuant to this subdivision shall identify the amount, if any, of those resources anticipated to be one-time resources.

(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 Fund for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year estimated as of the date of the budget bill's passage. That estimate of General Fund revenues, transfers, and balances shall be set forth in the budget bill passed by the Legislature.

Second—That Section 20 of Article XVI thereof is amended to read:

SEC. 20. (a) The Budget Stabilization Fund 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 Fund 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 Budget

Stabilization Fund would exceed 12.5 percent of the General Fund revenues estimate set forth in the budget bill for that fiscal year, as enacted. The Legislature may, by statute, direct the Controller, for one or more fiscal years, to transfer into the Budget Stabilization Fund 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 Fund 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 Fund 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. For a fiscal year commencing on or after July 1, 2010, this subdivision shall be operative only if the estimated General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year are less than the total General Fund expenditures for the immediately preceding fiscal year adjusted for the change in population and the change in the cost of living for the State, as those terms are defined in Section 8 of Article XIII B, between the immediately preceding fiscal year and the fiscal year in which the transfer is made. For purposes of this subdivision, "General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year" does not include revenues transferred from the General Fund to the Budget Stabilization Fund pursuant to subdivision (b) for that fiscal year, and "total General Fund expenditures for the immediately preceding fiscal year" does not include the expenditure of unanticipated revenues pursuant to Section 21.

(f) (1) Of the moneys transferred to the Budget Stabilization Fund 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 Budget Stabilization Fund 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 funds remaining in the sinking fund subaccount after all of the deficit recovery bonds are retired shall be transferred to the Budget Stabilization Fund, and may be transferred to the General Fund pursuant to paragraph (2).

(2) All other funds transferred to the Budget Stabilization Fund in a fiscal year shall not be deposited in the sinking fund subaccount and

may be transferred to the General Fund by a statute that contains no unrelated provisions.

(g) In addition to any transfer authorized by this section, funds in the Budget Stabilization Fund may be loaned to the General Fund to address a General Fund cashflow deficit.

Third—That Section 21 is added to Article XVI thereof, to read:

SEC. 21. (a) On or before May 29 of each year, the Director of Finance shall do both of the following:

(1) Estimate General Fund revenues, transfers, and balances available from the prior fiscal year for the current fiscal year and report that estimate to the Legislature and the Governor.

(2) Estimate the current fiscal year General Fund revenue impact of tax legislation enacted subsequent to the enactment of the budget bill for the current fiscal year and not included in the estimate required by subdivision (f) of Section 12 of Article IV, and report that estimate to the Legislature and the Governor.

(b) For purposes of this section, "unanticipated revenues" for a fiscal year shall be calculated as follows:

(1) The Director of Finance shall increase or decrease the estimate of General Fund revenues, transfers, and balances available from the prior fiscal year set forth in the budget bill for the current fiscal year pursuant to subdivision (f) of Section 12 of Article IV to reflect the current fiscal year General Fund revenue impact of tax legislation reported pursuant to paragraph (2) of subdivision (a).

(2) "Unanticipated revenues" shall be that amount of General Fund revenues equal to the amount, if any, by which the estimate of General Fund revenues, transfers, and balances available from the prior fiscal year reported pursuant to paragraph (1) of subdivision (a) exceeds 105 percent of the amount derived pursuant to paragraph (1) of this subdivision.

(c) After the date of the reports described in subdivision (a), unanticipated revenues may be used only as follows:

(1) Unanticipated revenues shall be appropriated to satisfy any additional General Fund obligation, arising under Section 8 as a result of the unanticipated revenues, including any maintenance factor allocation for the current fiscal year required pursuant to subdivision (e) of Section 8, that exceeds an amount equal to 5 percent of the estimate of General Fund revenues, transfers, and balances available from the prior fiscal year for the current fiscal year set forth in the enacted budget bill pursuant to subdivision (f) of Section 12 of Article IV.

(2) Any unanticipated revenues remaining after any appropriations described in paragraph (1) shall be transferred by statute to the Budget Stabilization Fund, up to the amount needed to increase the balance in

the fund to an amount equal to 12.5 percent of the estimate of General Fund revenues and transfers as set forth in the enacted budget bill for that fiscal year.

(3) Any unanticipated revenues remaining after any appropriations and transfers described in paragraphs (1) and (2) shall be appropriated to retire outstanding budgetary obligations. For purposes of this paragraph, "budgetary obligations" means any of the following:

(A) Unfunded prior fiscal year General Fund obligations pursuant to Section 8.

(B) Any repayment obligations created by the suspension of subparagraph (A) of paragraph (1) of subdivision (a) of Section 25.5 of Article XIII.

(C) Any repayment obligations created by the suspension of subdivision (a) of Section 1 of Article XIX B.

(D) Bonded indebtedness authorized pursuant to Section 1.3.

(4) Any unanticipated revenues remaining after any appropriations and transfers described in paragraphs (1), (2), and (3) are made to retire all outstanding budgetary obligations shall be used as follows:

(A) Transfer by statute to the Budget Stabilization Fund.

(B) Appropriation for one-time infrastructure or other capital outlay purposes.

(C) Appropriation to retire, redeem, or defease outstanding general obligation or other bonded indebtedness of the State.

(D) Return to taxpayers within the current or immediately following fiscal year by a one-time revision of tax rates or fee schedules.

(E) Appropriation for unfunded liabilities for vested nonpension benefits for state annuitants.

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## RESOLUTION CHAPTER 145

Assembly Joint Resolution No. 36—Relative to reported human rights abuses of the Hmong in Laos and Thailand.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, Beginning in 1960, Hmong from Laos were recruited by the United States to fight the Lao communist faction, the Pathet Lao, during the Vietnam War, and approximately 40,000 Hmong served as allies to the United States in the war in Laos; and

WHEREAS, On December 2, 1975, the Pathet Lao gained control of the Kingdom of Laos and proclaimed the Lao People's Democratic

Republic, causing one-third of the Hmong population to leave the country in fear of retribution by the new government; and

WHEREAS, Immediately following the events of December 1975, thousands of Hmong fled into isolated, remote jungles to avoid persecution and potential placement in punishment camps; and

WHEREAS, There are numerous confirmed reports by the United States Department of State and by various human rights organizations, including Amnesty International, asserting serious and repeated human rights violations in Laos against members of the Hmong minority, including arbitrary arrests and detainments, abuse, torture, rape, summary executions, and killings; and

WHEREAS, Today, thousands of Hmong, including those who fought in the war and their descendants, continue to live in hiding in the jungles of Laos under disastrous circumstances, facing frequent military attacks, starvation, and disease, as cited by a 2007 Amnesty International report and as reported to the United Nations Human Rights Council in March of 2007; and

WHEREAS, Repeated offers to provide humanitarian assistance to those Hmong who have taken refuge in the jungles are continually disregarded by the government of Laos, according to a 2007 Amnesty International report; and

WHEREAS, The government of Laos continues to deflect criticism of its human rights record and to dismiss these reports as a political strategy to discredit the country's image, as stated during sessions of the United Nations Commission on Human Rights in January 2004 and the United Nations Committee on the Elimination of Racial Discrimination in May 2006; and

WHEREAS, Between 1975 and 1988, nearly 130,000 Hmong refugees were admitted to the United States; and

WHEREAS, The 2000 United States Census counted over 180,000 persons with Hmong ancestry living in the United States. Today, the number of ethnic Hmong living in the United States is likely between 200,000 and 250,000; and

WHEREAS, According to the 2000 United States Census, there are roughly 65,000 people in California who self-identify as Hmong in origin, and California is one of the states with the largest Hmong population; and

WHEREAS, Laotian immigrants and refugees had to overcome tremendous odds and cultural barriers to establish a better life for their families in California; and

WHEREAS, The Hmong community deserves to be recognized for its valuable contributions to the cultural, civic, and economic well-being of California and the United States; and

WHEREAS, Approximately 7,500 Hmong who have fled Laos are now seeking asylum in Thailand; and

WHEREAS, Hmong refugees in Thailand live in fear of having to return to Laos; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature calls on the Congress and the President of the United States to take appropriate measures to ensure that the Hmong living in Laos, Thailand, and other countries are treated and respected as human beings; and be it further

*Resolved,* That measures to ensure that the Hmong living in Laos, Thailand, and other countries are treated and respected as human beings includes humanitarian aid to those who may lack access to food and medical care, organizational assistance with the resettlement process of the Hmong, and efforts to ensure that each country's obligation to respect human rights is upheld; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 146

Assembly Joint Resolution No. 51—Relative to offshore oil drilling.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, A bipartisan consensus in the Congress of the United States has protected the California coastline from expanded offshore drilling for the past 27 years, renewing this protection each year in the form of a congressional moratorium contained in the appropriations bill for the United States Department of the Interior; and

WHEREAS, This offshore leasing moratorium also protects the coastlines of Oregon and Washington; and

WHEREAS, President George W. Bush's recent statement on June 17, 2008, supports drilling in the Outer Continental Shelf; and

WHEREAS, Senator John McCain has also expressed his opinion to relax the current moratorium on offshore drilling; and

WHEREAS, A report by the United States House Committee on Natural Resources stated in June 2008 that drilling for oil off the Outer Continental Shelf would not lower gasoline prices; and

WHEREAS, The Congress introduced several measures that would open the entire Outer Continental Shelf to increased oil and gas drilling, potentially exposing our coast to unacceptable environmental impacts; and

WHEREAS, These measures and amendments to the annual United States Department of the Interior appropriations bill would, if adopted, immediately void the entire bipartisan congressional offshore leasing moratorium, while undermining states' rights by pressuring coastal jurisdictions to facilitate new federal offshore drilling by making a state's share of the federal revenues from these activities contingent on state approval of new and expanded federal offshore leasing; and

WHEREAS, President George W. Bush has proposed ending the presidential withdrawal of the California Outer Continental Shelf lands managed by the federal government from consideration for offshore oil and gas drilling; and

WHEREAS, Following the infamous 1969 oil spill that resulted in the spillage of 3,200,000 gallons of crude oil, fouling Santa Barbara County's ocean beaches, Californians became even more wary about offshore oil drilling, continuing with the passage of additional oil and gas leasing prohibitions in 1969, 1970, and 1971; and

WHEREAS, In 1994, the California Coastal Sanctuary Act of 1994 (Chapter 3.4 (commencing with Section 6240) of Part 1 of Division 6 of the Public Resources Code), became law, creating a comprehensive statewide coastal sanctuary that prohibits future oil and gas leasing in state waters, from Mexico to the Oregon border, in perpetuity, and adding leases to the sanctuary as they are quitclaimed to the state; and

WHEREAS, In addition, the protection of California's spectacular 1,100 mile coastline is of the utmost importance to a number of our state's coastal and ocean dependent industries, including tourism and commercial fishing, which contributed over $50 billion to California's economy in 2003; and

WHEREAS, California's ocean waters are also home to four important sanctuaries, the Monterey Bay National Marine Sanctuary, the Gulf of the Farallones National Marine Sanctuary, the Cordell Bank National Marine Sanctuary, and the Channel Islands National Marine Sanctuary that are, by definition, areas of special conservation, recreational, ecological, historical, cultural, archaeological, scientific, educational, and aesthetic qualities and are particularly sensitive to the impacts of oil development; and

WHEREAS, Additional offshore oil leasing and production would degrade the quality of our air and water, and adversely impact our marine resources, including severe impacts from seismic surveys on marine

mammals, that could involve threatened and endangered species, including blue and humpback whales; and

WHEREAS, Offshore oil development poses a serious risk of oil spills, especially with the introduction of deepwater drilling technologies and floating oil storage and processing vessels, thereby threatening marine ecosystems, and could have devastating effects on the southern sea otter, listed as a threatened species since 1997, as well as onshore wildlife, birds, and their habitats in the ocean, in estuaries, and on beaches; and

WHEREAS, Offshore oil development also leads to the industrialization of the shoreline, creating land use conflicts, visually degrading coastal areas, and posing potentially life-threatening public safety risks; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California respectfully requests that the Congress of the United States continue the federal offshore oil and gas leasing moratorium for the 2009 fiscal year and beyond; and be it further

*Resolved,* That the Legislature of the State of California respectfully opposes the damaging coastal provisions of proposed federal energy policies and legislation, including, but not limited to, the adoption of H.R. 2784 and the end of presidential withdrawal of Outer Continental Shelf lands from any offshore drilling program, or any other proposal that would weaken California's legitimate role in energy siting decisions due to the threat posed by such legislation to the integrity of California's coastal and ocean dependent tourism and fishing economies and the consolidation of project review authority with the federal government; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 147

Assembly Joint Resolution No. 64—Relative to the public school curriculum and pupil assessment.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, The statewide Standardized Testing and Reporting (STAR) Program has focused primarily on English language arts and mathematics since 1998, and tests California pupils, with few exemptions, in those two content areas in each of grades 2 to 11, inclusive; and

WHEREAS, The high school exit examination has tested only English language arts and mathematics since 2001; and

WHEREAS, California pupils take statewide tests in the content area of science only at grades 5, 8, and 10, and in the content area of history/social science only at grades 8, 10, and 11; and

WHEREAS, In California, no statewide testing exists in any other content area; and

WHEREAS, The state educational accountability system has been based since 2000 on the Academic Performance Index, which is calculated solely using state testing data; and

WHEREAS, The federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) has required states since 2001 to test pupils, with few exemptions, only in the content areas of English language arts and mathematics, and in the content area of science starting in 2007–08; and

WHEREAS, No federal testing is required in any other content area; and

WHEREAS, The federal educational accountability system, including designation of schools and districts for program improvement potentially resulting in sanctions and interventions, is based on adequate yearly progress, that is determined solely on the basis of participation and performance on English language arts and mathematics assessments; and

WHEREAS, The Center for Education Policy reported in 2007 that 62 percent of school districts in a nationally representative survey had increased instructional time in English language arts or mathematics since the 2001–02 implementation of the federal No Child Left Behind Act of 2001; that 44 percent of school districts had cut instructional time from other subjects in order to increase time in English language arts or mathematics; that the decreases amount to an average reduction of 31 percent in the total instructional time devoted to other subjects since 2001–02; and that these changes are more prevalent in low-performing school districts; and

WHEREAS, The President of the National Education Association stated in 2007 that, "Narrowing the curriculum and teaching to the test are only two of the unintended consequences of No Child Left Behind, and educators were the first to sound the alarm on this trend. The law's single-minded focus on test preparation is robbing students of the opportunity to think critically and solve problems."; and

WHEREAS, The National Association of School Psychologists has a stated position that recognizes that, "High stakes testing programs can also have unintended but negative effects on the education provided to all students by narrowing the curriculum and unduly emphasizing basic skills to the exclusion of the arts, technology, sciences and humanities; creating a culture of 'teach-to-the-test'; increasing the psychological stress on children and families; and decreasing teacher job satisfaction. Further, schools may focus limited resources on efforts to directly improve test scores, rather than on strategies to improve school climate and student learning. Tests should inform instruction, not dictate what is taught."; and

WHEREAS, The American Federation of Teachers has resolved to sponsor legislation that calls for delivery of a well-rounded education, including a full measure of social studies and the arts, necessary to the development of the whole human being and citizen, rather than narrowing delivery of instruction to meet the needs of standardized tests; and

WHEREAS, The Executive Director of the American Association of School Administrators stated in 2004 that, "we are aligning the curriculum to the tests we are giving rather than finding the tests that assess what we are teaching. This practice creates problems. The resulting education isn't very good and parents have figured that out and don't like it. They know that teaching to the test means we are narrowing the curriculum to fit what is being tested, narrowing instruction to fit what is being tested and narrowing minds to regurgitate only what is being taught. We are aligning our schools to a very limited vision of what learning can be."; and

WHEREAS, The National Board on Educational Testing and Public Policy found in 2003 that 79 percent of teachers in states with accountability testing reported that instruction in the tested subject areas had increased, that more time was being devoted to the tested segments of the curriculum, and that instruction and curriculum has been further impacted by a focus on test-taking skills; and

WHEREAS, Numerous educational researchers have reported on the negative implications of curriculum narrowing, on the correlation between instruction in subjects such as the arts and high levels of achievement in reading and mathematics, and on the formation of a tiered education system in which pupils from schools of a low socioeconomic status have less access to subject areas outside of the core subjects than their higher socioeconomic status peers; and

WHEREAS, Many teachers, other education experts, and parents have pointed out that other subjects are still important to the development of young people, even though the federal No Child Left Behind Act of 2001

does not mandate testing in subject areas other than reading and mathematics; and

WHEREAS, A 2004 study by the Council for Basic Education found ample evidence of waning commitment to the arts, foreign language, and elementary social studies. Additionally, it was found that the greatest erosion of the curriculum is occurring in schools with high minority populations, the very populations whose access to such a curriculum has been historically most limited, and that the fact that high-minority schools are most likely to divert time and resources from liberal arts subjects, including the arts and foreign language, raises the specter of a continuing opportunity gap between white and minority pupils; and

WHEREAS, The Center for Comprehensive School Reform and Improvement found in 2006 that dramatically reducing instructional time for social studies, science, and the arts carries major costs for pupils, that those costs are unlikely to be recouped later in the educational pipeline, and that denying pupils the opportunity to build vocabulary and background knowledge curtails reading comprehension and increases the achievement gap; and

WHEREAS, The California Master Plan for Education, as reported by the Joint Committee to Develop a Master Plan for Education in 2002, states that, "While it is important to equip students with the knowledge and skills that will prepare them for success in California's workforce and postsecondary education, it is equally important that students become well-rounded individuals with a sense of self worth and of the importance of civic and community involvement. These qualities are essential to a democratic society. They equip individuals with the ability to accept opinions that are different from their own without devaluing their own opinions. They instill a set of values that motivate a person to engage with the larger society, to try to make a positive difference and to improve the life conditions of others as well as themselves."; and

WHEREAS, Article IX of Section 1 of California's Constitution recognizes a commitment to a broad-based education and reads, "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."; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California urges the 110th Congress to recognize the importance of curriculum and instruction that covers all subjects, including history/social science, science, art, music, and physical education, when Congress considers reauthorization of the Elementary and Secondary Education Act; and be it further

*Resolved,* That the Legislature of the State of California urges California school districts, county offices of education, and charter schools to focus on teaching the whole child in a wider curriculum that includes history/social science, science, art, music, and physical education, as well as English language arts mathematics; and be it further

*Resolved,* That the Legislature of the State of California urges the State Board of Education and the Superintendent of Public Instruction to consider and recommend alternatives for including all subjects in the assessment and accountability system of the state, including, but not limited to, the integration of core subject-matter standards and grade-level appropriate history/social science and science content into literacy and mathematics questions, without further reducing instructional time or promoting teaching to the test; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, to the State Superintendent of Public Instruction, to each California county board of education, to each California school district governing board, to the State Board of Education, and to each California charter school administrator.

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## RESOLUTION CHAPTER 148

Assembly Joint Resolution No. 66—Relative to fishery management.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, The world's oceans and its creatures are affected by numerous threats such as coastal pollution, dead zones, habitat destruction on land and in the seas, global warming, ocean acidification, marine debris, toxic substances, and overfishing; and

WHEREAS, Many of these threats affect the Pacific Ocean off of California's coast; and

WHEREAS, Millions of Californians use the state's beaches and the Pacific Ocean every year for their recreation. In addition, each year an estimated three quarters of a million state residents spend over 7 million days each year fishing in the ocean, supporting a projected 27,000 jobs; and

WHEREAS, Coastal fishing, the communities and the people it supports, and the seafood it produces have all shaped the culture of California for generations. Dungeness crab, salmon, rockfish sole, sea urchin, abalone, oysters, anchovy, herring, halibut, squid, and sardines

have been part of the fabric of coastal communities from San Diego to Crescent City for years. Commercial fishing in California now generates some $130 million per year of direct sales, and several times that dollar amount if fish processing, wholesale sales, and retail sales are included; and

WHEREAS, The State of California is charting the course for the nation in sustainable fisheries and protection of our ocean environment, through both the Marine Life Management Act of 1998 (Chapter 1052 of the Statutes of 1998) and the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code), by establishing ecosystem-based fishery management plans and a network of marine reserves; and

WHEREAS, The health of our ocean and the health of much of its fish and other living marine resources have declined as a direct result of pollution, habitat destruction, and overfishing. Overfishing remains a problem in many parts of the nation, and, if left unchecked, diminishes the abundance and diversity of fish and other marine animals, reduces opportunities for recreational fishing, reduces the values of commercial fisheries, reduces the amount of locally caught fish and shellfish available to consumers, creates a greater dependence on foreign imports, and significantly diminishes state and federal investment in marines sanctuaries and reserves; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of California supports efforts by the National Marine Fishery Service under the reauthorized Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq., as amended) to strengthen National Standard 1 fishery management guidelines under the federal act to achieve all of the following:

(a) The independent science committees on each fishery management council, including the Pacific Fishery Management Council, should set science based annual catch limits that incorporate a precautionary approach or buffers to ensure that the annual catch consistently remains below the level that would cause overfishing.

(b) The fishery management councils should create clear, equitable, and consistent accountability measures that keep fish stocks healthy if annual catch limits are exceeded.

(c) Data from each fishery should be collected as soon as possible after landing, because accurate, timely reporting, and aggregation of total catch from all sectors, including recreational, charter, and commercial, is a key building block of any successful management and accountability system.

(d) The environmental review process should include alternatives that the public has been able to propose and comment on and an opportunity

for the public's comments to be a part of decisionmaking without arbitrary restrictions; and be it further

*Resolved,* That the Pacific Fishery Management Council, which advises the federal government on fisheries off the coast of California, is respectfully requested to adhere to the fishery management principles described above so as to protect and enhance fisheries off of California's special coast; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 149

Assembly Joint Resolution No. 67—Relative to American Samoans.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, Individuals born in the United States territory of American Samoa are nationals of the United States, but not citizens, at birth; and

WHEREAS, A "national of the United States" is a person who, though not a citizen of the United States, owes permanent allegiance to this country; and

WHEREAS, Many American Samoans have shown their allegiance to the United States by fighting in the United States Armed Forces during World War II, the Korean War, the Vietnam War, the Persian Gulf War, and most recently in Iraq; and

WHEREAS, American Samoan immigrants have contributed greatly to California's economic success, rural growth, and urban development; and

WHEREAS, For American Samoans to become United States citizens, they must follow a procedure that may take years to complete, and includes an interview, application, fingerprinting, an English language and civics examination, and participation in an oath ceremony; and

WHEREAS, The current requirements for American Samoans to become United States citizens is unduly burdensome because they already owe permanent allegiance to the United States, and learn English and United States history in their public schools; and

WHEREAS, Our state and national democracy would be strengthened by providing American Samoans who want to become United States

citizens with a less burdensome path to citizenship; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature respectfully urges the President and the Vice President of the United States and the United States Congress to enact H.R. 6191, as introduced on June 5, 2008, amending the Immigration and Nationality Act to waive certain requirements for naturalization for American Samoan United States nationals to become United States citizens; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 150

Assembly Joint Resolution No. 68—Relative to marine mammals.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, The people of California and the United States place great value on the continued preservation of natural resources and marine wildlife, as shown by legislation on the state and federal levels, including the federal Marine Mammal Protection Act of 1972, the federal Endangered Species Act of 1973, the California Coastal Act of 1976, and other legislation; and

WHEREAS, The waters off the coast of southern California are known for the diversity and abundance of marine wildlife; and

WHEREAS, The United States Navy ("Navy") training area covers much of the breeding and migration grounds for many species, including migration of blue and gray whales; and

WHEREAS, Scientific studies have proven a link between the use of mid-frequency sonar and mass deaths, panic, and hearing loss among marine wildlife, marine mammals in particular; and

WHEREAS, The federal Coastal Zone Management Act of 1972 granted authority to state coastal agencies to regulate federal activities if the activity affects coastal resources; and

WHEREAS, It is in the best interest of California and the United States to have a prepared and well-trained armed forces, and the southern California operating area is a vital training area for the Navy; and

WHEREAS, The California Coastal Commission ("Commission") recognized the validity of the training missions and approved the missions conditional on adoption of guidelines for performing the exercises that would reasonably minimize the effects on marine wildlife and California's coastal resources and usage; and

WHEREAS, The standards proposed by the Commission have been deemed operable and acceptable for past training missions of the Navy and the North Atlantic Treaty Organization, and even stricter parameters are followed by the armed services of Australia; and

WHEREAS, President George W. Bush has exempted the Navy from compliance with the requirements of the federal Coastal Zone Management Act of 1972, and that was challenged by the California Coastal Commission and citizen groups in federal court; and

WHEREAS, Federal district and appellate courts have ruled that the Navy is subject to the authority of the Commission under the federal Coastal Zone Management Act of 1972, and issued a preliminary injunction imposing conditions similar to those contained in the guidelines of the Commission, which the courts found will not significantly impede the efficacy of the Navy's training missions or impact troop readiness; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California respectfully requests the President and the United States Navy to abide by the laws governing usage and effects upon the coastal regions of California and adopt the guidelines presented by the California Coastal Commission for training operations off the coast of southern California with respect to sonar usage and marine wildlife; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 151

Assembly Joint Resolution No. 69—Relative to child nutrition programs.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, The National School Lunch Program is declared to be the policy of Congress, "as a measure of national security, to safeguard

the health and well-being of the nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the states, through grants-in-aid and other means, in providing an adequate supply of food and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school lunch programs"; and

WHEREAS, Federal regulations further state that participating schools shall ensure that children gain a full understanding of the relationship between proper eating and good health; and

WHEREAS, Child nutrition programs are responsible for collaborating with the school community to implement comprehensive nutrition and wellness policies in school districts; and

WHEREAS, All of California's more than 6 million pupils deserve access to high-quality, safe, nutritious meals available in the school setting, recognizing the link between adequate nourishment and educational performance; and

WHEREAS, Children that experience hunger have been shown to be more likely to have lower math scores, decreased attentiveness, increased likelihood of repeating a grade, increased absences and tardiness, and more referrals to special education services; and

WHEREAS, Child nutrition programs in California provide over 4 million meals to schoolchildren daily, and must comply with complex state and federal requirements, provide adequate food preparation and dining facilities, and meet budget requirements despite rapidly escalating food, energy, transportation, labor, and other costs; and

WHEREAS, Losses in the school meal programs must be offset by other revenue sources that would otherwise support classroom instruction; and

WHEREAS, For each lunch provided to a child who qualifies for a free meal, the estimated average cost of producing the lunch is $3.10; the reimbursement received for each meal, provided that all state and federal requirements are met, is $2.6895 (a federal reimbursement of $2.47 and a state reimbursement of $0.2195); and

WHEREAS, The difference between reimbursement and cost undermines the ability to continue to provide nutritious meals to all pupils; and

WHEREAS, The United States Department of Agriculture recognizes higher cost as a factor in determining reimbursement rates by allowing a higher federal reimbursement rate in Alaska and Hawaii; and

WHEREAS, Many families that qualify for reduced-price meals, prescribed by federal law using the federal poverty level, find it difficult to pay the reduced fee, and the fee for a paid meal is an insurmountable

barrier to participation for an increasing number of families in California; and

WHEREAS, The eligibility scale to qualify pupils for free or reduced-price meals is the same scale throughout the country and does not consider regions with higher costs of living; and

WHEREAS, A self-sufficiency index, which identifies the income levels at which families can meet their most basic needs without public support, is available in most regions to apply to meal eligibility standards; and

WHEREAS, A single-parent household with two children in San Mateo County, California, needs $67,867 to be self-sufficient, while a similar family in Hardeman County, Tennessee, is self-sufficient with only $21,657; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature supports reauthorization of federal child nutrition programs and urges the President and the Congress of the United States to ensure that reimbursement rates are adequate to fully fund the cost of producing a nutritious school meal relative to the cost of living in a region; and be it further

*Resolved,* That the eligibility scale used to qualify families for free and reduced-price meals be adjusted according to the self-sufficiency index, as it is developed for the region served; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 152

Assembly Joint Resolution No. 70—Relative to the Los Angeles River.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, The Los Angeles River flows roughly 51 miles from its origin in the West San Fernando Valley, through the City of Los Angeles and 11 other cities along the way to Long Beach Harbor and the Pacific Ocean and is the original source of life for the City of Los Angeles; and

WHEREAS, The first Native Americans in the area and, later the Spanish, built their early settlements along the Los Angeles River, and the river later powered industry and served as a major transportation corridor, creating economic value and growth; and

WHEREAS, With development and encroachment into the flood plain, numerous homes and businesses were flooded by the Los Angeles River in the early 20th century, causing the U.S. Army Corps of Engineers (Corps) and the Los Angeles County Flood Control District to construct the concrete-lined channel that now carries the river for most of its 51-mile length; and

WHEREAS, Over time, the Los Angeles River corridor has become blighted with rail yards, warehouse districts, and other unsightly industrial uses that have reduced, and eliminated in most places, the opportunities for the public to enjoy the Los Angeles River as a place of natural and environmental beauty and for recreational and other activities that would otherwise bring neighborhoods back and restore a sense of place and pride to the families who live along the Los Angeles River; and

WHEREAS, Over the past two decades, there has been a renewed effort by a broad coalition of governmental agencies and nongovernmental organizations to revitalize the Los Angeles River, including, but not limited to, projects by the City of Los Angeles to invest in parks, bicycle paths, bridges, equestrian trails, and other amenities. These projects include multibenefit water quality projects that capture stormwater runoff onsite and provide natural treatment systems to clean stormwater before it runs into the Los Angeles River, as well as projects to clean water from those ephemeral and intermittent streams and tributaries leading to the Los Angeles River; and

WHEREAS, The City of Los Angeles and the County of Los Angeles are working together to implement the Los Angeles River Master Plan, which was adopted by the Los Angeles County Board of Supervisors in 1996, and the city's Los Angeles River Revitalization Master Plan, which was adopted by the Los Angeles City Council in 2007. The plans recognize that the Los Angeles River is a unique regional ecological resource that serves many purposes, including flood protection, recreation, open space, habitat, groundwater recharge, water quality, and more. The Los Angeles River projects adopted in the plan are designed to enhance multiple beneficial uses and integrate multiple objectives. Revitalization of the Los Angeles River would enhance and restore the river's nature and acknowledge the interconnectedness of the watershed from the mountains to the sea; and

WHEREAS, Cities that have the Los Angeles River or the river's streams and tributaries running through them are being encouraged to develop and are developing local land use ordinances that are protective of the watersheds, streams, and tributaries as part of the overall recognition by the communities and their leaders of the positive impacts and values of having a clean and revitalized Los Angeles River running through those cities; and

WHEREAS, On June 4, 2008, the Corps issued a determination finding that only two sections of the Los Angeles River are "traditional navigable waters," a term that has both legal and regulatory relevance to the jurisdiction of the Corps over water bodies, their tributaries, and streams; and

WHEREAS, The Corps has stated that there are approximately 400 pending permit determinations throughout the Los Angeles River watershed; and

WHEREAS, There are profound water quality impacts if those determinations are not subject to, and controlled by, a federal environmental review provided by Section 404 of the Clean Water Act (33 U.S.C. Sec. 1344); and

WHEREAS, Determining that only two segments along the entire length of the Los Angeles River are "traditional navigable waters" has created uncertainty as to the status of the Los Angeles River watershed with respect to the applicability of Section 404 permits, which must be resolved, now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature respectfully memorializes the Congress and President of the United States to support a special case review by the federal Environmental Protection Agency of the determination of the U.S. Army Corps of Engineers issued on June 4, 2008, finding that two sections of the Los Angeles River are traditional navigable waters, and to support any efforts of Congress to seek a review of this determination; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 153

Assembly Concurrent Resolution No. 87—Relative to a Legislative Task Force on Peripheral Neuropathy.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, Peripheral neuropathy is a disorder that results from functional impairment or damage to nerves peripheral to the brain and spinal cord; and

WHEREAS, An estimated 20 million people in the United States suffer from peripheral neuropathy, which manifests itself in many forms, including acute motor paralysis, subacute sensorimotor paralysis, and chronic sensorimotor paralysis; and

WHEREAS, Peripheral neuropathy can result from various causes, including metabolic disease, viral and bacterial infection, physical injury, poisoning, malnutrition, and genetic disorder; and

WHEREAS, Clinical symptoms can indicate the existence of peripheral neuropathy, but precise diagnosis requires review and analysis of medical history, physical examination, medical testing, and exclusionary treatments; and

WHEREAS, Peripheral neuropathy is preventable only to the extent that the underlying cause is preventable, requiring an individual patient's alert awareness of bodily deficiency, illness, infection, or injury that can cause peripheral neuropathy, and an individual's willingness to seek early diagnosis and treatment; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislative Task Force on Peripheral Neuropathy is hereby established, which shall consist of 22 members, as follows:

(a) Four members shall be Members of the Assembly, appointed by the Speaker of the Assembly.

(b) Four members shall be Senators, appointed by the Senate Committee on Rules.

(c) The Speaker of the Assembly shall appoint one representative from the Neuropathy Action Foundation, one representative from the American Diabetes Association, two members representing neuropathy patient leaders, two pharmaceutical representatives, and one member representing researchers from private universities in California.

(d) The Senate Committee on Rules shall appoint one representative from the National Institute of Neurological Disorders and Stroke, one representative from the National Institutes of Health, one representative from the Guillain-Barre Syndrome/Chronic Inflammatory Demyelinating Polyneuropathy Foundation International, three members representing California physicians specializing in neuropathy, and one member representing researchers from private universities in California; and be it further

*Resolved,* That state funds shall not be used to support task force activities, but that the task force may solicit funding from private foundations, and make use of available private funds; and be it further

*Resolved,* That the task force shall suggest ways to promote public and physician awareness of peripheral neuropathy, promote understanding of the importance of early diagnosis and proper treatment and management, create programs to promote public and physician awareness

of the use of intravenous immune globulin (IVIG) and other treatments to improve patient care, determine how many people are affected by each type of peripheral neuropathy, and, on or before March 31, 2009, prepare a report, to be submitted to the Legislature, containing its suggestions; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 154

Assembly Concurrent Resolution No. 112—Relative to a Legislative Task Force on Fibromyalgia.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, Fibromyalgia is a significant health problem that affects an estimated 6 to 8 percent of Americans and countless thousands of Californians; and

WHEREAS, Fibromyalgia is a debilitating disease that fully disables thousands of Californians with symptoms that are chronic and include pain, extreme fatigue, sleep disorders, migraine headaches, and impairment of memory and concentration; and

WHEREAS, Many fibromyalgia patients suffer for an average of five years before obtaining a correct diagnosis, which results in a worsened condition that is more debilitating and more difficult and expensive to treat; and

WHEREAS, Fibromyalgia is costly to California in both economic and social terms. With respect to the economic cost, an estimated $1 billion in medical expenses, lost wages, and other associated economic costs can be attributed to fibromyalgia. With respect to the social cost, fibromyalgia impacts many families and children, as demonstrated by the fact that 80 percent of fibromyalgia patients are women; and

WHEREAS, Evidence indicates that the incidence of fibromyalgia may be increasing at a rapid rate; and

WHEREAS, A legislative task force on fibromyalgia is necessary to do all of the following:

(a) Promote public awareness of fibromyalgia, which is a widespread, but poorly understood, disease.

(b) Promote understanding of the importance of early diagnosis and proper treatment and management of fibromyalgia.

(c) Promote the delivery of appropriate information, programs, and services regarding fibromyalgia.

(d) Encourage research into the nature, cause, and treatment of fibromyalgia; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislative Task Force on Fibromyalgia is hereby established, which shall consist of 14 members, as follows:

(a) The Speaker of the Assembly shall appoint to the task force one Member of the Assembly from the majority caucus and one Member of the Assembly from the minority caucus.

(b) The Senate Committee on Rules shall appoint to the task force one Member of the Senate from the majority caucus and one Member of the Senate from the minority caucus.

(c) The Speaker of the Assembly and the Senate Committee on Rules shall each appoint five members to the task force. These 10 members shall include some who have demonstrated knowledge and an expertise in any of the following:

(1) Fibromyalgia research.

(2) Fibromyalgia prevention.

(3) Fibromyalgia educational programs.

(4) Fibromyalgia consumer needs; and be it further

*Resolved,* That the National Fibromyalgia Association shall convene the first meeting of the task force to elect officers; and be it further

*Resolved,* That the National Fibromyalgia Association shall supply supporting staff to the task force; and be it further

*Resolved,* That members of the task force shall not receive any compensation for serving on the task force; and be it further

*Resolved,* That the task force shall perform various functions regarding fibromyalgia, including, but not limited to, the following:

(a) Establishing a public information and outreach campaign targeting women between 20 and 50 years of age, that includes appropriate educational material aimed at promoting early diagnosis and treatment, preventing complications, improving quality of life at home and in the workplace, and addressing mental health and disability issues of fibromyalgia patients.

(b) Promoting fibromyalgia education and training programs for physicians and other health professionals.

(c) Collaborating with a broad group of stakeholders, reviewing current state policies and practices concerning treatment of fibromyalgia, and developing a State Fibromyalgia Strategic Plan for 2010 to 2020, inclusive. The plan shall be submitted to the Legislature by September 1, 2009.

(d) Holding a Fibromyalgia Summit during the 2009–10 Regular Session of the Legislature to make public the findings and progress of the Legislative Task Force on Fibromyalgia; and be it further

*Resolved,* That state funds shall not be used to support task force activities, but the task force may solicit funding from public and private foundations, and make use of available federal funds; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 155

Assembly Concurrent Resolution No. 114—Relative to home-to-school transportation.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, Home-to-school transportation is a vital part of ensuring the attendance of pupils at public schools; and

WHEREAS, The payments by the state to reimburse approved home-to-school transportation costs have been declining as a percentage of cost; and

WHEREAS, School districts, particularly small rural school districts, must subsidize unreimbursed transportation costs from their district general fund; and

WHEREAS, The effect of subsidizing unreimbursed transportation costs from the district general fund impacts other educational programs; and

WHEREAS, In order to meet the goal of pupils reaching high academic standards, California has adopted some of the highest academic standards in the nation; and

WHEREAS, In 2008, approximately $11 million that had been allocated to fund home-to-school transportation reverted to the state, so school districts must use their district general fund moneys to meet the unfunded cost of school transportation; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Superintendent of Public Instruction is requested to convene a committee to investigate cost savings and best practices for school districts operating home-to-school transportation programs, not including special education transportation; and be it further

*Resolved,* That the Superintendent of Public Instruction is requested to invite representatives from the Legislative Analyst's Office, the fiscal management and assistance team of school districts offering home-to-school transportation, and county offices of education, to become members of the committee; and be it further

*Resolved,* That any relevant findings or recommendations that occur as a result of the committee's investigation are requested to be posted on the State Department of Education's Internet Web site; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 156

Assembly Concurrent Resolution No. 126—Relative to the Honorable Augustus Freeman (Gus) Hawkins.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, The Honorable Augustus Freeman (Gus) Hawkins was a soft-spoken, articulate man whose public service as a Member of the Assembly and as a United States Representative in Congress spanned the years from 1935 to 1991, making him the longest serving Member of the Assembly, 28 years, and the first African American to serve in Congress from this state; and

WHEREAS, In the Assembly and as the first African American United States Representative in Congress from the western part of the country, Augustus Hawkins was elected from districts populated by African Americans, Asian Americans, Mexican Americans, and Caucasian Americans, and he devoted his energy to issues of civil rights, employment, education, child care, housing, slum clearance, and age discrimination; and

WHEREAS, Augustus Hawkins was the son of Nyanza Hawkins, a pharmacist, and Hattie Freeman Hawkins, and was born in Shreveport, Louisiana, on August 31, 1907; Augustus, the youngest of five children, was 10 when his father sold his business and moved the family to Los Angeles; he worked in a drug store and in the post office during his high school years, and as a janitor in the girls' gymnasium when he studied at the University of California at Los Angeles (UCLA) for a B.A. degree in economics, which he earned in 1931; and

WHEREAS, Mr. Hawkins' original intention was to enter graduate school at UCLA to prepare for a career in civil engineering, but the lack of sufficient financial support made it more attractive to take classes in the Institute of Government of the University of Southern California while he worked in the real estate business he established with his brother, Edward; before long, his increasing interest in the plight of minorities in his area led to political ventures in support of Upton

Sinclair's unsuccessful campaign for Governor of California and Franklin Delano Roosevelt's candidacy that ended with election to his first term as President of the United States in 1932; and

WHEREAS, In 1935, Mr. Hawkins won a seat in the Assembly by defeating another African American, Frederick Roberts, a longtime Assembly Member; Hawkins' tenure stretched into more than a quarter of a century—from 1935 to 1962—and he served an identical longevity in the United States House of Representatives; and

WHEREAS, As an Assembly Member, Mr. Hawkins chaired the powerful Assembly Committee on Rules and was an influential figure in Sacramento, sponsoring laws that reflected his concern about the status of the ethnic minorities in his district and working people in the state; although he initiated or coauthored more than 100 other laws, he is best remembered in the state for the five years of struggle leading to the passage of the California Fair Employment Practices Act, which was signed in 1959; Mr. Hawkins used his willingness to work hard and his innate capabilities to chair powerful Assembly committees that dealt with unemployment, labor and capital, rules, and public utilities; and

WHEREAS, Mr. Hawkins, with Speaker of the Assembly Jesse Unruh, was responsible for upgrading both the services for and the role of Members of the Assembly in his capacity as Chair of the Assembly Committee on Rules; and

WHEREAS, When Mr. Hawkins went from the Assembly to the House of Representatives in 1963, he was the spokesman for the same constituency he had in the state government of California, and he brought to Washington, D.C., his valuable legislative experience; Mr. Hawkins hoped that he could bring about more meaningful and more widespread changes at the federal level than in the state house; in April of 1970, Mr. Hawkins was cosponsor of the Elementary and Secondary Education Act of 1965, which improved the quality of education for children from lower income families and in his early years in the House of Representatives, he helped to establish the Equal Employment Opportunity Commission in Title VII of the Civil Rights Act of 1964; and

WHEREAS, When Mr. Hawkins chaired the powerful House Committee on Education and Labor, his charge was to monitor existing programs and provide legislation and funding for their operation at a time of severe budget cuts proposed by the Reagan administration; he opposed President Reagan's cuts in social programs, such as financial aid to students, grants to educational institutions, unemployment insurance, funds for school lunches, and job training; Mr. Hawkins also chaired the Committee on House Administration during the 97th and 98th Congresses, and his greatest success in Congress was the passage

of the Full Employment and Balanced Growth Act of 1978, also known as the Humphrey-Hawkins Act; and

WHEREAS, Mr. Hawkins also succeeded in restoring an honorable discharge for the entire 1st Battalion of the Twenty-fifth Infantry Regiment of the United States Army, 167 African American soldiers in all, after they were falsely accused of a public disturbance in Brownsville, Texas, in 1906, and throughout his years in Congress, Mr. Hawkins pointed to failures in federal action; he emphasized that unemployment, lack of adequate education, and the sense of isolation among financially distressed people were the chief causes of disruptive behavior that affects the population as a whole; over and over he pleaded for tax reform and encouraged citizens to be involved in the workings of their government at the grassroots level; and

WHEREAS, Mr. Hawkins openly voiced dissatisfaction with military spending coupled with continued mistreatment of African American veterans returning from Vietnam; a survey he requested confirmed that of 523 higher level positions in the Pentagon, only three were held by African Americans, and not one was involved in decisionmaking; during the war in Vietnam, Mr. Hawkins and William R. Anderson, the Representative from Tennessee, by their protest to President Richard M. Nixon, caused an immediate correction of the inhumane treatment of civilians in a prison in South Vietnam; and

WHEREAS, In February 1986, Mr. Hawkins, then Chair of the Education and Labor Committee of the House of Representatives, called together a nationally representative group of African American educators and leaders of organizations interested in the welfare of African American children, and charged them with the responsibility of developing a plan and procedure for improving the quality of education for African American youth. He insisted that the plan be guided by the correlates found in the "Effective" Schools research of noted African American educator, the late Dr. Ron Edmonds. The product of that effort was the establishment of the National Conference (now Council) on Educating Black Children (NCEBC); and

WHEREAS, When Congressman Hawkins announced his plans to retire in January of 1991, he did so anticipating passage of the civil rights legislation that was ultimately signed on November 21 of that year; this was a fitting reward for a man whose sole purpose in public life was to better conditions for people without the means or the knowledge to take action for themselves; in retirement, he lived in Washington, D.C., engaged in tasks that mirrored his tenure as an elected official; and

WHEREAS, With characteristic energy, Mr. Hawkins in retirement served as director of the Hawkins Family Memorial Foundation for Educational Research and Development, which he founded in 1969, and

supported by Members of Congress and educational institutions, the foundation formulates and implements policies aimed at more effective education of young people in preparation for employment; this employment increases the chances for young adults to be more productive and free from the problems that beset large numbers of minority populations; and

WHEREAS, Augustus Freeman (Gus) Hawkins, no longer bound to the demanding and often unpredictable schedules in state and federal government, maintained an active membership in the NAACP and the Masonic Lodge; the widespread esteem felt for the former United States Representative is shown by the honorary doctorates that have been conferred upon him by 12 universities in states all over the country; and

WHEREAS, Mr. Hawkins was succeeded in the California State Assembly by Mervyn M. Dymally, who subsequently joined him in Congress and served with him on the House Committee on Education and Labor; and

WHEREAS, Mr. Hawkins died on November 10, 2007; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature commends and recognizes the Honorable Augustus Freeman (Gus) Hawkins for his great accomplishments and his contributions to this state and our country as both a former Member of this Assembly and as a United States Representative in Congress; and be it further

*Resolved,* That the Legislature declares that the second Monday of September of each year shall be Gus Hawkins Day in California and encourages all schools in California to teach about Mr. Hawkins and reflect on his legacy; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the family of the Honorable Augustus Freeman (Gus) Hawkins and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 157

Assembly Concurrent Resolution No. 134—Relative to Legislative Task Force on Summer and Intersession Enrichment.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, All children need and deserve safe, enriching, and fun activities during the summer months; and

WHEREAS, Summer vacation should be a time for children to visit new places, to swim and play outside, and to learn new skills. For many California children, though, summertime means long days inside or out on the streets, a lack of supervised activity, no nutritious food, and little exercise. In addition, research finds that over the summer, many children lose some of the academic gains they made over the previous school year; and

WHEREAS, Many children in California rely on their schools for nutritious meals and physical activity, as well as academics. Unfortunately, most of this good programming comes to an end in June, with the end of the school year, or at the end of a session in year-round school. Without active recreational activities and healthy food, many children will continue on the road to obesity, leading to an increased risk for becoming obese adults and for developing chronic, serious, and costly medical problems, such as diabetes, heart disease, and certain cancers. Without engaging activities and adult supervision and mentorship during the summer months, many children will be in unsafe situations, and some will be more likely to engage in criminal behavior; and

WHEREAS, Obesity and overweight can be consequences of a lack of nutritious food and lack of organized physical activity in the summertime. A recent study of children in kindergarten and first grade found that the average body mass index grew twice as fast during summer vacation as during the school year. Many children (over 70 percent of nutritionally needy children in the state) lack access to nutritious meals when schools are closed; and

WHEREAS, Children and youth without supervised summer activities are vulnerable to alcohol, drug, and tobacco use, to criminal behavior (as victims and perpetrators), and to injury and other safety concerns; and

WHEREAS, All children experience summer learning losses of approximately 2.6 months of math, when they do not have educational activities during the summer. Low-income children are disproportionately affected and experience greater summer learning losses than higher income children, leading to cumulative learning loss for lower income children over time; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislative Task Force on Summer and Intersession Enrichment is hereby established, which shall consist of the following members:

(a) The Chair of the Assembly Committee on Health, or his or her designee.

(b) The Chair of the Senate Committee on Health, or his or her designee.

(c) Two Members of the Assembly, appointed by the Speaker of the Assembly.

(d) Two Members of the Senate, appointed by the Senate Committee on Rules.

(e) Six members of the public, with three members appointed by the Speaker of the Assembly, and three members appointed by the Senate Committee on Rules. These members shall be selected to reflect the demographic and geographic diversity of California. One Assembly appointee shall have expertise in child health care services. One Senate appointee shall have expertise in health insurance.

(f) The Governor shall be invited to appoint two members, one of whom shall be the State Public Health Officer, or his or her designee.

(g) The Superintendent of Public Instruction shall be invited to appoint one member who shall be an employee of the Department of Education with relevant policy experience; and be it further

*Resolved,* That state funds shall not be used to support task force activities, but that the task force may solicit funding from public and private foundations, and make use of available federal funds; and be it further

*Resolved,* That the task force shall study ways to provide a summer enrichment and wellness program to low-income children, including ways to leverage health insurance programs and health care services to support the program and shall assess the cost of the program; and be it further

*Resolved,* That the task force further shall study ways for the program to achieve the following objectives:

(a) To promote good health and to combat obesity by increasing education and awareness of the benefits of good nutrition and regular physical exercise and activity.

(b) To provide safe, supervised places for kids to be during the summer months.

(c) To provide enrichment activities and experiential learning that complement the school year curriculum, but offer other opportunities not found in school.

(d) To prevent summer learning loss among California's children; and be it further

*Resolved,* That the task force shall complete a report outlining its findings, conclusions, and recommendations, and shall print and distribute this report if private funds are secured for that purpose; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 158

Assembly Concurrent Resolution No. 137—Relative to Chronic Obstructive Pulmonary Disease.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, Chronic Obstructive Pulmonary Disease (COPD), also known as chronic bronchitis and emphysema, is the fourth leading cause of death in the United States and is the only one of the top five causes of death whose prevalence and death rate is rising; and

WHEREAS, COPD is a chronic and progressive disease that impacts an estimated 24 million Americans each year, approximately five million of which are residents of California; and

WHEREAS, In 2004, the national annual cost for COPD was estimated to be $37 billion and in that same year, COPD caused approximately 121,000 deaths nationwide; and

WHEREAS, Many patients suffering with COPD are not diagnosed until they have reached an advanced stage of COPD, which often includes a disabling degree of lung dysfunction; and

WHEREAS, A diagnostic test for COPD, known as spirometry, is available for office use, allowing early diagnosis of COPD; and

WHEREAS, Early diagnosis and management of COPD can effectively reduce the overall financial burden of this illness on publicly funded health care programs, including Medi-Cal; and

WHEREAS, Proper management of COPD can lead to improved quality of life and self-sufficiency on the part of patients who receive publicly funded benefits; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature commends the State Department of Health Care Services for implementing a pilot program relating to chronic disease management of COPD, in an effort to reduce the financial and clinical burden of this illness upon the Medi-Cal program and the citizens of California; and be it further

*Resolved,* That the State Department of Health Care Services is encouraged to prepare and submit a report of its respective findings and recommendations regarding the COPD pilot program to the appropriate committees of the Assembly and the Senate so that the Legislature can evaluate the program's effectiveness in reducing costs within the

Medi-Cal program and in providing improved health and well-being for the affected patients; and be it further

*Resolved,* That the Legislature encourages the State Department of Health Care Services to partner with private entities to provide education on COPD; and be it further

*Resolved,* That the Legislature hereby designates November 2008 as Chronic Obstructive Pulmonary Disease Awareness Month, and November 14, 2008, as Chronic Obstructive Pulmonary Disease Awareness Day throughout the State of California, and that public officials and the citizens of California are encouraged to observe COPD Awareness Month with appropriate activities and programs to raise awareness about the symptoms of, and ways of preventing, COPD; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 159

Assembly Concurrent Resolution No. 138—Relative to School Nurse Day.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, Our children are our most valuable resource, and the educational achievement of children is directly affected by their health and well-being. By investing in children today, we are investing in our future and securing our business, community, and state leaders of tomorrow; and

WHEREAS, The physical, mental, and emotional well-being of our children is paramount to their growth and development, and school districts continue to enroll more students with multiple and severe handicaps; and

WHEREAS, The number of students with unmet health needs is increasing and interfering with normal development milestones and academic success. California's credentialed school nurses are charged with the responsibility, on a daily basis, of addressing these critical issues and providing diligent care for the health, development, and disease control of all students through implementation of the state's health services programs; and

WHEREAS, California's credentialed school nurses are dedicated health care professionals who work in collaboration with families,

schools, and communities to develop and promote comprehensive health care programs for our youth; and

WHEREAS, In addition to providing for the immediate health needs of students, California's credentialed school nurses continually promote healthy lifestyles and provide health and safety education to students and staff; and

WHEREAS, Services provided by California's credentialed school nurses include health assessments, interventions, education, referrals, development and supervision of specialized health care plans for medically involved students, and networking with community agencies; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature declares May 7 of each year as School Nurse Day in California; and be it further

*Resolved,* That the Legislature encourages all Californians to promote the good health of our students and recognize California's credentialed school nurses for their contributions to the health of our children; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 160

Assembly Concurrent Resolution No. 146—Relative to the California-Mexico Project.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, Student exchange programs not only evoke learning, but also perpetuate constructive communication and collaborative efforts between different groups; and

WHEREAS, Since its inception, the California-Mexico Project, created by California State University, Long Beach (CSULB) Professor Armando Vazquez-Ramos, is efficiently working to exchange students and faculty members between California's and Mexico's institutions of higher education; and

WHEREAS, The enhancement of the California-Mexico Project will increase CSULB's status as a competitive, top-tier university, an initiative that could attract more teachers and staff to work at the California State University; and

WHEREAS, The California-Mexico Project could also be enhanced to provide cooperative research grants, scholarships, internships, and

fellowships for California State University (CSU) students and Mexican students who strive to engage and learn within a comprehensive exchange program; and

WHEREAS, Under the North American Free Trade Agreement (NAFTA), United States companies and Mexican businesses are partnering more than ever before; and

WHEREAS, Mexico is California's number one business partner and, according to the United States Department of Commerce, United States exports to Mexico exceeded one hundred thirty-six billion dollars ($136,000,000,000) in 2007; and

WHEREAS, The majority of the 10,000 Mexican students who come to the United States study at private universities rather than attending campuses within the University of California, CSU, or the California Community College system not only results in the loss of revenue for California, but results in the loss of academic trade; and

WHEREAS, The California-Mexico Project is working to develop solid, long-term relationship with the National Autonomous University of Mexico (UNAM) and other key institutions under Mexico's National Association of Universities and Higher Education Institutions (ANUIES), and will lead to the establishment of joint research ventures and the development of jointly accredited degree programs, which will attract more Mexican students to study at California's institutions of higher education; and

WHEREAS, Positive unification and constructive teamwork between CSULB, UNAM, and ANUIES also create better understanding relating to issues of legal and illegal immigration; and

WHEREAS, An influential and constructive relationship with Mexico could allow policy and economic collaborations with other countries; and

WHEREAS, The California-Mexico Project at CSULB could be a model for other top-tier universities seeking to strengthen and diversify their own student exchange programs; and

WHEREAS, Student exchange programs, such as the California-Mexico Project at CSULB, will guide and teach a new generation of students who will greatly impact and positively influence California-Mexico relations and policy development; and

WHEREAS, The collaboration among CSULB, UNAM, and ANUIES will demonstrate once again that California is an educational and intellectual leader that strives to work with the international community; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California formally endorses the pioneering work of the California-Mexico Project at CSULB

and duly recognizes the leadership provided by Professor Armando Vazquez-Ramos, CSULB College of Liberal Arts Dean, Gerry Riposa, and CSULB Chicano Studies Department Chair, Luis L. Arroyo, for fostering this initiative to build greater institutional collaboration between California's and Mexico's colleges and universities; and be it further

*Resolved,* That the Legislature of the State of California also duly recognizes the leadership provided by UNAM, Los Angeles Director Alfredo Alvarez Cardenas, ANUIES Central Region President Omar Wicab Gutierrez, CSU Bakersfield Professor Gonzalo Santos, and Centro Tlahuica de Lenguas e Intercambio Cultural (CETLALIC) Director Jorge Torres Viveros, for their dedication to and collaboration with the California-Mexico Project; and be it further

*Resolved,* That the Legislature of the State of California supports the California-Mexico Project's continuing effort to increase the mobility and exchange of faculty and students between California's and Mexico's institutions of higher education; and be it further

*Resolved,* That the Legislature of the State of California requests the California Research Bureau to research and report on the programmatic and funding elements of an effective international student and faculty exchange program, including best practices nationally, with an emphasis on exchange programs currently involving public institutions of higher education in California and Mexico; and be it further

*Resolved,* That the Legislature of the State of California requests the University of California, the California State University, and the California Community College system to consult with the California Research Bureau and provide the bureau with data on international exchange programs involving students and faculty, funding of those programs, and other pertinent information, including the number of students and faculty currently involved in those programs; and be it further

*Resolved,* That the Legislature of the State of California consider policies and programs that will enhance the mobility and exchange of faculty and students between California's and Mexico's institutions of higher education, given the demographic and educational needs of the State of California in the 21st century; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

## RESOLUTION CHAPTER 161

Assembly Concurrent Resolution No. 147—Relative to state highway memorial designations.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, Kent Haws was born on October 1, 1969, in Phoenix, Arizona, and was an energetic and loyal man, whose life of protecting others began at a young age; and

WHEREAS, On May 28, 1993, Kent Haws entered the United States Army and became an Airborne Ranger Avenger crew member assigned to Alpha Battery 3rd Battalion 62nd Air Defense Artillery Unit, with training in forward area air defense, intelligence handling, and jungle warfare; and

WHEREAS, Kent Haws was stationed in Texas and New York, attained the rank of E4 as a corporal, and was deployed to Haiti; and

WHEREAS, Kent Haws was an expert marksman with rifle and grenade and a parachutist, and was awarded over 10 medals, commendations, and ribbons; and

WHEREAS, Upon his honorable discharge from the United States Army on October 28, 1996, Kent Haws chose to serve his community by joining the Tulare County Sheriff's Department and working in various locations, including the Main Jail Detention Facility and the Porterville Substation, and serving in the capacities of East Porterville Community Based Officer, detective, and as a member of both the search and rescue team and the Sheriff's Tactical Enforcement Personnel Unit (STEP); and

WHEREAS, Detective Haws loved his family, water sports, a good barbeque, and a great hand of poker; and

WHEREAS, Detective Haws had a passion for protecting others, and on December 17, 2007, while on his way home from serving search warrants, he observed a suspicious person in an orange grove near the town of Ivanhoe and attempted to make contact, at which time he was fired upon and suffered a fatal injury; and

WHEREAS, Detective Haws is survived by his wife, Francisca, and their three children, Dominik, Nicholas, and Evan, and is remembered by his colleagues in the Tulare County Sheriff's Department as a "STEP-brother" who led by example, was not afraid to volunteer for the most difficult of duties, and was a humble leader who understood that true leadership is characterized by action, not position; and

WHEREAS, It is therefore appropriate to designate the portion of State Highway Route 65 between State Highway Routes 198 and 137 in Tulare County in honor of Detective Kent Haws, a brave man who

served his country and community and was a selfless and self-sacrificing hero; and

WHEREAS, Laura Jean Cleaves was born on April 19, 1955, in Long Beach, California, and was admired and appreciated for her kindness, generosity of spirit, love of family, eternal optimism, passion for working to make the world a better place, and genuine capacity to share her time and talents with others; and

WHEREAS, In 1976, Ms. Cleaves joined the Los Angeles County Sheriff's Department, where she met her future husband, Deputy Stephen M. Cleaves, and they were married in 1978 and moved to northern California two years later, where she distinguished herself as the first female police officer for the City of Arcata; and

WHEREAS, Relocating to Santa Barbara County in 1981, Ms. Cleaves accepted a position with the Santa Barbara Police Department and, in 1984, became an investigator with the Santa Barbara County District Attorney's Office where she excelled as a criminal investigator and was later promoted to senior investigator, and she continually demonstrated honesty, integrity, professionalism, and leadership in all her varied assignments; and

WHEREAS, An avid and accomplished horsewoman, Ms. Cleaves wrote articles on horse care, safety, and riding and provided riding instruction for those with a love of horses and, in 1988, she began sharing her expertise as a reserve deputy sheriff and instructor for the Sheriff's Mounted Unit where she served until her passing on May 1, 2008; and

WHEREAS, Ms. Cleaves had a passion for protecting others, and while on duty April 30, 2008, her vehicle was struck by a drunken driver and she suffered a fatal injury; and

WHEREAS, Ms. Cleaves is survived by her husband, Stephen; her daughters and sons-in-law, Krista and Shane Buxman and Kelly and Daniel York; her father and stepmother, Bob and Elaine Ewen; her mother Juanita Speirs; her three sisters; her one brother; and a host of family, friends, and colleagues; and

WHEREAS, It is therefore appropriate to designate the intersection of State Highway Routes 154 and 246 in Santa Barbara County in honor of Senior Investigator Laura Jean Cleaves, a woman known for her illustrious record of personal, professional, and civic achievements, as well as the love and devotion she gave to her family and friends; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby designates the portion of State Highway Route 65 between State Highway Routes 198 and 137 in Tulare County as the Detective Kent Haws Memorial Highway; and be it further

*Resolved,* That the Legislature hereby designates the intersection of State Highway Routes 154 and 246 in Santa Barbara County as the Senior Investigator Laura Jean Cleaves Memorial Junction; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing these special designations and, upon receiving donations from nonstate sources sufficient to cover these costs, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 162

Assembly Concurrent Resolution No. 150—Relative to the Joan Bechtel Memorial Highway.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, Joan Bechtel was elected to the Sutter County Board of Supervisors in November 1992, and subsequently represented the citizens of the Fourth Supervisorial District from January 1993 to May 2002; and

WHEREAS, Joan Bechtel served as the Sutter County Clerk-Recorder from May 2002 to December 2007; and

WHEREAS, Joan Bechtel also showed her commitment to the community by serving as a member of the Fremont-Rideout Health Group's Board of Directors for 25 years; and

WHEREAS, Ms. Bechtel further showed her commitment to the community by serving on the Yuba-Sutter Fair Board for eight years; and

WHEREAS, During her tenure as a county supervisor, Ms. Bechtel led the effort to widen State Highway Route 99 for the safety of all citizens of Sutter County and all those that travel along State Highway Route 99; and

WHEREAS, As a direct result of her efforts, there has been a precipitous drop in accident rates and fatalities on State Highway Route 99; and

WHEREAS, Ms. Bechtel passed away on June 25, 2008, and the Legislature wishes to honor her commitment and dedication to Sutter County and believes that it would be a fitting memorial to Ms. Bechtel to dedicate the portion of State Highway Route 99 that she fought so

hard to improve as the Joan Bechtel Memorial Highway; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Tudor Bypass segment of State Highway Route 99 in Sutter County, from the intersection of State Highway Route 99 and State Highway Route 113 south to the intersection of State Highway Route 99 and Central Avenue, be designated as the Joan Bechtel Memorial Highway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing that special designation and, upon receiving donations from nonstate sources sufficient to cover that cost, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

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## RESOLUTION CHAPTER 163

Assembly Concurrent Resolution No. 151—Relative to Welcome Home Vietnam Veterans Week.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, In 2007, the United States Congress, by separate Senate and House Resolutions declared that a Welcome Home Vietnam Veterans Day should be established; and

WHEREAS, The Vietnam War was fought in Vietnam from 1961 to 1975, and involved North Vietnam and the Viet Cong in conflict with the United States and South Vietnam; and

WHEREAS, The United States became involved in Vietnam because policymakers in the United States believed that if South Vietnam fell to a communist government, communism would spread throughout the rest of southeast Asia; and

WHEREAS, Members of the United States Armed Forces began serving in an advisory role to the South Vietnamese in 1961; and

WHEREAS, As a result of the Gulf of Tonkin incidents on August 2 and August 4, 1964, the United States Congress overwhelmingly passed the Gulf of Tonkin Resolution (Public Law 99-408), on August 7, 1964, which effectively handed over the war-making powers to President Johnson until such time as "peace and security" had returned to Vietnam; and

WHEREAS, In 1965, there were 80,000 United States troops in Vietnam, and by 1969 a peak of approximately 543,000 troops was reached; and

WHEREAS, On January 27, 1973, the Treaty of Paris was signed, which required the release of all United States prisoners of war held in North Vietnam and the withdrawal of all United States Armed Forces from South Vietnam; and

WHEREAS, On March 30, 1973, the United States Armed Forces completed the withdrawal of combat troops from Vietnam; and

WHEREAS, More than 58,000 members of the United States Armed Forces lost their lives in Vietnam and more than 300,000 members of the Armed Forces were wounded; and

WHEREAS, In 1982, the Vietnam Veterans Memorial was dedicated in the District of Columbia to commemorate those members of the United States Armed Forces who died or were declared missing in action in Vietnam; and

WHEREAS, The Vietnam War was an extremely divisive issue among the people of the United States; and

WHEREAS, Members of the United States Armed Forces who served bravely and faithfully for the United States during the Vietnam War were caught upon their return home in the crossfire of public debate about the involvement of the United States in the Vietnam War; and

WHEREAS, The establishment of a Welcome Home Vietnam Veterans Week would be an appropriate way to honor those members of the United States Armed Forces who served in Vietnam during the Vietnam War; and

WHEREAS, The Legislature concurred that Assembly Concurrent Resolution 64, by Assembly Member Ted Lieu, would commemorate the upcoming 20-year anniversary of the California Vietnam Veterans Memorial in 2008; and

WHEREAS, The celebration of the 20-year anniversary of the California Vietnam Veterans Memorial will commence on December 10, 2008, with the reading of the names of the 5,822 Californians who gave their lives in defense of their country; and

WHEREAS, On December 13, 2008, there will be a parade and a dedication ceremony and the 20-year anniversary celebration shall end on December 14, 2008, with a sunrise POW/MIA ceremony; and

WHEREAS, The Vietnam Veterans of America, California State Council, and the California Department of Veterans Affairs are jointly sponsoring and conducting the ceremonies from December 10 through December 14, 2008, in order to ensure the appropriate honors for California's fallen heroes; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature declares December 10 through December 14, 2008, to be Welcome Home Vietnam Veterans Week; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 164

Assembly Concurrent Resolution No. 153—Relative to California Coastal Trail Day.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, The California Coastal Act of 1976 required local jurisdictions to identify an alignment for the California Coastal Trail, a continuous network of interconnecting trails throughout the coastal zone from the Oregon border to Mexico designed to foster appreciation and stewardship of the scenic and natural resources of the coast; and

WHEREAS, In 1999, the Governor designated the California Coastal Trail as California's Millennium Legacy Trail, a designation granted to one trail in each of the 50 states; and

WHEREAS, The Millennium Legacy Trail designation places the California Coastal Trail on a par with other nationally recognized long-distance trails such as the Appalachian Trail; and

WHEREAS, In the 2001–02 Regular Session, the Legislature declared the California Coastal Trail to be an official state trail and directed the State Coastal Conservancy, with the assistance of the California Coastal Commission and the Department of Parks and Recreation, to plan and develop the trail; and

WHEREAS, In 2007, the Legislature required state and regional transportation planning agencies to include provisions for the California Coastal Trail in their plans; and

WHEREAS, The 1,200-mile California Coastal Trail is currently 50 percent complete and provides unique public access opportunities for many Californians, from sandy beaches to paved paths; and

WHEREAS, When completed, the California Coastal Trail will make a significant contribution to the quality of life, public health, and economic vitality of the state; and

WHEREAS, The California Coastal Trail will be an invaluable resource for introducing people to one of the most stunning and diverse

coastlines in the world, providing a respite for those who seek to renew and replenish their spirits; and

WHEREAS, The California Coastal Trail is a project that will continue to require visionary leadership, investments in long-range planning, and the dedication of numerous agencies, volunteers, and communities; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature declares October 11, 2008, as California Coastal Trail Day in California; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

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## RESOLUTION CHAPTER 165

Assembly Concurrent Resolution No. 155—Relative to Alcohol and Drug Addiction Recovery Month.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, Substance use disorders impact 22.6 million people 12 years of age or older in the United States (or 9.2 percent of the population), which is more than the number of people living with coronary heart disease, cancer, and Alzheimer's disease combined; and

WHEREAS, Studies have consistently found that individualized treatment is essential for people to be successful in their path of recovery; and

WHEREAS, Treatment and long-term recovery from substance use disorders can offer a renewed outlook on life for those who are addicted and their family members; and

WHEREAS, People who receive treatment for substance use disorders can lead more productive and fulfilling lives, personally and professionally; and

WHEREAS, Real stories of long-term recovery can inspire others to ask for help and improve their own lives, the lives of their families, and the entire community; and

WHEREAS, The theme of this year's effort is "Join the Voices for Recovery: Real People, Real Recovery," which recognizes the impact that real people and real stories have on recovery and celebrates those who have worked to advance the treatment and recovery landscape; and

WHEREAS, It is critical that we educate our community members that substance use disorders are treatable, yet serious, health care problems, and by treating them like other chronic diseases, we can

improve the quality of life for the entire community; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature recognizes the month of September 2008 as Alcohol and Drug Addiction Recovery Month in order to raise awareness of the importance of substance use disorders treatment and to help those suffering from substance use disorders and their families to receive treatment; and be it further

*Resolved,* That the Legislature encourages public support for "Join the Voices for Recovery: Real People, Real Recovery" events planned in their community during the 2008 Alcohol and Drug Addiction Recovery Month; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the author for distribution.

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## RESOLUTION CHAPTER 166

Assembly Concurrent Resolution No. 156—Relative to the CDF Firefighter Eva Marie Schicke Memorial Highway.

[Filed with Secretary of State September 19, 2008.]

WHEREAS, California Department of Forestry and Fire Protection (CDF) Firefighter Eva Marie Schicke passed away in the line of duty on September 12, 2004, at the age of 23, while battling a fire in the Stanislaus National Forest; and

WHEREAS, Schicke was born in Turlock, California, in 1980 and moved to Placerville with her family in 1988. She was a two-sport standout in basketball and volleyball at Ponderosa High School in Shingle Springs, California; and

WHEREAS, In 1998, Schicke returned to Turlock, California, to attend California State University, Stanislaus (CSUS), where she received a degree in criminal justice in 2002; and

WHEREAS, Schicke was an outstanding collegiate athlete. She played basketball at CSUS for four years, was a three-year starter for the CSUS Warriors, and was the second leading team scorer during her senior year. A highly versatile player, Schicke played forward, point, and off-guard positions. On the court, Schicke showed the toughness, drive, and physical prowess that made her a leader among her teammates and later contributed to her successful firefighting career; and

WHEREAS, Schicke began her career with CDF in June 2000; her first assignment was at the CDF station in Arnold, California. Schicke

proved to be an outstanding employee and quickly developed into a topnotch firefighter. Her sense of humor, determination, work ethic, and mental and physical toughness all contributed to her success with CDF. Schicke was held in high regard by all who worked with her and was proud to have earned the respect of her fellow firefighters; and

WHEREAS, In recognition of her outstanding abilities as a firefighter, Schicke was selected to join the crew of Copter 404 in June of 2004. These highly coveted assignments are typically reserved for the most experienced firefighters who demonstrate outstanding job knowledge, work ethic, and physical conditioning; and

WHEREAS, Schicke thrived on the challenges presented by fighting wildland fires and loved the camaraderie that she found in the station and airbase; and

WHEREAS, On September 12, 2004, Schicke and the crew of Copter 404 were engaged in firefighting efforts on a fire near Groveland, California, when Schicke and six other firefighters were overrun by the fire; and

WHEREAS, Schicke was completing her fifth season with CDF at the time of her death and was the first female firefighter from CDF to die in the line of duty; and

WHEREAS, Schicke personified the professionalism, work ethic, and dedication for which CDF firefighters are known. She touched the lives of many, is missed by all who knew her, and will never be forgotten; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature recognizes the contributions of CDF Firefighter Eva Marie Schicke to the people of California and designates the portion of State Highway Route 120 from the Mariposa/Tuolumne County line to the Rim of the World Vista as the CDF Firefighter Eva Marie Schicke Memorial Highway; and be it further

*Resolved,* That the Department of Transportation is requested to determine the cost of appropriate signs, consistent with the signing requirements for the state highway system, showing this special designation and, upon receiving donations from nonstate sources sufficient to cover the cost, to erect those signs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Department of Transportation and to the author for appropriate distribution.

# RESOLUTION CHAPTER 167

Senate Constitutional Amendment No. 30—A resolution directing the Secretary of State to make amendments in Senate Constitutional Amendment No. 13 (Resolution Chapter 144 of the Statutes of 2008).

[Filed with Secretary of State September 22, 2008.]

*Resolved by the Senate, the Assembly concurring,* That the Legislature of the State of California at its 2007–08 Regular Session commencing on the fourth day of December 2006, two-thirds of the membership of each house concurring, hereby directs the Secretary of State to make amendments in Senate Constitutional Amendment No. 13 of the 2007–08 Regular Session (Resolution Chapter 144 of the Statutes of 2008) by removing Section 20 of Article XVI of the Constitution, as proposed in that measure, and replacing that section with the following Section 20:

Second—That Section 20 of Article XVI thereof is amended to read:

SEC. 20. (a) The Budget Stabilization Fund 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 Fund 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) On September 30, 2008, and on September 30 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 Budget Stabilization Fund would exceed 12.5 percent of the General Fund revenues estimate set forth in the budget bill for that fiscal year, as enacted. The Legislature may, by statute, direct the Controller, for one or more fiscal years, to transfer into the Budget Stabilization Fund 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 Fund 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 Fund may be suspended or reduced for a fiscal year as specified by an executive order issued by the Governor no later than the date of the transfer as set forth in subdivision (b). For a fiscal year commencing on or after July 1, 2010, this subdivision shall be operative

only if a transfer of moneys from the Budget Stabilization Fund to the General Fund is authorized pursuant to subparagraph (A) of paragraph (2) of subdivision (f).

(f) (1) Of the moneys transferred to the Budget Stabilization Fund 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 Budget Stabilization Fund 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 funds remaining in the sinking fund subaccount after all of the deficit recovery bonds are retired shall be transferred to the Budget Stabilization Fund, and may be transferred to the General Fund pursuant to paragraph (2).

(2) All other funds transferred to the Budget Stabilization Fund in a fiscal year shall not be deposited in the sinking fund subaccount and may be transferred to the General Fund by statute as specified in this paragraph.

(A) Apart from a transfer pursuant to subparagraph (B), the total amount that may be transferred to the General Fund pursuant to this paragraph for any fiscal year shall not exceed the amount derived by subtracting the General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year from the total General Fund expenditures for the immediately preceding fiscal year adjusted for the change in population and the change in the cost of living for the State, as those terms are defined in Section 8 of Article XIII B, between the immediately preceding fiscal year and the fiscal year in which the transfer is made. For purposes of this subparagraph, "General Fund revenues, transfers, and balances available from the prior fiscal year for that fiscal year" does not include revenues transferred from the General Fund to the Budget Stabilization Fund pursuant to subdivision (b) for that fiscal year, and "total General Fund expenditures for the immediately preceding fiscal year" does not include the expenditure of unanticipated revenues pursuant to Section 21.

(B) Any funds necessary for the purpose of responding to an emergency declared by the Governor may be transferred by statute. For purposes of this subparagraph, "emergency" has the same meaning as set forth in paragraph (2) of subdivision (c) of Section 3 of Article XIII B.

(g) In addition to any transfer authorized by this section, funds in the Budget Stabilization Fund may be loaned and repaid within a fiscal year to meet General Fund cash requirements.