

## CHAPTER 159

An act to amend Sections 27, 113, 130, 144, 350, 1647.11, 2570.6, 2570.8, 2570.19, 2995, 3059, 3364, 3403, 4059, 4312, 4980.80, 4980.90, 4996.6, 5111, 5536, 6403, 6716, 6730.2, 6756, 7092, 7583.11, 8027, 8773.4, 10167.2, and 21702 of the Business and Professions Code, to amend Sections 1748.10, 1748.11, 1810.21, 2954.4, 2954.5, and 3097 of, and to amend and renumber Section 1834.8 of, the Civil Code, to amend Sections 403.020, 645.1, 674, and 699.510 of the Code of Civil Procedure, to amend Sections 9323, 9331, and 9408 of the Commercial Code, to amend Sections 2200, 6810, 17540.3, 25102, 25103, and 25120 of the Corporations Code, to amend Sections 313, 406, 426, 427, 11700, 17071.46, 17210, 17317, 17610.5, 22660, 22950, 25933, 33126.1, 37252, 37252.2, 37619, 41329.1, 42239, 44114, 45023.1, 48664, 52054, 52270, 52485, 54749, 56045, 56845, 69432.7, 69434.5, 69437.6, 69439, 69613.1, 87164, and 92901 of, and to amend and renumber Sections 45005.25 and 45005.30 of, the Education Code, to amend Sections 1405, 8040, 9118, and 15375 of the Elections Code, to amend Section 17504 of the Family Code, to amend Sections 761.5, 4827, 16024, 16501, and 18586 of the Financial Code, to amend Sections 1506, 2921, and 8276.3 of the Fish and Game Code, to amend Sections 492, 6046, and 75131 of the Food and Agricultural Code, to amend Sections 3543.4, 3562.2, 3583.5, 6254, 6516.6, 6599.2, 7074, 18935, 20028, 20300, 20392, 21006, 21547.7, 30064.1, 31461.3, 31681.55, 31835.02, 38773.6, 55720, 65584, 65585.1, and 75059.1 of the Government Code, to amend Sections 444.21, 1358.11, 11836, 11877.2, 17922, 25358.6.1, 39619.6, 104170, 105112, 111656.5, 111656.13, 114145, 123111, and 124900 of, to amend and renumber Section 104320 of, and to amend and renumber the heading of Article 10.5 (commencing with Section 1399.801) of Chapter 2.2 of Division 2 of, the Health and Safety Code, to amend Sections 789.8, 1215.1, 1871, 1872.83, 10123.135, 10178.3, 10192.11, 10231.2, 10236, 10506.5, 11621.2, 11784, 11786, 11787, and 12698 of the Insurance

Code, to amend Sections 90.5, 129, 230.1, 4455, and 4609 of the Labor Code, to amend Section 1048 of the Military and Veterans Code, to amend Sections 272, 417.2, 646.94, and 3058.65 of the Penal Code, to amend Sections 1813 and 16062 of the Probate Code, to amend Sections 10129 and 20209.7 of the Public Contract Code, to amend Sections 5090.51, 14581, 36710, and 42923 of the Public Resources Code, to amend Sections 383.5, 2881.2, 7943, 9608, 9610, and 12702.5 of, and to amend and renumber Section 399.15 of, the Public Utilities Code, to amend Sections 75.11, 75.21, 97.3, 214, 23622.8, 23646, 44006, and 45153 of the Revenue and Taxation Code, to amend Section 1110 of the Unemployment Insurance Code, to amend Section 4000.37 of the Vehicle Code, to amend Sections 1789.5, 4098.1, 5614, 8102, 10082, 14005.28, 14005.35, 14008.6, 14087.32, and 14105.26 of the Welfare and Institutions Code, and to amend Section 511 of the San Gabriel Basin Water Quality Authority Act (Chapter 776 of the Statutes of 1992), Section 1 of Chapter 352 of the Statutes of 2000, Section 1 of Chapter 661 of the Statutes of 2000, Section 2 of Chapter 693 of the Statutes of 2000, Sections 5 and 6 of the Naval Training Center San Diego Public Trust Exchange Act (Chapter 714 of the Statutes of 2000), Section 228 of Chapter 862 of the Statutes of 2000, and Sections 2 and 3 of Chapter 975 of the Statutes of 2000, relating to maintenance of the codes.

[Approved by Governor August 8, 2001. Filed with  
Secretary of State August 9, 2001.]

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

SECTION 1. Section 27 of the Business and Professions Code is amended to read:

27. (a) Every entity specified in subdivision (b), on or after July 1, 2001, unless otherwise authorized by the Department of Information Technology pursuant to Executive Order D-3-99, shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. In providing information on the Internet, each entity shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records. The information shall not

include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Acupuncture Board shall disclose information on its licensees.

(2) The Board of Behavioral Sciences shall disclose information on its licensees, including marriage and family therapists, licensed clinical social workers, and licensed educational psychologists.

(3) The Dental Board of California shall disclose information on its licensees.

(4) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of their licensees.

(5) The Board for Professional Engineers and Land Surveyors shall disclose information on its registrants and licensees.

(6) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(7) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(8) The Bureau of Electronic and Appliance Repair shall disclose information on its licensees, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(9) The Cemetery Program shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, crematories, and cremated remains disposers.

(10) The Funeral Directors and Embalmers Program shall disclose information on its licensees, including embalmers, funeral establishments, and funeral directors.

(11) The Contractors' State License Board shall disclose information on its licensees in accordance with Chapter 9 (commencing with Section 7000) of Division 3.

(12) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(c) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (e) of Section 17538.

SEC. 2. Section 113 of the Business and Professions Code is amended to read:

113. Upon recommendation of the director, officers, and employees of the department, and the officers, members, and employees of the boards, committees, and commissions comprising it or subject to its jurisdiction may confer, in this state or elsewhere, with officers or employees of this state, its political subdivisions, other states, or the United States, or with other persons, associations, or organizations as may be of assistance to the department, board, committee, or commission in the conduct of its work. The officers, members, and employees shall be entitled to their actual traveling expenses incurred in pursuance hereof, but when these expenses are incurred with respect to travel outside of the state, they shall be subject to the approval of the Governor and the Director of Finance.

SEC. 3. Section 130 of the Business and Professions Code is amended to read:

130. (a) Notwithstanding any other provision of law, the term of office of any member of an agency designated in subdivision (b) shall be for a term of four years expiring on June 1.

(b) Subdivision (a) applies to the following boards or committees:

- (1) The Medical Board of California.
- (2) The California Board of Podiatric Medicine.
- (3) The Physical Therapy Board of California.
- (4) The Board of Registered Nursing.
- (5) The Board of Vocational Nursing and Psychiatric Technicians.
- (6) The State Board of Optometry.
- (7) The California State Board of Pharmacy.
- (8) The Veterinary Medical Board.
- (9) The California Architects Board.
- (10) The Landscape Architect Technical Committee.
- (11) The Board for Professional Engineers and Land Surveyors.
- (12) The Contractors' State License Board.
- (13) The State Board of Guide Dogs for the Blind.
- (14) The Board of Behavioral Sciences.
- (15) The Structural Pest Control Board.
- (16) The Bureau of Electronic and Appliance Repair.

- (17) The Court Reporters Board of California.
- (18) The State Board for Geologists and Geophysicists.
- (19) The State Athletic Commission.
- (20) The Osteopathic Medical Board of California.
- (21) The Respiratory Care Board of California.
- (22) The Acupuncture Board.
- (23) The Board of Psychology.

SEC. 4. Section 144 of the Business and Professions Code is amended to read:

144. (a) Notwithstanding any other provision of law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following boards or committees:

- (1) The California Board of Accountancy.
- (2) The State Athletic Commission.
- (3) The Board of Behavioral Sciences.
- (4) The Court Reporters Board of California.
- (5) The State Board of Guide Dogs for the Blind.
- (6) The California State Board of Pharmacy.
- (7) The Board of Registered Nursing.
- (8) The Veterinary Medical Board.
- (9) The Registered Veterinary Technician Committee.
- (10) The Board of Vocational Nursing and Psychiatric Technicians.
- (11) The Respiratory Care Board of California.
- (12) The Hearing Aid Dispensers Advisory Commission.
- (13) The Physical Therapy Board of California.
- (14) The Physician Assistant Committee of the Medical Board of California.
- (15) The Speech-Language Pathology and Audiology Board.
- (16) The Medical Board of California.
- (17) The Board of Nursing Home Administrators.
- (18) The State Board of Optometry.
- (19) The Acupuncture Board.
- (20) The Cemetery and Funeral Programs.
- (21) The Bureau of Security and Investigative Services.
- (22) The Division of Investigation.
- (23) The Board of Psychology.
- (24) The California Board of Occupational Therapy.

SEC. 5. Section 350 of the Business and Professions Code is amended to read:

350. (a) There is hereby created in the Department of Consumer Affairs an Office of Privacy Protection under the direction of the Director of Consumer Affairs and the Secretary of the State and Consumer Services Agency. The office's purpose shall be protecting the privacy of individuals' personal information in a manner consistent with the California Constitution by identifying consumer problems in the privacy area and facilitating development of fair information practices in adherence with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(b) The office shall inform the public of potential options for protecting the privacy of, and avoiding the misuse of, personal information.

(c) The office shall make recommendations to organizations for privacy policies and practices that promote and protect the interests of California consumers.

(d) The office may promote voluntary and mutually agreed upon nonbinding arbitration and mediation of privacy-related disputes where appropriate.

(e) The Director of Consumer Affairs shall do all of the following:

(1) Receive complaints from individuals concerning any person obtaining, compiling, maintaining, using, disclosing, or disposing of personal information in a manner that may be potentially unlawful or violate a stated privacy policy relating to that individual, and provide advice, information, and referral, where available.

(2) Provide information to consumers on effective ways of handling complaints that involve violations of privacy-related laws, including identity theft and identity fraud. If appropriate local, state, or federal agencies are available to assist consumers with those complaints, the director shall refer those complaints to those agencies.

(3) Develop information and educational programs and materials to foster public understanding and recognition of the purposes of this article.

(4) Investigate and assist in the prosecution of identity theft and other privacy-related crimes, and, as necessary, coordinate with local, state, and federal law enforcement agencies in the investigation of similar crimes.

(5) Assist and coordinate in the training of local, state, and federal law enforcement agencies regarding identity theft and other privacy-related crimes, as appropriate.

(6) The authority of the office, the director, or the secretary, to adopt regulations under this article shall be limited exclusively to those regulations necessary and appropriate to implement subdivisions (b), (c), (d), and (e).

SEC. 6. Section 1647.11 of the Business and Professions Code is amended to read:

1647.11. (a) Notwithstanding subdivision (a) of Section 1647.2, after December 31, 2000, a dentist may not administer oral conscious sedation on an outpatient basis to a minor patient unless one of the following conditions is met:

(1) The dentist possesses a current license in good standing to practice dentistry in California and either holds a valid general anesthesia permit, conscious sedation permit, or has been certified by the board, pursuant to Section 1647.12, to administer oral sedation to minor patients.

(2) The dentist possesses a current permit issued under Section 1638 or 1640 and either holds a valid general anesthesia permit, or conscious sedation permit, or possesses a certificate as a provider of oral conscious sedation to minor patients in compliance with, and pursuant to, this article.

(b) Certification as a provider of oral conscious sedation to minor patients expires at the same time the license or permit of the dentist expires unless renewed at the same time the dentist's license or permit is renewed after its issuance, unless certification is renewed as provided in this article.

(c) This article shall not apply to the administration of local anesthesia or a mixture of nitrous oxide and oxygen or to the administration, dispensing, or prescription of postoperative medications.

SEC. 7. Section 2570.6 of the Business and Professions Code is amended to read:

2570.6. An applicant applying for a license as an occupational therapist or certification as an occupational therapy assistant shall file with the board a written application provided by the board, showing to the satisfaction of the board that he or she meets all of the following requirements:

(a) That the applicant is in good standing and has not committed acts or crimes constituting grounds for denial of a license under Section 480.

(b) (1) That the applicant has successfully completed the academic requirements of an educational program for occupational therapists or occupational therapy assistants that is approved by the board and accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE).

(2) The curriculum of an education program for occupational therapists shall contain the content specifically required in the ACOTE accreditation standards, including all of the following subjects:

(A) Biological, behavioral, and health sciences.

(B) Structure and function of the human body, including anatomy, kinesiology, physiology, and the neurosciences.

- (C) Human development throughout the life span.
- (D) Human behavior in the context of sociocultural systems.
- (E) Etiology, clinical course, management, and prognosis of disease processes and traumatic injuries, and the effects of those conditions on human functioning.
- (F) Occupational therapy theory, practice, and process that shall include the following:
  - (i) Human performance, that shall include occupational performance throughout the life cycle, human interaction, roles, values, and the influences of the nonhuman environment.
  - (ii) Activity processes that shall include the following:
    - (I) Theories underlying the use of purposeful activity and the meaning and dynamics of activity.
    - (II) Performance of selected life tasks and activities.
    - (III) Analysis, adaptation, and application of purposeful activity as therapeutic intervention.
    - (IV) Use of self, dyadic, and group interaction.
  - (iii) Theoretical approaches, including those related to purposeful activity, human performance, and adaptation.
  - (iv) Application of occupational therapy theory to practice, that shall include the following:
    - (I) Assessment and interpretation, observation, interviews, history, and standardized and nonstandardized tests.
    - (II) Directing, planning, and implementation, that shall include: therapeutic intervention related to daily living skills and occupational components; therapeutic adaptation, including methods of accomplishing daily life tasks, environmental adjustments, orthotics, and assistive devices and equipment; health maintenance, including energy conservation, joint protection, body mechanics, and positioning; and prevention programs to foster age-appropriate recommendations to maximize treatment gains.
    - (III) Program termination including reevaluation, determination of discharge, summary of occupational therapy outcome, and appropriate recommendations to maximize treatment gains.
    - (IV) Documentation.
  - (v) Development and implementation of quality assurance.
  - (vi) Management of occupational therapy service, that shall include:
    - (I) Planning services for client groups.
    - (II) Personnel management, including occupational therapy assistants, aides, volunteers, and level I students.
    - (III) Departmental operations, including budgeting, scheduling, recordkeeping, safety, and maintenance of supplies and equipment.

(3) The curriculum of an education program for occupational therapy assistants shall contain the content specifically required in the ACOTE accreditation standards, including all of the following subjects:

- (A) Biological, behavioral, and health sciences.
- (B) Structure and function of the normal human body.
- (C) Human development.
- (D) Conditions commonly referred to occupational therapists.
- (E) Occupational therapy principles and skills, that shall include the following:

(i) Human performance, including life tasks and roles as related to the developmental process from birth to death.

(ii) Activity processes and skills, that shall include the following:

(I) Performance of selected life tasks and activities.

(II) Analysis and adaptation of activities.

(III) Instruction of individuals and groups in selected life tasks and activities.

(iii) Concepts related to occupational therapy practice, that shall include the following:

(I) The importance of human occupation as a health determinant.

(II) The use of self, interpersonal, and communication skills.

(iv) Use of occupational therapy concepts and skills, that shall include the following:

(I) Data collection, that shall include structured observation and interviews, history, and structured tests.

(II) Participation in planning and implementation, that shall include: therapeutic intervention related to daily living skills and occupational components; therapeutic adaptation, including methods of accomplishing daily life tasks, environmental adjustments, orthotics, and assistive devices and equipment; health maintenance, including mental health techniques, energy conservation, joint protection, body mechanics, and positioning; and prevention programs to foster age-appropriate balance of self-care and work.

(III) Program termination, including assisting in reevaluation, summary of occupational therapy outcome, and appropriate recommendations to maximize treatment gains.

(IV) Documentation.

(c) That the applicant has successfully completed a period of supervised fieldwork experience approved by the board and arranged by a recognized educational institution where he or she met the academic requirements of subdivision (b) or arranged by a nationally recognized professional association. The fieldwork requirements shall be as follows:

(1) For an occupational therapist, a minimum of 960 hours of supervised fieldwork experience shall be completed within 24 months of the completion of didactic coursework.

(2) For an occupational therapy assistant, a minimum of 640 hours of supervised fieldwork experience shall be completed within 20 months of the completion of didactic coursework.

(d) That the applicant has passed an examination as provided in Section 2570.7.

(e) That the applicant, at the time of application, is a person over 18 years of age, is not addicted to alcohol or any controlled substance, and has not committed acts or crimes constituting grounds for denial of licensure or certification under Section 480.

SEC. 8. Section 2570.8 of the Business and Professions Code is amended to read:

2570.8. (a) The board may grant a license or certificate to any person who applies on or before January 1, 2003, and who met, before that date, the requirements of Section 2570 as amended by Chapter 361 of the Statutes of 1993.

(b) The board may grant a license or certificate to any applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or territory of the United States, if that jurisdiction requires standards for licensure considered by the board to meet or exceed the requirements for licensure or certification under this chapter.

(c) An applicant seeking a license or certificate under this section based on his or her current practice shall submit to the board all of the following as proof of actual practice within one year of the effective date of this chapter:

(1) The applicant's affidavit containing all of the following information:

(A) The location and dates of the applicant's employment for the relevant period.

(B) A description of the capacity in which the applicant was employed, including job title and description of specific duties and the nature of the patients or clientele.

(C) The name and job title of the applicant's supervisor.

(2) A written job description.

(3) The employer's affidavit containing all of the following information:

(A) The dates of the applicant's employment for the relevant period.

(B) A description of the applicant's specific duties.

(C) The title of the person completing the affidavit.

(d) After reviewing the information submitted under subdivision (c), the board may require additional information necessary to enable it to determine whether to grant a license or certificate under this section.

SEC. 9. Section 2570.19 of the Business and Professions Code is amended to read:

2570.19. (a) There is hereby created a California Board of Occupational Therapy, hereafter referred to as the board. The board shall enforce and administer this chapter.

(b) The members of the board shall consist of the following:

(1) Three occupational therapists who shall have practiced occupational therapy for five years.

(2) One occupational therapy assistant who shall have assisted in the practice of occupational therapy for five years.

(3) Three public members who shall not be licentiates of the board or of any board referred to in Section 1000 or 3600.

(c) The Governor shall appoint the three occupational therapists and one occupational therapy assistant to be members of the board. The Governor, the Senate Rules Committee, and the Speaker of the Assembly shall each appoint a public member. Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.

(d) All members shall be residents of California at the time of their appointment. The occupational therapist and occupational therapy assistant members shall have been engaged in rendering occupational therapy services to the public, teaching, or research in occupational therapy for at least five years preceding their appointments.

(e) The public members may not be or have ever been occupational therapists or occupational therapy assistants or in training to become occupational therapists or occupational therapy assistants. The public members may not be related to or have a household member who is an occupational therapist or an occupational therapy assistant and may not have had within two years of the appointment a substantial financial interest in a person regulated by the board.

(f) The Governor shall appoint two board members for a term of one year, two board members for a term of two years, and one board member for a term of three years. Appointments made thereafter shall be for four-year terms, but no person shall be appointed to serve more than two consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section. Vacancies shall be filled by appointment for the unexpired term. The board shall annually elect one of its members as president.

(g) The board shall meet and hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles, and San Francisco. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place designated by the board.

(h) Notice of each meeting of the board shall be given in accordance with 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).

(i) Members of the board shall receive no compensation for their services but shall be entitled to reasonable travel and other expenses incurred in the execution of their powers and duties in accordance with Section 103.

(j) The appointing power shall have the power to remove any member of the board from office for neglect of any duty imposed by state law, for incompetency, or for unprofessional or dishonorable conduct.

(k) A loan is hereby authorized from the General Fund to the Occupational Therapy Fund on or after July 1, 2000, in an amount of up to one million dollars (\$1,000,000) to fund operating, personnel, and other startup costs of the board. Six hundred ten thousand dollars (\$610,000) of this loan amount is hereby appropriated to the board to use in the 2000–01 fiscal year for the purposes described in this subdivision. In subsequent years, funds from the Occupational Therapy Fund shall be available to the board upon appropriation by the Legislature in the annual Budget Act. The loan shall be repaid to the General Fund over a period of up to five years, and the amount paid shall also include interest at the rate accruing to moneys in the Pooled Money Investment Account. The loan amount and repayment period shall be minimized to the extent possible based upon actual board financing requirements as determined by the Department of Finance.

(l) This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 10. Section 2995 of the Business and Professions Code is amended to read:

2995. A psychological corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are psychologists, podiatrists, registered nurses, optometrists, marriage and family therapists, licensed clinical social

workers, chiropractors, acupuncturists, or physicians are in compliance with the Moscone-Knox Professional Corporation Act, this article, and all other statutes and regulations now or hereafter enacted or adopted pertaining to that corporation and the conduct of its affairs.

SEC. 11. Section 3059 of the Business and Professions Code is amended to read:

3059. (a) It is the intent of the Legislature that the public health and safety would be served by requiring all holders of licenses to practice optometry granted under this chapter to continue their education after receiving their licenses. The board shall adopt regulations that require, as a condition to the renewal thereof, that all holders of licenses submit proof satisfactory to the board that they have informed themselves of the developments in the practice of optometry occurring since the original issuance of their licenses by pursuing one or more courses of study satisfactory to the board or by other means deemed equivalent by the board.

(b) The board may, in accordance with the intent of this section, make exceptions from continuing education requirements for reasons of health, military service, or other good cause.

(c) If for good cause compliance cannot be met for the current year, the board may grant exemption of compliance for that year, provided that a plan of future compliance that includes current requirements as well as makeup of previous requirements is approved by the board.

(d) The board may require that proof of compliance with this section be submitted on an annual or biennial basis as determined by the board.

(e) The board may adopt regulations to require licensees to maintain current certification in cardiopulmonary resuscitation. Training required for the granting or renewal of a cardiopulmonary certificate shall not be credited towards the requirements of subdivision (a) or (f).

(f) An optometrist certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 shall complete a total of 50 hours of continuing education every two years in order to renew his or her certificate. Thirty-five of the required 50 hours of continuing education shall be on the diagnosis, treatment, and management of ocular disease as follows: 12 hours on glaucoma, 10 hours on ocular infections, five hours on inflammation and topical steroids, six hours on systemic medications, and two hours on the use of pain medications.

(g) The board shall encourage every optometrist to take a course or courses in pharmacology and pharmaceuticals as part of his or her continuing education.

(h) The board shall consider requiring courses in child abuse detection to be taken by those licensees whose practices are such that there is a likelihood of contact with abused or neglected children.

(i) The board shall consider requiring courses in elder abuse detection to be taken by those licensees whose practices are such that there is a likelihood of contact with abused or neglected elder persons.

SEC. 12. Section 3364 of the Business and Professions Code is amended to read:

3364. (a) Every licensee who engages in the practice of fitting or selling hearing aids shall have and maintain an established retail business address to engage in that fitting or selling, routinely open for service to customers or clients. The address of the licensee's place of business shall be registered with the bureau as provided in Section 3362.

(b) Except as provided in subdivision (c), if a licensee maintains more than one place of business within this state, he or she shall apply for and procure a duplicate license for each branch office maintained. The application shall state the name of the person and the location of the place or places of business for which the duplicate license is desired.

(c) A hearing aid dispenser may, without obtaining a duplicate license for a branch office, engage on a temporary basis in the fitting or selling of hearing aids at the primary or branch location of another licensee's business or at a location or facility that he or she may use on a temporary basis, provided that the hearing aid dispenser notifies the bureau in advance in writing of the dates and addresses of those businesses, locations, or facilities at which he or she will engage in the fitting or selling of hearing aids.

SEC. 13. Section 3403 of the Business and Professions Code is amended to read:

3403. A plea or verdict of guilty or a conviction following a plea of nolo contendere, made to a charge substantially related to the qualifications, functions, and duties of a hearing aid dispenser is deemed to be a conviction within the meaning of this article. The bureau may order the license suspended or revoked, impose probationary conditions on a licensee, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw 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.

SEC. 14. Section 4059 of the Business and Professions Code, as added by Section 5 of Chapter 837 of the Statutes of 2000, is amended to read:

4059. (a) A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any dangerous device, except

upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

(b) This section does not apply to the furnishing of any dangerous drug or dangerous device by a manufacturer, wholesaler, or pharmacy to each other or to a physician, dentist, podiatrist, or veterinarian, or to a laboratory under sales and purchase records that correctly give the date, the names and addresses of the supplier and the buyer, the drug or device, and its quantity. This section does not apply to the furnishing of any dangerous device by a manufacturer, wholesaler, or pharmacy to a physical therapist acting within the scope of his or her license under sales and purchase records that correctly provide the date the device is provided, the names and addresses of the supplier and the buyer, a description of the device, and the quantity supplied.

(c) A pharmacist, or a person exempted pursuant to Section 4054, may distribute dangerous drugs and dangerous devices directly to dialysis patients pursuant to regulations adopted by the board. The board shall adopt any regulations as are necessary to ensure the safe distribution of these drugs and devices to dialysis patients without interruption thereof. A person who violates a regulation adopted pursuant to this subdivision shall be liable upon order of the board to surrender his or her personal license. These penalties shall be in addition to penalties that may be imposed pursuant to Section 4301. If the board finds any dialysis drugs or devices distributed pursuant to this subdivision to be ineffective or unsafe for the intended use, the board may institute immediate recall of any or all of the drugs or devices distributed to individual patients.

(d) Home dialysis patients who receive any drugs or devices pursuant to subdivision (c) shall have completed a full course of home training given by a dialysis center licensed by the State Department of Health Services. The physician prescribing the dialysis products shall submit proof satisfactory to the manufacturer or wholesaler that the patient has completed the program.

(e) A pharmacist may furnish a dangerous drug authorized for use pursuant to Section 2620.3 to a physical therapist or may furnish topical pharmaceutical agents authorized for use pursuant to paragraph (5) of subdivision (a) of Section 3041 to an optometrist. A record containing the date, name and address of the buyer, and name and quantity of the drug shall be maintained. This subdivision shall not be construed to authorize the furnishing of a controlled substance.

(f) A pharmacist may furnish electroneuromyographic needle electrodes or hypodermic needles used for the purpose of placing wire electrodes for kinesiological electromyographic testing to physical therapists who are certified by the Physical Therapy Examining

Committee of California to perform tissue penetration in accordance with Section 2620.5.

(g) Nothing in this section shall be construed as permitting a licensed physical therapist to dispense or furnish a dangerous device without a prescription of a physician, dentist, podiatrist, or veterinarian.

(h) A veterinary food-animal drug retailer shall dispense, furnish, transfer, or sell veterinary food-animal drugs only to another veterinary food-animal drug retailer, a pharmacy, a veterinarian, or to a veterinarian's client pursuant to a prescription from the veterinarian for food-producing animals.

(i) This section shall become operative on July 1, 2001.

SEC. 15. Section 4312 of the Business and Professions Code, as added by Section 19 of Chapter 837 of the Statutes of 2000, is amended to read:

4312. (a) The board may void the license of a wholesaler, pharmacy, or veterinary food-animal drug retailer if the licensed premises remain closed, as defined in subdivision (e), other than by order of the board. For good cause shown, the board may void a license after a shorter period of closure. To void a license pursuant to this subdivision, the board shall make a diligent, good faith effort to give notice by personal service on the licensee. If a written objection is not received within 10 days after personal service is made or a diligent, good faith effort to give notice by personal service on the licensee has failed, the board may void the license without the necessity of a hearing. If the licensee files a written objection, the board shall file an accusation based on the licensee remaining closed. Proceedings 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 in that chapter.

(b) In the event that the license of a wholesaler, pharmacy, or veterinary food-animal drug retailer is voided pursuant to subdivision (a) or revoked pursuant to Article 19 (commencing with Section 4300), or a wholesaler, pharmacy, medical device retailer, or veterinary food-animal drug retailer notifies the board of its intent to remain closed or to discontinue business, the licensee shall, within 10 days thereafter, arrange for the transfer of all dangerous drugs and controlled substances or dangerous devices to another licensee authorized to possess the dangerous drugs and controlled substances or dangerous devices. The licensee transferring the dangerous drugs and controlled substances or dangerous devices shall immediately confirm in writing to the board that the transfer has taken place.

(c) If a wholesaler, pharmacy, or veterinary food-animal drug retailer fails to comply with subdivision (b), the board may seek and obtain an order from the superior court in the county in which the wholesaler,

pharmacy, or veterinary food-animal drug retailer is located, authorizing the board to enter the wholesaler, pharmacy, or veterinary food-animal drug retailer and inventory and store, transfer, sell, or arrange for the sale of, all dangerous drugs and controlled substances and dangerous devices found in the wholesaler, pharmacy, or veterinary food-animal drug retailer.

(d) In the event that the board sells or arranges for the sale of any dangerous drugs, controlled substances, or dangerous devices pursuant to subdivision (c), the board may retain from the proceeds of the sale an amount equal to the cost to the board of obtaining and enforcing an order issued pursuant to subdivision (c), including the cost of disposing of the dangerous drugs, controlled substances, or dangerous devices. The remaining proceeds, if any, shall be returned to the licensee from whose premises the dangerous drugs or controlled substances or dangerous devices were removed.

(1) The licensee shall be notified of his or her right to the remaining proceeds by personal service or by certified mail, postage prepaid.

(2) If a statute or regulation requires the licensee to file with the board his or her address, and any change of address, the notice required by this subdivision may be sent by certified mail, postage prepaid, to the latest address on file with the board and service of notice in this manner shall be deemed completed on the 10th day after the mailing.

(3) If the licensee is notified as provided in this subdivision, and the licensee fails to contact the board for the remaining proceeds within 30 calendar days after personal service has been made or service by certified mail, postage prepaid, is deemed completed, the remaining proceeds shall be deposited by the board into the Pharmacy Board Contingent Fund. These deposits shall be deemed to have been received pursuant to Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure and shall be subject to claim or other disposition as provided in that chapter.

(e) For the purposes of this section, "closed" means not engaged in the ordinary activity for which a license has been issued for at least one day each calendar week during any 120-day period.

(f) Nothing in this section shall be construed as requiring a pharmacy to be open seven days a week.

(g) This section shall become operative on July 1, 2001.

SEC. 16. Section 4980.80 of the Business and Professions Code is amended to read:

4980.80. The board may issue a license to any person who, at the time of application, has held for at least two years a valid license issued by a board of marriage counselor examiners, marriage therapist examiners, or corresponding authority of any state, if the education and supervised experience requirements are substantially the equivalent of

this chapter and the person successfully completes the written and oral licensing examinations administered in this state and pays the fees specified. Issuance of the license is further conditioned upon the person's completion of the following coursework or training:

(a) A two semester or three quarter unit course in California law and professional ethics for marriage, family, and child counselors that shall include areas of study as specified in Section 4980.41.

(b) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(c) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25 and any regulations promulgated thereunder.

(d) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency as specified by regulation.

(e) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other requirements for licensure or in a separate course.

(f) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(g) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychopharmacology. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(h) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the board may accept training or coursework acquired out of state.

SEC. 17. Section 4980.90 of the Business and Professions Code is amended to read:

4980.90. (a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter and if the applicant has gained a minimum of 250 hours of supervised experience in direct counseling within California while registered as an intern with the board.

(b) Education gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, and if the applicant has completed all of the following:

(1) A two semester or three quarter unit course in California law and professional ethics for marriage, family, and child counselors that shall include areas of study as specified in Section 4980.41.

(2) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(3) A minimum of 10 contact hours of training or coursework in sexuality as specified in Section 25 and any regulations promulgated thereunder.

(4) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency as specified by regulation.

(5) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other educational requirements for licensure or in a separate course.

(6) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(7) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychopharmacology. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(8) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the board may accept training or coursework acquired out of state.

(c) For purposes of this section, the board may, in its discretion, accept education as substantially equivalent if the applicant has been granted a degree in a single integrated program primarily designed to train marriage, family, and child counselors and if the applicant's education meets the requirements of Sections 4980.37 and 4980.40. The degree title and number of units in the degree program need not be identical to those required by subdivision (a) of Section 4980.40. If the applicant's degree does not contain the number of units required by subdivision (a) of Section 4980.40, the board may, in its discretion, accept the applicant's education as substantially equivalent if the applicant's degree otherwise complies with this section and the applicant completes the units required by subdivision (a) of Section 4980.40.

SEC. 18. Section 4996.6 of the Business and Professions Code is amended to read:

4996.6. (a) The renewal fee for licenses that expire on or after January 1, 1996, shall be a maximum of one hundred fifty-five dollars (\$155) and shall be collected on a biennial basis by the board in

accordance with Section 152.6. The fees shall be deposited in the State Treasury to the credit of the Behavioral Sciences Fund.

(b) Licenses issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original license shall be set by the board.

(c) To renew an unexpired license, the licensee shall, on or before the expiration date of the license, do the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a two-year renewal fee prescribed by the board.

(3) Certify compliance with the continuing education requirements set forth in Section 4996.22.

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

(d) If the license is renewed after its expiration, the licensee shall, as a condition precedent to renewal, also pay a delinquency fee of seventy-five dollars (\$75).

(e) Any person who permits his or her license to become delinquent may have it restored at any time within five years after its expiration upon the payment of all fees that he or she would have paid if the license had not become delinquent, plus the payment of all delinquency fees.

(f) A license that is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter; however, the licensee may apply for and obtain a new license if:

(1) No fact, circumstance, or condition exists that, if the license were issued, would justify its revocation or suspension.

(2) He or she pays the fees that would be required if he or she were applying for a license for the first time.

(3) He or she takes and passes the current licensing examinations.

(g) The fee for issuance of any replacement registration, license, or certificate shall be twenty dollars (\$20).

(h) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

SEC. 19. Section 5111 of the Business and Professions Code is amended to read:

5111. Cheating on, or subverting or attempting to subvert any licensing examination includes, but is not limited to, engaging in, soliciting, or procuring any of the following:

(a) Any communication between one or more examinees and any person, other than a proctor or examination official, while the examination is in progress.

(b) Any communication between one or more examinees and any other person at any time concerning the content of the examination

including, but not limited to, any examination question or answer, unless the examination has been publicly released by the examining authority or jurisdiction.

(c) The taking of all or a part of the examination by a person other than the applicant.

(d) Possession or use at any time during the examination or while the examinee is on the examination premises of any device, material, or document that is not expressly authorized for use by examinees during the examination including, but not limited to, notes, crib sheets, textbooks, and electronic devices.

(e) Failure to follow any examination instruction or rule related to examination security.

(f) Providing false, fraudulent, or materially misleading information concerning education, experience, or other qualifications as part of, or in support of, any application for admission to any professional or vocational examination.

SEC. 20. Section 5536 of the Business and Professions Code is amended to read:

5536. (a) It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment, for any person who is not licensed to practice architecture under this chapter to practice architecture in this state, to use any term confusingly similar to the word architect, to use the stamp of a licensed architect, as provided in Section 5536.1, or to advertise or put out any sign, card, or other device that might indicate to the public that he or she is an architect, that he or she is qualified to engage in the practice of architecture, or that he or she is an architectural designer.

(b) It is a misdemeanor, punishable as specified in subdivision (a), for any person who is not licensed to practice architecture under this chapter to affix a stamp or seal that bears the legend "State of California" or words or symbols that represent or imply that the person is so licensed by the state to plans, specifications, or instruments of service.

(c) It is a misdemeanor, punishable as specified in subdivision (a), for any person to advertise or represent that he or she is a "registered building designer" or is registered or otherwise licensed by the state as a building designer.

SEC. 21. Section 6403 of the Business and Professions Code, as amended by Section 5 of Chapter 386 of the Statutes of 2000, is amended to read:

6403. (a) The application for registration of a natural person shall contain all of the following statements about the applicant:

(1) Name, age, address, and telephone number.

(2) Whether he or she has been convicted of a felony, or of a misdemeanor under Section 6126 or 6127.

(3) Whether he or she has been held liable in a civil action by final judgment or entry of a stipulated judgment, if the action alleged fraud, the use of an untrue or misleading representation, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether he or she has ever been convicted of a misdemeanor violation of this chapter.

(5) Whether he or she has had a civil judgment entered against him or her in an action arising out of the applicant's negligent, reckless, or willful failure to properly perform his or her obligation as a legal document assistant or unlawful detainer assistant.

(6) Whether he or she has had a registration revoked pursuant to Section 6413.

(7) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which the primary registration is filed.

(b) The application for registration of a natural person shall be accompanied by the display of personal identification, such as a California driver's license, birth certificate, or other identification acceptable to the county clerk to adequately determine the identity of the applicant.

(c) The application for registration of a partnership or corporation shall contain all of the following statements about the applicant:

(1) The names, ages, addresses, and telephone numbers of the general partners or officers.

(2) Whether the general partners or officers have ever been convicted of a felony, or a misdemeanor under Section 6126 or 6127.

(3) Whether the general partners or officers have ever been held liable in a civil action by final judgment or entry of a stipulated judgment, if the action alleged fraud, the use of an untrue or misleading representation, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether the general partners or officers have ever been convicted of a misdemeanor violation of this chapter.

(5) Whether the general partners or officers have had a civil judgment entered against them in an action arising out of a negligent, reckless, or willful failure to properly perform the obligations of a legal document assistant or unlawful detainer assistant.

(6) Whether the general partners or officers have ever had a registration revoked pursuant to Section 6413.

(7) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which the primary registration is filed.

(d) The applications made under this section shall be made under penalty of perjury.

(e) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 22. Section 6403 of the Business and Professions Code, as amended by Section 4 of Chapter 386 of the Statutes of 2000, is amended to read:

6403. (a) The application for registration of a natural person shall contain all of the following statements about the applicant:

(1) Name, age, address, and telephone number.

(2) Whether he or she has been convicted of a felony, or of a misdemeanor under Section 6126 or 6127.

(3) Whether he or she has been held liable in a civil action by final judgment or consented to the entry of a stipulated judgment, if the action alleged fraud, the use of untrue or misleading representations, or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which the primary registration is filed.

(b) The application for registration of a partnership or corporation shall contain all of the following statements about the applicant:

(1) The names, ages, addresses, and telephone numbers of the general partners or officers.

(2) Whether the general partners or officers have ever been convicted of a felony.

(3) Whether the general partners or officers have ever been held liable in a civil action by final judgment or have consented to the entry of a stipulated judgment. If the action alleged fraud, whether it involved the use of untrue or misleading representations or the use of an unfair, unlawful, or deceptive business practice.

(4) Whether this is a primary or secondary registration. If it is a secondary registration, the county in which the primary registration is filed.

(c) This section shall become operative January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs.

SEC. 23. Section 6716 of the Business and Professions Code is amended to read:

6716. (a) The board may adopt rules and regulations consistent with law and necessary to govern its action. These rules and regulations shall be adopted in accordance with 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).

(b) The board may adopt rules and regulations of professional conduct that are not inconsistent with state and federal law. The rules and regulations may include definitions of incompetence and negligence. Every person who holds a license or certificate issued by the board pursuant to this chapter shall be governed by these rules and regulations.

(c) The board shall hold at least two regular meetings each year. Special meetings shall be held at those times that the board's rules provide. A majority of the board constitutes a quorum. Except as otherwise provided by law, the vote required for any action of the board is a majority of the members present, but not less than five.

SEC. 24. Section 6730.2 of the Business and Professions Code is amended to read:

6730.2. It is the intent of the Legislature that the registration requirements that are imposed upon private sector professional engineers and engineering partnerships, firms, or corporations shall be imposed upon the state and any city, county, or city and county that shall adhere to those requirements. Therefore, for the purposes of Section 6730 and this chapter, at least one registered engineer shall be designated the person in responsible charge of professional engineering work for each branch of professional engineering practiced in any department or agency of the state, city, county, or city and county.

Any department or agency of the state or any city, county, or city and county which has an unregistered person in responsible charge of engineering work on January 1, 1985, shall be exempt from this requirement until that time as the person currently in responsible charge is replaced.

SEC. 25. Section 6756 of the Business and Professions Code is amended to read:

6756. (a) An applicant for certification as an engineer-in-training shall, upon making a passing grade in that division of the examination prescribed in Section 6755, relating to fundamental engineering subjects, be issued a certificate as an engineer-in-training. A renewal or other fee, other than the application fee, may not be charged for this certification. The certificate shall become invalid when the holder has qualified as a professional engineer as provided in Section 6762.

(b) An engineer-in-training certificate does not authorize the holder thereof to practice or offer to practice civil, electrical, or mechanical engineering work, in his or her own right, or to use the titles specified in Sections 6732 and 6763.

(c) A person may not use the title of engineer-in-training, or any abbreviation of that title, unless he or she is the holder of a valid engineer-in-training certificate.

SEC. 26. Section 7092 of the Business and Professions Code is amended to read:

7092. (a) (1) The director shall appoint a Contractors' State License Board Enforcement Program Monitor no later than January 31, 2001. The director may retain a person for this position by a personal services contract, the Legislature finding, pursuant to Section 19130 of the Government Code, that this is a new state function.

(2) The director shall supervise the enforcement program monitor and may terminate or dismiss him or her from this position.

(b) The director shall advertise the availability of this position. The requirements for this position include experience in conducting investigations and familiarity with state laws, rules, and procedures pertaining to the board and familiarity with relevant administrative procedures.

(c) (1) The enforcement program monitor shall monitor and evaluate the Contractors' State License Board discipline system and procedures, making as his or her highest priority the reform and reengineering of the board's enforcement program and operations, and the improvement of the overall efficiency of the board's disciplinary system.

(2) This monitoring duty shall be on a continuing basis for a period of no more than two years from the date of the enforcement program monitor's appointment and shall include, but not be limited to, improving the quality and consistency of complaint processing and investigation and reducing the timeframes for each, reducing any complaint backlog, assuring consistency in the application of sanctions or discipline imposed on licensees, and shall include the following areas: the accurate and consistent implementation of the laws and rules affecting discipline, staff concerns regarding disciplinary matters or procedures, appropriate utilization of licensed professionals to investigate complaints, and the board's cooperation with other governmental entities charged with enforcing related laws and regulations regarding contractors.

(3) The enforcement program monitor shall exercise no authority over the board's discipline operations or staff; however, the board and its staff shall cooperate with him or her, and the board shall provide data, information, and case files as requested by the enforcement program monitor to perform all of his or her duties.

(4) The director shall assist the enforcement program monitor in the performance of his or her duties, and the enforcement program monitor shall have the same investigative authority as the director.

(d) The enforcement program monitor shall submit an initial written report of his or her findings and conclusions to the board, the department, and the Legislature no later than August 1, 2001, and every six months thereafter, and be available to make oral reports to each, if requested to

do so. The enforcement program monitor may also provide additional information to either the department or the Legislature at his or her discretion or at the request of either the department or the Legislature. The enforcement monitor shall make his or her reports available to the public or the media. The enforcement program monitor shall make every effort to provide the board with an opportunity to reply to any facts, findings, issues, or conclusions in his or her reports with which the board may disagree.

(e) The board shall reimburse the department for all of the costs associated with the employment of an enforcement program monitor.

(f) This section shall remain in effect only until January 31, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 31, 2003, deletes or extends that date.

SEC. 27. Section 7583.11 of the Business and Professions Code is amended to read:

7583.11. (a) Except as provided in subdivision (b), an employee of a licensee may be assigned to work with a temporary registration card that indicates completion of the course in the exercise of the power to arrest until the bureau issues a registration card or denies the application for registration. However, a licensee shall not assign an employee to work with a temporary registration card unless the licensee submits the employee's application and registration fee to the bureau on or before the same business day that the employee is assigned to work as a security guard or security patrolperson performing any of the functions set forth in subdivision (a) of Section 7582.1. If a licensee assigns an employee to work with a temporary registration card on a Saturday, Sunday, or on a federal holiday, the licensee may submit the employee's application and registration fee to the bureau on the first business day immediately following the Saturday, Sunday, or federal holiday. A temporary registration card shall in no event be valid for more than 120 days. However, the director may extend the expiration date beyond the 120 days at any time when there is an abnormal delay in processing applications for prospective security guards. For purposes of this section, the 120-day period shall commence on the date the applicant signs the application.

(b) An employee who has been convicted of a crime prior to applying for a position as a security guard shall not be issued a temporary registration card and shall not be assigned to work as a security guard until the bureau issues a permanent registration card. This subdivision shall apply only if the applicant for registration as a security guard has disclosed the conviction to the bureau on his or her application form or if the fact of the conviction has come to the attention of the bureau through official court or other governmental documents. In no event shall the director, the department, the bureau, the chief, or the State of

California be liable for any civil damages in the event of the issuance of a temporary registration if the applicant has falsified his or her application to conceal a prior criminal conviction.

(c) A temporary registration card issued pursuant to this section shall include the name, address, and license number of the private patrol operator employer or training facility that issued the temporary registration card.

(d) An employee shall, on the first day of employment, display to the client his or her registration card or temporary registration card, when it is feasible and practical to comply with this disclosure requirement. The employee shall thereafter display to the client his or her registration card or temporary registration card upon the request of the client.

(e) "Submit," as used in subdivision (a), means any of the following:

(1) To ensure that the application and registration fee have been received by the bureau on or before the business day that the employee is assigned to work.

(2) To ensure that the application and registration fee either have been mailed to the bureau and officially postmarked with a date on or before the employee is assigned to work or have been deposited with a carrier performing overnight delivery services on or before the business day that the employee is assigned to work.

(3) To ensure, if the applicant is assigned to work on a Saturday, Sunday, or on a federal holiday, that the application and registration fee either have been mailed to the bureau and officially postmarked with a date on the first business day immediately following that Saturday, Sunday, or federal holiday or have been deposited with a carrier performing overnight delivery services on the first business day immediately following that Saturday, Sunday, or federal holiday.

(f) This section shall become inoperative on June 30, 2003, and, as of January 1, 2004, is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 28. Section 8027 of the Business and Professions Code is amended to read:

8027. (a) As used in this section, "school" means a court reporter training program or an institution that provides a course of instruction approved by the board, and is approved by the Council for Private Postsecondary and Vocational Education, is a public school in this state, or is accredited by the Western Association of Schools and Colleges.

(b) A court reporting school shall be primarily organized to train students for the practice of shorthand reporting, as defined in Sections 8016 and 8017. Its educational program shall be on the postsecondary or collegiate level, and shall be a residence program; its educational program shall not be a correspondence program. It shall be legally

organized and authorized to conduct its program under all applicable laws of the state, and shall conform to and offer all components of the minimum prescribed course of study established by the board. Its records shall be kept and shall be maintained in a manner to render them safe from theft, fire, or other loss. The records shall indicate positive daily and clock-hour attendance of each student, apprenticeship and graduation reports, high school transcripts or the equivalent, or self-certification of high school graduation or the equivalent, transcripts of other education, and student progress to date.

(c) Any school intending to offer a program in court reporting shall notify the board within 30 days of the date on which it provides notice to, or seeks approval from, the California Department of Education, the Council for Private Postsecondary and Vocational Education, the Chancellor's office of the California Community Colleges, or the Western Association of Schools and Colleges, whichever is applicable. The board shall review the proposed curriculum and provide the school tentative approval, or notice of denial, within 60 days of receipt of the notice. The school shall apply for provisional recognition pursuant to subdivision (d) within no more than one year from the date it begins offering court reporting classes.

(d) The board may grant provisional recognition to a new court reporting school upon satisfactory evidence that it has met all of the provisions of subdivision (b) and this subdivision. Recognition may be granted by the board to a provisionally recognized school after it has been in continuous operation for a period of no less than three consecutive years from the date provisional recognition was granted, during which period the school shall provide satisfactory evidence that at least one person has successfully completed the entire course of study established by the board and complied with the provisions of Section 8020, and has been issued a certificate to practice shorthand reporting as defined in Sections 8016 and 8017. The board may, for good cause shown, extend the three-year provisional recognition period for not more than one year. Failure to meet the provisions and terms of this section shall require the board to deny recognition. Once granted, recognition may be withdrawn by the board for failure to comply with the requirements of this section.

(e) Application for recognition of a court reporting school shall be made upon a form prescribed by the board and shall be accompanied by all evidence, statements, or documents requested. Each branch, extension center, or off-campus facility requires separate application.

(f) All recognized and provisionally recognized court reporting schools shall notify the board of any change in school name, address, telephone number, responsible court reporting program manager, owner

of private schools, and the effective date thereof, within 30 days of the change. All of these notifications shall be made in writing.

(g) A school shall notify the board in writing immediately of the discontinuance or pending discontinuance of its court reporting program or any of the program's components. Within two years of the date this notice is sent to the board, the school shall discontinue its court reporting program in its entirety. The board may, for good cause shown, grant not more than two, one-year extensions of this period to a school. If a student is to be enrolled after this notice is sent to the board, a school shall disclose to the student the fact of the discontinuance or pending discontinuance of its court reporting program or any of its program components.

(h) The board shall maintain a roster of currently recognized and provisionally recognized court reporting schools including, but not limited to, the name, address, telephone number, and the name of the responsible court reporting program manager of each school.

(i) The board shall maintain statistics that display the number and passing percentage of all first-time examinees including, but not limited to, those qualified by each recognized or provisionally recognized school and those first-time examinees qualified by other methods as defined in Section 8020.

(j) Inspections and investigations shall be conducted by the board as necessary to carry out this section.

(k) All recognized and provisionally recognized schools shall print in their school or course catalog the name, address, and telephone number of the board. At a minimum, the information shall be in 8-point bold type and include the following statement:

“IN ORDER FOR A PERSON TO QUALIFY FROM A SCHOOL TO TAKE THE STATE LICENSING EXAMINATION, THE PERSON SHALL COMPLETE A PROGRAM AT A RECOGNIZED SCHOOL. FOR INFORMATION CONCERNING THE MINIMUM REQUIREMENTS THAT A COURT REPORTING PROGRAM MUST MEET IN ORDER TO BE RECOGNIZED, CONTACT: THE COURT REPORTERS BOARD OF CALIFORNIA; (ADDRESS); (TELEPHONE NUMBER).”

(l) Each court reporting school shall file with the board, not later than June 30 of each year, a current school catalog that shows all course offerings and staff, and for private schools, the owner, except that where there have been no changes to the catalog within the previous year, no catalog need be sent. In addition, each school shall also file with the board a statement certifying that the school is in compliance with all

statutes and the rules and regulations of the board, signed by the responsible court reporting program manager.

(m) A school offering court reporting may not make any written or verbal claims of employment opportunities or potential earnings unless those claims are based on verified data and reflect current employment conditions.

(n) Any person teaching an academic course, that is a course other than machine shorthand or typing, in a court reporting program shall meet one of the following criteria:

(1) Possess a minimum of an Associate of Arts degree and, in addition, either a minimum of two years of experience teaching the subject being taught or at least two years' work experience in a job substantially related to the subject being taught.

(2) Possess a current license as a certified shorthand reporter and, in addition, either a minimum of two years of experience teaching the subject being taught or at least two years' work experience in a job substantially related to the subject being taught.

(3) Possess a minimum of four years' experience teaching the subject being taught or a minimum of four years' work experience in a job substantially related to the subject being taught.

(4) Possess a minimum of a Bachelor of Arts or Bachelor of Science degree in the subject being taught.

(o) The pass rate of first-time examination takers for each school offering court reporting shall meet or exceed the average pass rate of all first-time test takers for a majority of examinations given for the preceding three years. Failure to do so shall require the board to conduct a review of the program. In addition, the board may place the school on probation and may withdraw recognition if the school continues to place below the above described standard on the two examinations that follow the three-year period.

SEC. 29. Section 8773.4 of the Business and Professions Code is amended to read:

8773.4. (a) A corner record may not be filed unless the same is signed by a licensed land surveyor or registered civil engineer and stamped with his or her seal, or in the case of an agency of the United States government or the State of California, the certificate may be signed by the chief of the survey party making the survey, setting forth his or her official title.

(b) A corner record need not be filed when:

(1) A corner record is on file and the corner is found as described in the existing corner record.

(2) All conditions of Section 8773 are complied with by proper notations on a record of survey map filed in compliance with the

Professional Land Surveyors' Act or a parcel or subdivision map, in compliance with the Subdivision Map Act.

(3) When the survey is a survey of a mobilehome park interior lot as defined in Section 18210 of the Health and Safety Code, provided that no subdivision map, official map, or record of survey has been previously filed for the interior lot or no conversion to residential ownership has occurred pursuant to Section 66428.1 of the Government Code.

This section shall not apply to maps filed prior to January 1, 1974.

SEC. 30. Section 10167.2 of the Business and Professions Code is amended to read:

10167.2. (a) It is unlawful for any person to engage in the business of a prepaid rental listing service unless licensed in that capacity or unless licensed as a real estate broker.

(b) (1) The requirements of this article apply only to the provision of listings of residential real properties for tenancy by prepaid rental listing services. Except if expressly provided otherwise in this article, the requirements of this article do not apply to any other goods or services sold by a prepaid rental listing service as long as the purchase of those goods or services is not required to obtain those listings, and as long as the purchase of those goods or services is not included in the same contract as the contract to provide those listings, and as long as the contract to provide those listings clearly specifies that the purchase of any other goods and services is optional, and as long as the price charged for any other goods and services is fair and reasonable.

(2) In an action alleging that the price charged for any other goods and services is not fair and reasonable, the burden shall be on the commissioner to demonstrate that the price charged unreasonably exceeds the fee customarily charged for the same or comparable goods or services in the community in which the prepaid rental listing service operates. The fact that the price charged for goods or services exceeds the cost incurred by the prepaid rental listing service shall not render the price charged for the goods or services to be unfair or unreasonable, so long as the price charged does not unreasonably exceed the fee customarily charged for the same or comparable goods or services in the community in which the prepaid rental listing service operates.

SEC. 31. Section 21702 of the Business and Professions Code is amended to read:

21702. The owner of a self-service storage facility and his or her heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at a self-service storage facility for rent, labor, late payment fees, or other charges, present or future, incurred pursuant to the rental agreement and for expenses necessary for the preservation, sale, or disposition of personal property subject to the

provisions of this chapter. The lien may be enforced consistent with the provisions in this chapter.

SEC. 32. Section 1748.10 of the Civil Code is amended to read:

1748.10. This act shall be known and may be cited as the "Areias Credit Card Full Disclosure Act of 1986."

SEC. 33. Section 1748.11 of the Civil Code is amended to read:

1748.11. (a) Any application form or preapproved written solicitation for an open-end credit card account to be used for personal, family, or household purposes that is mailed on or after October 1, 1987, to a consumer residing in this state by or on behalf of a creditor, whether or not the creditor is located in this state, other than an application form or solicitation included in a magazine, newspaper, or other publication distributed by someone other than the creditor, shall contain or be accompanied by either of the following disclosures:

(1) A disclosure of each of the following, if applicable:

(A) Any periodic rate or rates that may be applied to the account, expressed as an annual percentage rate or rates. If the account is subject to a variable rate, the creditor may instead either disclose the rate as of a specific date and indicate that the rate may vary, or identify the index and any amount or percentage added to, or subtracted from, that index and used to determine the rate. For purposes of this section, that amount or percentage shall be referred to as the "spread."

(B) Any membership or participation fee that may be imposed for availability of a credit card account, expressed as an annualized amount.

(C) Any per transaction fee that may be imposed on purchases, expressed as an amount or as a percentage of the transaction, as applicable.

(D) If the creditor provides a period during which the consumer may repay the full balance reflected on a billing statement that is attributable to purchases of goods or services from the creditor or from merchants participating in the credit card plan, without the imposition of additional finance charges, the creditor shall either disclose the number of days of that period, calculated from the closing date of the prior billing cycle to the date designated in the billing statement sent to the consumer as the date by which that payment must be received to avoid additional finance charges, or describe the manner in which the period is calculated. For purposes of this section, the period shall be referred to as the "free period" or "free-ride period." If the creditor does not provide this period for purchases, the disclosure shall so indicate.

(2) A disclosure that satisfies the initial disclosure statement requirements of Regulation Z.

(b) A creditor need not present the disclosures required by paragraph (1) of subdivision (a) in chart form or use any specific terminology, except as expressly provided in this section. The following chart shall

not be construed in any way as a standard by which to determine whether a creditor who elects not to use such a chart has provided the required disclosures in a manner that satisfies paragraph (1) of subdivision (a). However, disclosures shall be conclusively presumed to satisfy the requirements of paragraph (1) of subdivision (a) if a chart with captions substantially as follows is completed with the applicable terms offered by the creditor, or if the creditor presents the applicable terms in tabular, list, or narrative format using terminology substantially similar to the captions included in the following chart:

THE FOLLOWING INFORMATION IS PROVIDED PURSUANT TO THE  
AREIAS CREDIT CARD FULL DISCLOSURE ACT OF 1986:  
INTEREST RATES, FEES, AND FREE-RIDE PERIOD FOR PURCHASES  
UNDER THIS CREDIT CARD ACCOUNT

ANNUAL PER-CENTAGE RATE (1)	VARIABLE RATE INDEX AND SPREAD (2)	ANNUALIZED MEMBERSHIP OR PARTICIPATION FEE	TRANSACTION FEE	FREE-RIDE PERIOD (3)

(1) For fixed interest rates. If variable rate, creditor may elect to disclose a rate as of a specified date and indicate that the rate may vary.

(2) For variable interest rates. If fixed rate, creditor may eliminate the column, leave the column blank, or indicate “No” or “None” or “Does not apply.”

(3) For example, “30 days” or “Yes, if full payment is received by next billing date” or “Yes, if full new balance is paid by due date.”

(c) For purposes of this section, “Regulation Z” has the meaning attributed to it under Section 1802.18, and all of the terms used in this section have the same meaning as attributed to them in federal Regulation Z (12 C.F.R. 226.1 et seq.). For the purposes of this section, “open-end credit card account” does not include an account accessed by a device described in paragraph (2) of subdivision (a) of Section 1747.02.

(d) Nothing in this section shall be deemed or construed to prohibit a creditor from disclosing additional terms, conditions, or information, whether or not relating to the disclosures required under this section, in conjunction with the disclosures required by this section.

(e) If a creditor is required under federal law to make any disclosure of the terms applicable to a credit card account in connection with

application forms or solicitations, the creditor shall be deemed to have complied with the requirements of paragraph (1) of subdivision (a) with respect to those application forms or solicitations if the creditor complies with the federal disclosure requirement. For example, in lieu of complying with the requirements of paragraph (1) of subdivision (a), a creditor has the option of disclosing the specific terms required to be disclosed in an advertisement under Regulation Z, if the application forms or solicitations constitute advertisements in which specific terms must be disclosed under Regulation Z.

(f) If for any reason the requirements of this section do not apply equally to creditors located in this state and creditors not located in this state, then the requirements applicable to creditors located in this state shall automatically be reduced to the extent necessary to establish equal requirements for both categories of creditors, until it is otherwise determined by a court of law in a proceeding to which the creditor located in this state is a party.

(g) All application forms for an open-end credit card account distributed in this state on or after October 1, 1987, other than by mail, shall contain a statement in substantially the following form:

“If you wish to receive disclosure of the terms of this credit card, pursuant to the Areias Credit Card Full Disclosure Act of 1986, check here and return to the address on this application.”

A box shall be printed in or next to this statement for placement of such a checkmark.

However, this subdivision does not apply if the application contains the disclosures provided for in this title.

(h) This title does not apply to any application form or written advertisement or an open-end credit card account where the credit to be extended will be secured by a lien on real or personal property or both real and personal property.

(i) This title does not apply to any person who is subject to Article 10.5 (commencing with Section 1810.20) of Chapter 1 of Title 2.

SEC. 34. Section 1810.21 of the Civil Code is amended to read:

1810.21. (a) Any application form or preapproved written solicitation for a credit card issued in connection with a retail installment account that is mailed on or after October 1, 1987, to a retail buyer residing in this state by or on behalf of a retail seller, whether or not the retail seller is located in this state, other than an application form or solicitation included in a magazine, newspaper, or other publication distributed by someone other than the retail seller, shall contain or be accompanied by either of the following disclosures:

(1) A disclosure of each of the following, if applicable:

(A) Any periodic rate or rates that will be used to determine the finance charge imposed on the balance due under the terms of a retail installment account, expressed as an annual percentage rate or rates.

(B) Any membership or participation fee that will be imposed for availability of a retail installment account in connection with which a credit card is issued expressed as an annualized amount.

(C) If the retail seller provides a period during which the retail buyer may repay the full balance reflected on a billing statement that is attributable to purchases of goods or services from the retail seller without the imposition of additional finance charges, the retail seller shall either disclose the minimum number of days of that period, calculated from the closing date of the prior billing cycle to the date designated in the billing statement sent to the retail buyer as the date by which that payment must be received to avoid additional finance charges, or describe the manner in which the period is calculated. For purposes of this section, the period shall be referred to as the "free period" or "free-ride period." If the retail seller does not provide this period for purchases, the disclosure shall so indicate.

(2) A disclosure that satisfies the initial disclosure statement requirements of Regulation Z (12 C.F.R. 226.6).

(b) In the event that an unsolicited application form is mailed or otherwise delivered to retail buyers in more than one state, the requirements of subdivision (a) shall be satisfied if on the application form or the soliciting material there is a notice that credit terms may vary from state to state and that provides either the disclosures required by subdivision (a) or an address or phone number for the customer to use to obtain the disclosure. The notice shall be in boldface type no smaller than the largest type used in the narrative portion, excluding headlines, of the material soliciting the application. Any person responding to the notice shall be given the disclosures required by subdivision (a).

(c) A retail seller need not present the disclosures required by paragraph (1) of subdivision (a) in chart form or use any specific terminology, except as expressly provided in this section. The following chart shall not be construed in any way as a standard by which to determine whether a retail seller who elects not to use the chart has provided the required disclosures in a manner which satisfies paragraph (1) of subdivision (a). However, disclosures shall be conclusively presumed to satisfy the requirements of paragraph (1) of subdivision (a) if a chart with captions substantially as follows is completed with the applicable terms offered by the retail seller, or if the retail seller presents the applicable terms in tabular, list, or narrative format using terminology substantially similar to the captions included in the following chart:

THE FOLLOWING INFORMATION IS PROVIDED PURSUANT TO THE AREIAS RETAIL INSTALLMENT ACCOUNT FULL DISCLOSURE ACT OF 1986:

CREDIT CARD TERMS VARY AMONG RETAIL SELLERS—SELECTED TERMS FOR PURCHASES UNDER THIS RETAIL INSTALLMENT ACCOUNT ARE SET OUT BELOW

PERIODIC RATES (as APRs)	ANNUAL FEES	FREE-RIDE PERIOD

(d) For purposes of this section, “Regulation Z” has the meaning attributed to it under Section 1802.18, and all of the terms used in this section have the same meaning as attributed to them in federal Regulation Z (12 C.F.R. 226.1 et seq.).

(e) Nothing in this section shall be deemed or construed to prohibit a retail seller from disclosing additional terms, conditions, or information, whether or not relating to the disclosures required under this section, in conjunction with the disclosures required by this section. Notwithstanding subdivision (g) of Section 1748.11, a retail seller that complies with the requirements of Section 1748.11 shall be deemed to have complied with the requirements of this section.

(f) If a retail seller is required under federal law to make any disclosure of the terms applicable to a retail installment account in connection with application forms or solicitations, the retail seller shall be deemed to have complied with the requirements of paragraph (1) of subdivision (a) with respect to those application forms or solicitations if the retail seller complies with the federal disclosure requirement.

(g) If the disclosure required by this section does not otherwise appear on an application form or an accompanying retail installment agreement distributed in this state on or after October 1, 1987, other than by mail,

the application form shall include a statement in substantially the following form:

“If you wish to receive disclosure of the terms of this retail installment account, pursuant to the Areias Retail Installment Account Full Disclosure Act of 1986, check here and return to the address on this form.”

A box shall be printed in or next to this statement for placing such a checkmark.

(h) This article does not apply to (1) any application form or preapproved written solicitation for a retail installment account credit card where the credit to be extended will be secured by a lien on real or personal property, or both real and personal property, (2) any application form or written solicitation that invites a person or persons to apply for a retail installment account credit card and which is included as part of a catalog which is sent to one or more persons by a creditor in order to facilitate a credit sale of goods offered in the catalog, (3) any advertisement which does not invite, directly or indirectly, an application for a retail installment account credit card, and (4) any application form or written advertisement included in a magazine, newspaper, or other publication distributed in more than one state by someone other than the creditor.

SEC. 34.5. Section 1834.8 of the Civil Code, as added by Section 1 of Chapter 476 of the Statutes of 2000, is amended and renumbered to read:

1834.9. (a) Manufacturers and contract testing facilities shall not use traditional animal test methods within this state for which an appropriate alternative test method has been scientifically validated and recommended by the Inter-Agency Coordinating Committee for the Validation of Alternative Methods (ICCVAM) and adopted by the relevant federal agency or agencies or program within an agency responsible for regulating the specific product or activity for which the test is being conducted.

(b) Nothing in this section shall prohibit the use of any alternative nonanimal test method for the testing of any product, product formulation, chemical, or ingredient that is not recommended by ICCVAM.

(c) Nothing in this section shall prohibit the use of animal tests to comply with requirements of state agencies. Nothing in this section shall prohibit the use of animal tests to comply with requirements of federal agencies when the federal agency has approved an alternative nonanimal test pursuant to subdivision (a) and the federal agency staff concludes that the alternative nonanimal test does not assure the health or safety of consumers.

(d) Notwithstanding any other provision of law, the exclusive remedy for enforcing this section shall be a civil action for injunctive relief brought by the Attorney General, the district attorney of the county in which the violation is alleged to have occurred, or a city attorney of a city or a city and county having a population in excess of 750,000 and in which the violation is alleged to have occurred. If the court determines that the Attorney General or district attorney is the prevailing party in the enforcement action, the official may also recover costs, attorney fees, and a civil penalty not to exceed five thousand dollars (\$5,000) in that action.

(e) This section shall not apply to any animal test performed for the purpose of medical research.

(f) For the purposes of this section, these terms have the following meanings:

(1) “Animal” means vertebrate nonhuman animal.

(2) “Manufacturer” means any partnership, corporation, association, or other legal relationship that produces chemicals, ingredients, product formulations, or products in this state.

(3) “Contract testing facility” means any partnership, corporation, association, or other legal relationship that tests chemicals, ingredients, product formulations, or products in this state.

(4) “ICCVAM” means the Inter-Agency Coordinating Committee for the Validation of Alternative Methods, a federal committee comprised of representatives from 14 federal regulatory or research agencies, including the Food and Drug Administration, Environmental Protection Agency, and Consumer Products Safety Commission, that reviews the validity of alternative test methods. The committee is the federal mechanism for recommending appropriate, valid test methods to relevant federal agencies.

(5) “Medical research” means research related to the causes, diagnosis, treatment, control, or prevention of physical or mental diseases and impairments of humans and animals or related to the development of biomedical products, devices, or drugs as defined in Section 321(g)(1) of Title 21 of the United States Code. Medical research does not include the testing of an ingredient that was formerly used in a drug, tested for the drug use with traditional animal methods to characterize the ingredient and to substantiate its safety for human use, and is now proposed for use in a product other than a biomedical product, medical device, or drug.

(6) “Traditional animal test method” means a process or procedure using animals to obtain information on the characteristics of a chemical or agent. Toxicological test methods generate information regarding the ability of a chemical or agent to produce a specific biological effect under specified conditions.

(7) “Validated alternative test method” means a test method that does not use animals, or in some cases reduces or refines the current use of animals, for which the reliability and relevance for a specific purpose has been established in validation studies as specified in the ICCVAM report provided to the relevant federal agencies.

(8) “Person” means an individual with managerial control, or a partnership, corporation, association, or other legal relationship.

(9) “Adopted by a federal agency” means a final action taken by an agency, published in the Federal Register, for public notice.

SEC. 35. Section 2954.4 of the Civil Code is amended to read:

2954.4. (a) A charge that may be imposed for late payment of an installment due on a loan secured by a mortgage or a deed of trust on real property containing only a single-family, owner-occupied dwelling, shall not exceed either (1) the equivalent of 6 percent of the installment due that is applicable to payment of principal and interest on the loan, or (2) five dollars (\$5), whichever is greater. A charge may not be imposed more than once for the late payment of the same installment. However, the imposition of a late charge on any late payment does not eliminate or supersede late charges imposed on prior late payments. A payment is not a “late payment” for the purposes of this section until at least 10 days following the due date of the installment.

(b) A late charge may not be imposed on any installment which is paid or tendered in full on or before its due date, or within 10 days thereafter, even though an earlier installment or installments, or any late charge thereon, may not have been paid in full when due. For the purposes of determining whether late charges may be imposed, any payment tendered by the borrower shall be applied by the lender to the most recent installment due.

(c) A late payment charge described in subdivision (a) is valid if it satisfies the requirements of this section and Section 2954.5.

(d) Nothing in this section shall be construed to alter in any way the duty of the borrower to pay any installment then due or to alter the rights of the lender to enforce the payment of the installments.

(e) This section is not applicable to loans made by a credit union subject to Division 5 (commencing with Section 14000) of the Financial Code, by an industrial loan company subject to Division 7 (commencing with Section 18000) of the Financial Code, or by a finance lender subject to Division 9 (commencing with Section 22000) of the Financial Code, and is not applicable to loans made or negotiated by a real estate broker subject to Article 7 (commencing with Section 10240) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code.

(f) As used in this section, “single-family, owner-occupied dwelling” means a dwelling that will be owned and occupied by a

signatory to the mortgage or deed of trust secured by the dwelling within 90 days of the execution of the mortgage or deed of trust.

(g) This section applies to loans executed on and after January 1, 1976.

SEC. 36. Section 2954.5 of the Civil Code is amended to read:

2954.5. (a) Before the first default, delinquency, or late payment charge may be assessed by any lender on a delinquent payment of a loan, other than a loan made pursuant to Division 9 (commencing with Section 22000) of the Financial Code, secured by real property, and before the borrower becomes obligated to pay this charge, the borrower shall either (1) be notified in writing and given at least 10 days from mailing of the notice in which to cure the delinquency, or (2) be informed, by a billing or notice sent for each payment due on the loan, of the date after which this charge will be assessed.

The notice provided in either paragraph (1) or (2) shall contain the amount of the charge or the method by which it is calculated.

(b) If a subsequent payment becomes delinquent the borrower shall be notified in writing, before the late charge is to be imposed, that the charge will be imposed if payment is not received, or the borrower shall be notified at least semiannually of the total amount of late charges imposed during the period covered by the notice.

(c) Notice provided by this section shall be sent to the address specified by the borrower, or, if no address is specified, to the borrower's address as shown in the lender's records.

(d) In case of multiple borrowers obligated on the same loan, a notice mailed to one shall be deemed to comply with this section.

(e) The failure of the lender to comply with the requirements of this section does not excuse or defer the borrower's performance of any obligation incurred in the loan transaction, other than his or her obligation to pay a late payment charge, nor does it impair or defer the right of the lender to enforce any other obligation including the costs and expenses incurred in any enforcement authorized by law.

(f) The provisions of this section as added by Chapter 1430 of the Statutes of 1970 shall only affect loans made on and after January 1, 1971.

The amendments to this section made at the 1975–76 Regular Session of the Legislature shall only apply to loans executed on and after January 1, 1976.

SEC. 37. Section 3097 of the Civil Code is amended to read:

3097. "Preliminary 20-day notice (private work)" means a written notice from a claimant that is given prior to the recording of a mechanic's lien, prior to the filing of a stop notice, and prior to asserting a claim against a payment bond, and is required to be given under the following circumstances:

(a) Except one under direct contract with the owner or one performing actual labor for wages as described in subdivision (a) of Section 3089, or a person or entity to whom a portion of a laborer's compensation is paid as described in subdivision (b) of Section 3089, every person who furnishes labor, service, equipment, or material for which a lien or payment bond otherwise can be claimed under this title, or for which a notice to withhold can otherwise be given under this title, shall, as a necessary prerequisite to the validity of any claim of lien, payment bond, and of a notice to withhold, cause to be given to the owner or reputed owner, to the original contractor, or reputed contractor, and to the construction lender, if any, or to the reputed construction lender, if any, a written preliminary notice as prescribed by this section.

(b) Except the contractor, or one performing actual labor for wages as described in subdivision (a) of Section 3089, or a person or entity to whom a portion of a laborer's compensation is paid as described in subdivision (b) of Section 3089, all persons who have a direct contract with the owner and who furnish labor, service, equipment, or material for which a lien or payment bond otherwise can be claimed under this title, or for which a notice to withhold can otherwise be given under this title, shall, as a necessary prerequisite to the validity of any claim of lien, claim on a payment bond, and of a notice to withhold, cause to be given to the construction lender, if any, or to the reputed construction lender, if any, a written preliminary notice as prescribed by this section.

(c) The preliminary notice referred to in subdivisions (a) and (b) shall contain the following information:

(1) A general description of the labor, service, equipment, or materials furnished, or to be furnished, and an estimate of the total price thereof.

(2) The name and address of the person furnishing that labor, service, equipment, or materials.

(3) The name of the person who contracted for purchase of that labor, service, equipment, or materials.

(4) A description of the jobsite sufficient for identification.

(5) The following statement in boldface type:

#### NOTICE TO PROPERTY OWNER

If bills are not paid in full for the labor, services, equipment, or materials furnished or to be furnished, a mechanic's lien leading to the loss, through court foreclosure proceedings, of all or part of your property being so improved may be placed against the property even though you have paid your contractor in full. You may wish to protect yourself against this consequence by (1) requiring your contractor to furnish a signed release by the person or firm giving you this notice

before making payment to your contractor, or (2) any other method or device that is appropriate under the circumstances.

(6) If the notice is given by a subcontractor who has failed to pay all compensation due to his or her laborers on the job, the notice shall also contain the identity and address of any laborer and any express trust fund to whom employer payments are due.

If an invoice for materials or certified payroll contains the information required by this section, a copy of the invoice, transmitted in the manner prescribed by this section shall be sufficient notice.

A certificated architect, registered engineer, or licensed land surveyor who has furnished services for the design of the work of improvement and who gives a preliminary notice as provided in this section not later than 20 days after the work of improvement has commenced shall be deemed to have complied with subdivisions (a) and (b) with respect to architectural, engineering, or surveying services furnished, or to be furnished.

(d) The preliminary notice referred to in subdivisions (a) and (b) shall be given not later than 20 days after the claimant has first furnished labor, service, equipment, or materials to the jobsite. If labor, service, equipment, or materials have been furnished to a jobsite by a claimant who did not give a preliminary notice, that claimant shall not be precluded from giving a preliminary notice at any time thereafter. The claimant shall, however, be entitled to record a lien, file a stop notice, and assert a claim against a payment bond only for labor, service, equipment, or material furnished within 20 days prior to the service of the preliminary notice, and at any time thereafter.

(e) Any agreement made or entered into by an owner, whereby the owner agrees to waive the rights or privileges conferred upon the owner by this section shall be void and of no effect.

(f) The notice required under this section may be served as follows:

(1) If the person to be notified resides in this state, by delivering the notice personally, or by leaving it at his or her address of residence or place of business with some person in charge, or by first-class registered or certified mail, postage prepaid, addressed to the person to whom notice is to be given at his or her residence or place of business address or at the address shown by the building permit on file with the authority issuing a building permit for the work, or at an address recorded pursuant to subdivision (j).

(2) If the person to be notified does not reside in this state, by any method enumerated in paragraph (1) of this subdivision. If the person cannot be served by any of these methods, then notice may be given by first-class certified or registered mail, addressed to the construction lender or to the original contractor.

(3) When service is made by first-class certified or registered mail, service is complete at the time of the deposit of that registered or certified mail.

(g) A person required by this section to give notice to the owner, to an original contractor, and to a person to whom a notice to withhold may be given, need give only one notice to the owner, to the original contractor, and to the person to whom a notice to withhold may be given with respect to all materials, services, labor, or equipment he or she furnishes for a work of improvement, that means the entire structure or scheme of improvements as a whole, unless the same is furnished under contracts with more than one subcontractor, in which event, the notice requirements shall be met with respect to materials, services, labor, or equipment furnished to each contractor.

If a notice contains a general description required by subdivision (a) or (b) of the materials, services, labor, or equipment furnished to the date of notice, it is not defective because, after that date, the person giving notice furnishes materials, services, labor, or equipment not within the scope of this general description.

(h) If the contract price to be paid to any subcontractor on a particular work of improvement exceeds four hundred dollars (\$400), the failure of that contractor, licensed under Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, to give the notice provided for in this section, constitutes grounds for disciplinary action by the Registrar of Contractors.

If the notice is required to contain the information set forth in paragraph (6) of subdivision (c), a failure to give the notice, including that information, that results in the filing of a lien, claim on a payment bond, or the delivery of a stop notice by the express trust fund to which the obligation is owing constitutes grounds for disciplinary action by the Registrar of Contractors against the subcontractor if the amount due the trust fund is not paid.

(i) Every city, county, city and county, or other governmental authority issuing building permits shall, in its application form for a building permit, provide space and a designation for the applicant to enter the name, branch, designation, if any, and address of the construction lender and shall keep the information on file open for public inspection during the regular business hours of the authority.

If there is no known construction lender, that fact shall be noted in the designated space. Any failure to indicate the name and address of the construction lender on the application, however, shall not relieve any person from the obligation to give to the construction lender the notice required by this section.

(j) A mortgage, deed of trust, or other instrument securing a loan, any of the proceeds of which may be used for the purpose of constructing

improvements on real property, shall bear the designation "Construction Trust Deed" prominently on its face and shall state all of the following: (1) the name and address of the lender, and the name and address of the owner of the real property described in the instrument, and (2) a legal description of the real property that secures the loan and, if known, the street address of the property. The failure to be so designated or to state any of the information required by this subdivision shall not affect the validity of the mortgage, deed of trust, or other instrument.

Failure to provide this information on this instrument when recorded shall not relieve persons required to give preliminary notice under this section from that duty.

The county recorder of the county in which the instrument is recorded shall indicate in the general index of the official records of the county that the instrument secures a construction loan.

(k) Every contractor and subcontractor employing laborers as described in subdivision (a) of Section 3089 who has failed to pay those laborers their full compensation when it became due, including any employer payments described in Section 1773.1 of the Labor Code and regulations adopted thereunder shall, without regard to whether the work was performed on a public or private work, cause to be given to those laborers, their bargaining representatives, if any, and to the construction lender, if any, or to the reputed construction lender, if any, not later than the date the compensation became delinquent, a written notice containing all of the following:

- (1) The name of the owner and the contractor.
- (2) A description of the jobsite sufficient for identification.
- (3) The identity and address of any express trust fund described in Section 3111 to which employer payments are due.
- (4) The total number of straight time and overtime hours on each job.
- (5) The amount then past due and owing.

Failure to give this notice shall constitute grounds for disciplinary action by the Registrar of Contractors.

(l) Every written contract entered into between a property owner and an original contractor shall provide space for the owner to enter his or her name, residence address, and place of business if any. The original contractor shall make available the name and address of residence of the owner to any person seeking to serve the notice specified in subdivision (c).

(m) Every written contract entered into between a property owner and an original contractor, except home improvement contracts and swimming pool contracts subject to Article 10 (commencing with Section 7150) of Chapter 9 of Division 3 of the Business and Professions Code, shall provide space for the owner to enter the name and address of the construction lender or lenders. The original contractor shall make

available the name and address of the construction lender or lenders to any person seeking to serve the notice specified in subdivision (c). Every contract entered into between an original contractor and subcontractor, and between subcontractors, shall provide a space for the name and address of the owner, original contractor, and any construction lender.

(n) Where one or more construction loans are obtained after commencement of construction, the property owner shall provide the name and address of the construction lender or lenders to each person who has given the property owner the notice specified in subdivision (c).

(o) (1) Each person who has served a preliminary 20-day notice pursuant to subdivision (f) may file the preliminary 20-day notice with the county recorder in the county in which any portion of the property is located. A preliminary 20-day notice filed pursuant to this section shall contain all of the following:

(A) The name and address of the person furnishing the labor, service, equipment, or materials.

(B) The name of the person who contracted for purchase of the labor, services, equipment, or materials.

(C) The common street address of the jobsite.

(2) Upon the acceptance for recording of a notice of completion or notice of cessation the county recorder shall mail to those persons who have filed a preliminary 20-day notice, notification that a notice of completion or notice of cessation has been recorded on the property, and shall affix the date that the notice of completion or notice of cessation was recorded with the county recorder.

(3) The failure of the county recorder to mail the notification to the person who filed a preliminary 20-day notice, or the failure of those persons to receive the notification or to receive complete notification, shall not affect the period within which a claim of lien is required to be recorded. However, the county recorder shall make a good faith effort to mail notification to those persons who have filed the preliminary 20-day notice under this section and to do so within five days after the recording of a notice of completion or notice of cessation.

(4) This new function of the county recorder shall not become operative until July 1, 1988. The county recorder may cause to be destroyed all documents filed pursuant to this section, two years after the date of filing.

(5) The preliminary 20-day notice that a person may file pursuant to this subdivision is for the limited purpose of facilitating the mailing of notice by the county recorder of recorded notices of completion and notices of cessation. The notice that is filed is not a recordable document and shall not be entered into those official records of the county which by law impart constructive notice. Notwithstanding any other provision of law, the index maintained by the recorder of filed preliminary 20-day

notices shall be separate and distinct from those indexes maintained by the county recorder of those official records of the county which by law impart constructive notice. The filing of a preliminary 20-day notice with the county recorder does not give rise to any actual or constructive notice with respect to any party of the existence or contents of a filed preliminary 20-day notice nor to any duty of inquiry on the part of any party as to the existence or contents of that notice.

(p) (1) The change made to the statement described in subdivision (c) by Chapter 974 of the Statutes of 1994 shall have no effect upon the validity of any notice that otherwise meets the requirements of this section. The failure to provide, pursuant to Chapter 974 of the Statutes of 1994, a written preliminary notice to a subcontractor with whom the claimant has contracted shall not affect the validity of any preliminary notice provided pursuant to this section.

(2) (A) The inclusion of the language added to paragraph (5) of subdivision (c) by Chapter 795 of the Statutes of 1999, shall not affect the validity of any preliminary notice given on or after January 1, 2000, and prior to the operative date of the amendments to this section enacted at the 2000 portion of the 1999–2000 Regular Session, that otherwise meets the requirements of that subdivision.

(B) A preliminary notice given on or after January 1, 2000, and prior to the operative date of the amendments to this section enacted at the 2000 portion of the 1999–2000 Regular Session, shall not be invalid because of the failure to include the language added to paragraph (5) of subdivision (c) by Chapter 795 of the Statutes of 1999, if the notice otherwise complies with that subdivision.

(C) The failure to provide an affidavit form or notice of rights, or both, pursuant to the requirements of Chapter 795 of the Statutes of 1999, shall not affect the validity of any preliminary notice pursuant to this section.

SEC. 38. Section 403.020 of the Code of Civil Procedure is amended to read:

403.020. (a) If a plaintiff, cross-complainant, or petitioner files an amended complaint or other amended initial pleading that changes the jurisdictional classification from that previously stated in the caption, and simultaneously pays the reclassification fees provided in Section 403.050, the clerk shall promptly reclassify the case.

(b) For purposes of this section, an amendment to an initial pleading shall be treated in the same manner as an amended initial pleading.

SEC. 38.5. Section 645.1 of the Code of Civil Procedure is amended to read:

645.1. (a) When a referee is appointed pursuant to Section 638, the referee's fees shall be paid as agreed by the parties. If the parties do not agree on the payment of fees and request the matter to be resolved by the

court, the court may order the parties to pay the referee's fees as set forth in subdivision (b).

(b) When a referee is appointed pursuant to Section 639, at any time after a determination of ability to pay is made as specified in paragraph (6) of subdivision (d) of Section 639, the court may order the parties to pay the fees of referees who are not employees or officers of the court at the time of appointment, as fixed pursuant to Section 1023, in any manner determined by the court to be fair and reasonable, including an apportionment of the fees among the parties. For purposes of this section, the term "parties" does not include parties' counsel.

SEC. 39. Section 674 of the Code of Civil Procedure is amended to read:

674. (a) Except as otherwise provided in Section 4506 of the Family Code, an abstract of a judgment or decree requiring the payment of money shall be certified by the clerk of the court where the judgment or decree was entered and shall contain all of the following:

(1) The title of the court where the judgment or decree is entered and cause and number of the action.

(2) The date of entry of the judgment or decree and of any renewals of the judgment or decree and where entered in the records of the court.

(3) The name and last known address of the judgment debtor and the address at which the summons was either personally served or mailed to the judgment debtor or the judgment debtor's attorney of record.

(4) The name and address of the judgment creditor.

(5) The amount of the judgment or decree as entered or as last renewed.

(6) The social security number and driver's license number of the judgment debtor if they are known to the judgment creditor. If either or both of those numbers are not known to the judgment creditor, that fact shall be indicated on the abstract of judgment.

(7) Whether a stay of enforcement has been ordered by the court and, if so, the date the stay ends.

(8) The date of issuance of the abstract.

(b) An abstract of judgment, recorded after January 1, 1979, that does not list the social security number and driver's license number of the judgment debtor, or either of them, as required by subdivision (a) or by Section 4506 of the Family Code, may be amended by the recording of a document entitled "Amendment to Abstract of Judgment." The Amendment to Abstract of Judgment shall contain all of the information required by this section or by Section 4506 of the Family Code, shall list both the social security number and driver's license number if both of those numbers were known at the date of recordation of the original abstract of judgment, or one of them, if only one was known, and shall

set forth the date of recording and the book and page location in the records of the county recorder of the original abstract of judgment.

A recorded Amendment to Abstract of Judgment shall have priority as of the date of recordation of the original abstract of judgment, except as to any purchaser, encumbrancer, or lessee who obtained their interest after the recordation of the original abstract of judgment but prior to the recordation of the Amendment to Abstract of Judgment without actual notice of the original abstract of judgment. The purchaser, encumbrancer, or lessee without actual notice may assert as a defense against enforcement of the abstract of judgment the failure to comply with this section or Section 4506 of the Family Code regarding the contents of the original abstract of judgment notwithstanding the subsequent recordation of an Amendment to Abstract of Judgment. With respect to an abstract of judgment recorded between January 1, 1979, and July 10, 1985, the defense against enforcement for failure to comply with this section or Section 4506 of the Family Code may not be asserted by the holder of another abstract of judgment or involuntary lien, recorded without actual notice of the prior abstract, unless refusal to allow the defense would result in prejudice and substantial injury as used in Section 475. The recordation of an Amendment to Abstract of Judgment does not extend or otherwise alter the computation of time as provided in Section 697.310.

(c) (1) The abstract of judgment shall be certified in the name of the judgment debtor as listed on the judgment and may also include the additional name or names by which the judgment debtor is known as set forth in the affidavit of identity, as defined in Section 680.135, filed by the judgment creditor with the application for issuance of the abstract of judgment. Prior to the clerk of the court certifying an abstract of judgment containing any additional name or names by which the judgment debtor is known that are not listed on the judgment, the court shall approve the affidavit of identity. If the court determines, without a hearing or a notice, that the affidavit of identity states sufficient facts upon which the judgment creditor has identified the additional names of the judgment debtor, the court shall authorize the certification of the abstract of judgment with the additional name or names.

(2) The remedies provided in Section 697.410 apply to a recorded abstract of a money judgment based upon an affidavit of identity that appears to create a judgment lien on real property of a person who is not the judgment debtor.

SEC. 40. Section 699.510 of the Code of Civil Procedure is amended to read:

699.510. (a) Subject to subdivision (b), after entry of a money judgment, a writ of execution shall be issued by the clerk of the court upon application of the judgment creditor and shall be directed to the

levying officer in the county where the levy is to be made and to any registered process server. A separate writ shall be issued for each county where a levy is to be made. Writs may be issued successively until the money judgment is satisfied, except that a new writ may not be issued for a county until the expiration of 180 days after the issuance of a prior writ for that county unless the prior writ is first returned.

(b) If the judgment creditor seeks a writ of execution to enforce a judgment made, entered, or enforceable pursuant to the Family Code, in addition to the requirements of this article, the judgment creditor shall satisfy the requirements of any applicable provisions of the Family Code.

(c) (1) The writ of execution shall be issued in the name of the judgment debtor as listed on the judgment and may include the additional name or names by which the judgment debtor is known as set forth in the affidavit of identity, as defined in Section 680.135, filed by the judgment creditor with the application for issuance of the writ of execution. Prior to the clerk of the court issuing a writ of execution containing any additional name or names by which the judgment debtor is known that are not listed on the judgment, the court shall approve the affidavit of identity. If the court determines, without a hearing or a notice, that the affidavit of identity states sufficient facts upon which the judgment creditor has identified the additional names of the judgment debtor, the court shall authorize the issuance of the writ of execution with the additional name or names.

(2) In any case where the writ of execution lists any name other than that listed on the judgment, the person in possession or control of the levied property, if other than the judgment debtor, shall not pay to the levying officer the amount or deliver the property being levied upon until being notified to do so by the levying officer. The levying officer may not require the person, if other than the judgment debtor, in possession or control of the levied property to pay the amount or deliver the property levied upon until the expiration of 15 days after service of notice of levy.

(3) If a person who is not the judgment debtor has property erroneously subject to an enforcement of judgment proceeding based upon an affidavit of identity, the person shall be entitled to the recovery of reasonable attorney's fees and costs from the judgment creditor incurred in releasing the person's property from a writ of execution, in addition to any other damages or penalties to which an aggrieved person may be entitled to by law, including the provisions of Division 4 (commencing with Section 720.010).

SEC. 41. Section 9323 of the Commercial Code is amended to read:

9323. (a) Except as otherwise provided in subdivision (c), for purposes of determining the priority of a perfected security interest under paragraph (1) of subdivision (a) of Section 9322, perfection of the

security interest dates from the time an advance is made to the extent that the security interest secures an advance that satisfies both of the following conditions:

(1) It is made while the security interest is perfected only under either of the following:

(A) Under Section 9309 when it attaches.

(B) Temporarily under subdivision (e), (f), or (g) of Section 9312.

(2) It is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under Section 9309 or under subdivision (e), (f), or (g) of Section 9312.

(b) Except as otherwise provided in subdivision (c), a security interest is subordinate to the rights of a person who becomes a lien creditor to the extent that the security interest secures an advance made more than 45 days after the person becomes a lien creditor unless either of the following conditions is satisfied:

(1) The advance is made without knowledge of the lien.

(2) The advance is made pursuant to a commitment entered into without knowledge of the lien.

(c) Subdivisions (a) and (b) do not apply to a security interest held by a secured party who is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(d) Except as otherwise provided in subdivision (e), a buyer of goods other than a buyer in the ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of the following:

(1) The time the secured party acquires knowledge of the buyer's purchase.

(2) Forty-five days after the purchase.

(e) Subdivision (d) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the 45-day period.

(f) Except as otherwise provided in subdivision (g), a lessee of goods, other than a lessee in the ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of either of the following:

(1) The time the secured party acquires knowledge of the lease.

(2) Forty-five days after the lease contract becomes enforceable.

(g) Subdivision (f) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.

SEC. 42. Section 9331 of the Commercial Code is amended to read:

9331. (a) This division does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of

a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Division 3 (commencing with Section 3101), Division 7 (commencing with Section 7101), and Division 8 (commencing with Section 8101).

(b) This division does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under Division 8 (commencing with Section 8101).

(c) Filing under this division does not constitute notice of a claim or defense to the holders, purchasers, or persons described in subdivisions (a) and (b).

SEC. 43. Section 9408 of the Commercial Code is amended to read:

9408. (a) Except as otherwise provided in subdivision (b), a term in a promissory note or in an agreement between an account debtor and a debtor that relates to a health care insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or the creation, attachment, or perfection of a security interest in, the promissory note, health care insurance receivable, or general intangible, is ineffective to the extent that the term does, or would do, either of the following:

(1) It would impair the creation, attachment, or perfection of a security interest.

(2) It provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health care insurance receivable, or general intangible.

(b) Subdivision (a) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(c) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or the creation of a security interest in, a promissory note, health care insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation does, or would do, either of the following:

(1) It would impair the creation, attachment, or perfection of a security interest.

(2) It provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right

of termination, or remedy under the promissory note, health care insurance receivable, or general intangible.

(d) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor that relates to a health care insurance receivable or general intangible or a rule of law, statute, or regulation described in subdivision (c) would be effective under law other than this division but is ineffective under subdivision (a) or (c), all of the following rules apply with respect to the creation, attachment, or perfection of a security interest in the promissory note, health care insurance receivable, or general intangible:

(1) It is not enforceable against the person obligated on the promissory note or the account debtor.

(2) It does not impose a duty or obligation on the person obligated on the promissory note or the account debtor.

(3) It does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party.

(4) It does not entitle the secured party to use or assign the debtor's rights under the promissory note, health care insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health care insurance receivable, or general intangible.

(5) It does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor.

(6) It does not entitle the secured party to enforce the security interest in the promissory note, health care insurance receivable, or general intangible.

(e) Subdivision (c) does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a claim or right to receive compensation for injuries or sickness as described in paragraph (1) or (2) of subdivision (a) of Section 104 of Title 26 of the United States Code, as amended, or a claim or right to receive benefits under a special needs trust as described in paragraph (4) of subdivision (d) of Section 1396p of Title 42 of the United States Code, as amended, to the extent that subdivision (c) is inconsistent with those laws.

SEC. 44. Section 2200 of the Corporations Code is amended to read:

2200. Every corporation that neglects, fails, or refuses: (a) to keep or cause to be kept or maintained the record of shareholders or books of account required by this division to be kept or maintained, (b) to prepare or cause to be prepared or submitted the financial statements required by this division to be prepared or submitted, or (c) to give any shareholder

of record the advice required by subdivision (f) of Section 2115, is subject to penalty as provided in this section.

The penalty shall be twenty-five dollars (\$25) for each day that the failure or refusal continues, up to a maximum of one thousand five hundred dollars (\$1,500), beginning 30 days after receipt of the written request that the duty be performed from one entitled to make the request, except that, in the case of a failure to give advice required by subdivision (f) of Section 2115, the 30-day period shall run from the date of receipt of the request made pursuant to subdivision (f) of Section 2115, and no additional request is required by this section.

The penalty shall be paid to the shareholder or shareholders jointly making the request for performance of the duty, and damaged by the neglect, failure, or refusal, if suit therefor is commenced within 90 days after the written request is made, including any request made pursuant to subdivision (f) of Section 2115; but the maximum daily penalty because of failure to comply with any number of separate requests made on any one day or for the same act shall be two hundred fifty dollars (\$250).

SEC. 45. Section 6810 of the Corporations Code is amended to read:

6810. (a) Upon the failure of a corporation to file the statement required by Section 6210, the Secretary of State shall mail a notice of that delinquency to the corporation. The notice shall also contain information concerning the application of this section, and advise the corporation of the penalty imposed by Section 19141 of the Revenue and Taxation Code for failure to timely file the required statement after notice of delinquency has been mailed by the Secretary of State. If, within 60 days after the mailing of the notice of delinquency, a statement pursuant to Section 6210 has not been filed by the corporation, the Secretary of State may pursuant to regulation certify the name of the corporation to the Franchise Tax Board.

(b) Upon certification pursuant to subdivision (a), the Franchise Tax Board shall assess against the corporation a penalty of fifty dollars (\$50) pursuant to Section 19141 of the Revenue and Taxation Code.

(c) The penalty herein provided shall not apply to a corporation that on or prior to the date of certification pursuant to subdivision (a) has dissolved or has been merged into another corporation.

(d) The penalty herein provided shall not apply and the Secretary of State need not mail a notice of delinquency to a corporation the corporate powers, rights, and privileges of which have been suspended by the Franchise Tax Board pursuant to Section 23301, 23301.5, or 23775 of the Revenue and Taxation Code on or prior to, and remain suspended on, the last day of the filing period pursuant to Section 6210. The Secretary of State need not mail a form pursuant to Section 6210 to a corporation the corporate powers, rights, and privileges of which have been so

suspended by the Franchise Tax Board on or prior to, and remain suspended on, the day the Secretary of State prepares the forms for mailing.

(e) If, after certification pursuant to subdivision (a), the Secretary of State finds the required statement was filed before the expiration of the 60-day period after mailing of the notice of delinquency, the Secretary of State shall promptly decertify the name of the corporation to the Franchise Tax Board. The Franchise Tax Board shall then promptly abate any penalty assessed against the corporation pursuant to Section 19141 of the Revenue and Taxation Code.

(f) If the Secretary of State determines that the failure of a corporation to file a statement required by Section 6210 is excusable because of reasonable cause or unusual circumstances that justify the failure, the Secretary of State may waive the penalty imposed by this section and by Section 19141 of the Revenue and Taxation Code, in which case the Secretary of State shall not certify the name of the corporation to the Franchise Tax Board, or if already certified, the Secretary of State shall promptly decertify the name of the corporation.

SEC. 46. Section 17540.3 of the Corporations Code is amended to read:

17540.3. (a) A limited liability company that desires to convert to another business entity or a foreign other business entity or a foreign limited liability company shall approve a plan of conversion.

The plan of conversion shall state all of the following:

- (1) The terms and conditions of the conversion.
- (2) The place of the organization of the converted entity and of the converting limited liability company and the name of the converted entity after conversion.
- (3) The manner of converting the membership interests of each of the members into securities of, or interests in, the converted entity.
- (4) The provisions of the governing documents for the converted entity, including the partnership agreement, to which the holders of interests in the converted entity are to be bound.

(5) Any other details or provisions that are required by the laws under which the converted entity is organized, or that are desired by the parties.

(b) The plan of conversion shall be approved by a vote of a majority in interest of the members of the converting limited liability company, or a greater percentage of the voting interests of members as may be specified in the articles of organization or written operating agreement of the converting limited liability company. However, if the members of the limited liability company would become personally liable for any obligations of the converted entity as a result of the conversion, the plan of conversion shall be approved by all of the members of the converting limited liability company, unless the plan of conversion provides that all

members will have dissenters' rights as provided in Chapter 13 (commencing with Section 17600).

(c) If the limited liability company is converting into a limited partnership, then in addition to the approval of the members set forth in subdivision (b), the plan of conversion shall be approved by those members who will become general partners of the converted limited partnership pursuant to the plan of conversion.

(d) Upon the effectiveness of the conversion, all members of the converting limited liability company, except those that exercise dissenters' rights as provided in Chapter 13 (commencing with Section 17600), shall be deemed parties to any governing documents for the converted entity adopted as part of the plan of conversion, irrespective of whether or not a member has executed the plan of conversion or the governing documents for the converted entity. Any adoption of governing documents made pursuant thereto shall be effective at the effective time or date of the conversion.

(e) Notwithstanding its prior approval, a plan of conversion may be amended before the conversion takes effect if the amendment is approved by the members of the converting limited liability company in the same manner as was required for approval of the original plan of conversion.

(f) A plan of conversion may be abandoned by the members of a converting limited liability company in the manner as required for approval of the plan of conversion, subject to the contractual rights of third parties, at any time before the conversion is effective.

(g) The converted entity shall keep the plan of conversion at the principal place of business of the converted entity if the converted entity is a domestic partnership or foreign other business entity or at the office at which records are to be kept under Section 15614 if the converted entity is a domestic limited partnership. Upon the request of a member of a converting limited liability company, the authorized person on behalf of the converted entity shall promptly deliver to the member or the holder of interests or other securities, at the expense of the converted entity, a copy of the plan of conversion. A waiver by a member of the rights provided in this subdivision shall be unenforceable.

SEC. 47. Section 25102 of the Corporations Code is amended to read:

25102. The following transactions are exempted from the provisions of Section 25110:

(a) Any offer (but not a sale) not involving any public offering and the execution and delivery of any agreement for the sale of securities pursuant to the offer if (1) the agreement contains substantially the following provision: "The sale of the securities that are the subject of this agreement has not been qualified with the Commissioner of

Corporations of the State of California and the issuance of the securities or the payment or receipt of any part of the consideration therefor prior to the qualification is unlawful, unless the sale of securities is exempt from the qualification by Section 25100, 25102, or 25105 of the California Corporations Code. The rights of all parties to this agreement are expressly conditioned upon the qualification being obtained, unless the sale is so exempt"; and (2) no part of the purchase price is paid or received and none of the securities are issued until the sale of the securities is qualified under this law unless the sale of securities is exempt from the qualification by this section, Section 25100, or 25105.

(b) Any offer (but not a sale) of a security for which a registration statement has been filed under the Securities Act of 1933 but has not yet become effective, or for which an offering statement under Regulation A has been filed but has not yet been qualified, if no stop order or refusal order is in effect and no public proceeding or examination looking toward that order is pending under Section 8 of the act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law.

(c) Any offer (but not a sale) and the execution and delivery of any agreement for the sale of securities pursuant to the offer as may be permitted by the commissioner upon application. Any negotiating permit under this subdivision shall be conditioned to the effect that none of the securities may be issued and none of the consideration therefor may be received or accepted until the sale of the securities is qualified under this law.

(d) Any transaction or agreement between the issuer and an underwriter or among underwriters if the sale of the securities is qualified, or exempt from qualification, at the time of distribution thereof in this state, if any.

(e) Any offer or sale of any evidence of indebtedness, whether secured or unsecured, and any guarantee thereof, in a transaction not involving any public offering.

(f) Any offer or sale of any security in a transaction (other than an offer or sale to a pension or profit-sharing trust of the issuer) that meets each of the following criteria:

(1) Sales of the security are not made to more than 35 persons, including persons not in this state.

(2) All purchasers either have a preexisting personal or business relationship with the offeror or any of its partners, officers, directors or controlling persons, or managers (as appointed or elected by the members) if the offeror is a limited liability company, or by reason of their business or financial experience or the business or financial experience of their professional advisors who are unaffiliated with and who are not compensated by the issuer or any affiliate or selling agent

of the issuer, directly or indirectly, could be reasonably assumed to have the capacity to protect their own interests in connection with the transaction.

(3) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or a trust account if the purchaser is a trustee) and not with a view to or for sale in connection with any distribution of the security.

(4) The offer and sale of the security is not accomplished by the publication of any advertisement. The number of purchasers referred to above is exclusive of any described in subdivision (i), any officer, director, or affiliate of the issuer, or manager (as appointed or elected by the members) if the issuer is a limited liability company, and any other purchaser who the commissioner designates by rule. For purposes of this section, a husband and wife (together with any custodian or trustee acting for the account of their minor children) are counted as one person and a partnership, corporation, or other organization that was not specifically formed for the purpose of purchasing the security offered in reliance upon this exemption, is counted as one person. The commissioner may by rule require the issuer to file a notice of transactions under this subdivision. However, the failure to file the notice or the failure to file the notice within the time specified by the rule of the commissioner shall not affect the availability of this exemption. An issuer who fails to file the notice as provided by rule of the commissioner shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110.

(g) Any offer or sale of conditional sale agreements, equipment trust certificates, or certificates of interest or participation therein or partial assignments thereof, covering the purchase of railroad rolling stock or equipment or the purchase of motor vehicles, aircraft, or parts thereof, in a transaction not involving any public offering.

(h) Any offer or sale of voting common stock by a corporation incorporated in any state if, immediately after the proposed sale and issuance, there will be only one class of stock of the corporation outstanding that is owned beneficially by no more than 35 persons, provided all of the following requirements have been met:

(1) The offer and sale of the stock is not accompanied by the publication of any advertisement, and no selling expenses have been given, paid, or incurred in connection therewith.

(2) The consideration to be received by the issuer for the stock to be issued consists of any of the following:

(A) Only assets (which may include cash) of an existing business enterprise transferred to the issuer upon its initial organization, of which

all of the persons who are to receive the stock to be issued pursuant to this exemption were owners during, and the enterprise was operated for, a period of not less than one year immediately preceding the proposed issuance, and the ownership of the enterprise immediately prior to the proposed issuance was in the same proportions as the shares of stock are to be issued.

(B) Only cash or cancellation of indebtedness for money borrowed, or both, upon the initial organization of the issuer, provided all of the stock is issued for the same price per share.

(C) Only cash, provided the sale is approved in writing by each of the existing shareholders and the purchaser or purchasers are existing shareholders.

(D) In a case where after the proposed issuance there will be only one owner of the stock of the issuer, only any legal consideration.

(3) No promotional consideration has been given, paid, or incurred in connection with the issuance. Promotional consideration means any consideration paid directly or indirectly to a person who, acting alone or in conjunction with one or more other persons, takes the initiative in founding and organizing the business or enterprise of an issuer for services rendered in connection with the founding or organizing.

(4) A notice in a form prescribed by rule of the commissioner, signed by an active member of the State Bar of California, is filed with or mailed for filing to the commissioner not later than 10 business days after receipt of consideration for the securities by the issuer. That notice shall contain an opinion of the member of the State Bar of California that the exemption provided by this subdivision is available for the offer and sale of the securities. However, the failure to file the notice as required by this paragraph and the rules of the commissioner shall not affect the availability of this exemption. An issuer who fails to file the notice within the time specified by this paragraph shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110. The notice, except when filed on behalf of a California corporation, shall be accompanied by an irrevocable consent, in the form that the commissioner by rule prescribes, appointing the commissioner or his or her successor in office to be the issuer's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against it or its successor that arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the issuer. An issuer on whose behalf a consent has been filed in connection with a previous qualification or exemption from qualification under this law (or application for a permit under any prior law if the application or notice under this law states that the consent is still effective) need not file

another. Service may be made by leaving a copy of the process in the office of the commissioner, but it is not effective unless (A) the plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by him or her, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at its last address on file with the commissioner, and (B) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within the further time as the court allows.

(5) Each purchaser represents that the purchaser is purchasing for the purchaser's own account, or a trust account if the purchaser is a trustee, and not with a view to or for sale in connection with any distribution of the stock.

For the purposes of this subdivision, all securities held by a husband and wife, whether or not jointly, shall be considered to be owned by one person, and all securities held by a corporation that has issued stock pursuant to this exemption shall be considered to be held by the shareholders to whom it has issued the stock.

All stock issued by a corporation pursuant to this subdivision as it existed prior to the effective date of the amendments to this section made during the 1996 portion of the 1995–96 Regular Session that required the issuer to have stamped or printed prominently on the face of the stock certificate a legend in a form prescribed by rule of the commissioner restricting transfer of the stock in a manner provided for by that rule shall not be subject to the transfer restriction legend requirement and, by operation of law, the corporation is authorized to remove that transfer restriction legend from the certificates of those shares of stock issued by the corporation pursuant to this subdivision as it existed prior to the effective date of the amendments to this section made during the 1996 portion of the 1995–96 Regular Session.

(i) Any offer or sale (1) to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or individual retirement account), or other institutional investor or governmental agency or instrumentality that the commissioner may designate by rule, whether the purchaser is acting for itself or as trustee, or (2) to any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of the corporation that after the offer and sale will own directly or indirectly 100 percent of the outstanding capital stock of the issuer, provided the purchaser represents that it is purchasing for its own account (or for the trust account) for investment and not with a view to or for sale in connection with any distribution of the security.

(j) Any offer or sale of any certificate of interest or participation in an oil or gas title or lease (including subsurface gas storage and payments out of production) if either of the following apply:

(1) All of the purchasers meet one of the following requirements:

(A) Are and have been during the preceding two years engaged primarily in the business of drilling for, producing, or refining oil or gas (or whose corporate predecessor, in the case of a corporation, has been so engaged).

(B) Are persons described in paragraph (1) of subdivision (i).

(C) Have been found by the commissioner upon written application to be substantially engaged in the business of drilling for, producing, or refining oil or gas so as not to require the protection provided by this law (which finding shall be effective until rescinded).

(2) The security is concurrently hypothecated to a bank in the ordinary course of business to secure a loan made by the bank, provided that each purchaser represents that it is purchasing for its own account for investment and not with a view to or for sale in connection with any distribution of the security.

(k) Any offer or sale of any security under, or pursuant to, a plan of reorganization under Chapter 11 of the federal bankruptcy law that has been confirmed or is subject to confirmation by the decree or order of a court of competent jurisdiction.

(l) Any offer or sale of an option, warrant, put, call, or straddle, and any guarantee of any of these securities, by a person who is not the issuer of the security subject to the right, if the transaction, had it involved an offer or sale of the security subject to the right by the person, would not have violated Section 25110 or 25130.

(m) Any offer or sale of a stock to a pension, profit-sharing, stock bonus, or employee stock ownership plan, provided that (1) the plan meets the requirements for qualification under Section 401 of the Internal Revenue Code, and (2) the employees are not required or permitted individually to make any contributions to the plan. The exemption provided by this subdivision shall not be affected by whether the stock is contributed to the plan, purchased from the issuer with contributions by the issuer or an affiliate of the issuer, or purchased from the issuer with funds borrowed from the issuer, an affiliate of the issuer, or any other lender.

(n) Any offer or sale of any security in a transaction, other than an offer or sale of a security in a rollup transaction, that meets all of the following criteria:

(1) The issuer is (A) a California corporation or foreign corporation that, at the time of the filing of the notice required under this subdivision, is subject to Section 2115, or (B) any other form of business entity, including without limitation a partnership or trust organized under the

laws of this state. The exemption provided by this subdivision is not available to a “blind pool” issuer, as that term is defined by the commissioner, or to an investment company subject to the Investment Company Act of 1940.

(2) Sales of securities are made only to qualified purchasers or other persons the issuer reasonably believes, after reasonable inquiry, to be qualified purchasers. A corporation, partnership, or other organization specifically formed for the purpose of acquiring the securities offered by the issuer in reliance upon this exemption may be a qualified purchaser if each of the equity owners of the corporation, partnership, or other organization is a qualified purchaser. Qualified purchasers include the following:

(A) A person designated in Section 260.102.13 of Title 10 of the California Code of Regulations.

(B) A person designated in subdivision (i) or any rule of the commissioner adopted thereunder.

(C) A pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or an individual retirement account, if the investment decisions made on behalf of the trust, plan, or account are made solely by persons who are qualified purchasers.

(D) An organization described in Section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, each with total assets in excess of five million dollars (\$5,000,000) according to its most recent audited financial statements.

(E) With respect to the offer and sale of one class of voting common stock of an issuer or of preferred stock of an issuer entitling the holder thereof to at least the same voting rights as the issuer’s one class of voting common stock, provided that the issuer has only one-class voting common stock outstanding upon consummation of the offer and sale, a natural person who, either individually or jointly with the person’s spouse, (i) has a minimum net worth of two hundred fifty thousand dollars (\$250,000) and had, during the immediately preceding tax year, gross income in excess of one hundred thousand dollars (\$100,000) and reasonably expects gross income in excess of one hundred thousand dollars (\$100,000) during the current tax year or (ii) has a minimum net worth of five hundred thousand dollars (\$500,000). “Net worth” shall be determined exclusive of home, home furnishings, and automobiles. Other assets included in the computation of net worth may be valued at fair market value.

Each natural person specified above, by reason of his or her business or financial experience, or the business or financial experience of his or her professional adviser, who is unaffiliated with and who is not compensated, directly or indirectly, by the issuer or any affiliate or selling agent of the issuer, can be reasonably assumed to have the

capacity to protect his or her interests in connection with the transaction. The amount of the investment of each natural person shall not exceed 10 percent of the net worth, as determined by this subparagraph, of that natural person.

(F) Any other purchaser designated as qualified by rule of the commissioner.

(3) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or trust account, if the purchaser is a trustee) and not with a view to or for sale in connection with a distribution of the security.

(4) Each natural person purchaser, including a corporation, partnership, or other organization specifically formed by natural persons for the purpose of acquiring the securities offered by the issuer, receives, at least five business days before securities are sold to, or a commitment to purchase is accepted from, the purchaser, a written offering disclosure statement that shall meet the disclosure requirements of Regulation D (17 C.F.R. 230.501 et seq.), and any other information as may be prescribed by rule of the commissioner, provided that the issuer shall not be obligated pursuant to this paragraph to provide this disclosure statement to a natural person qualified under Section 260.102.13 of Title 10 of the California Code of Regulations. The offer or sale of securities pursuant to a disclosure statement required by this paragraph that is in violation of Section 25401, or that fails to meet the disclosure requirements of Regulation D (17 C.F.R. 230.501 et seq.), shall not render unavailable to the issuer the claim of an exemption from Section 25110 afforded by this subdivision. This paragraph does not impose, directly or indirectly, any additional disclosure obligation with respect to any other exemption from qualification available under any other provision of this section.

(5) (A) A general announcement of proposed offering may be published by written document only, provided that the general announcement of proposed offering sets forth the following required information:

- (i) The name of the issuer of the securities.
- (ii) The full title of the security to be issued.
- (iii) The anticipated suitability standards for prospective purchasers.
- (iv) A statement that (I) no money or other consideration is being solicited or will be accepted, (II) an indication of interest made by a prospective purchaser involves no obligation or commitment of any kind, and, if the issuer is required by paragraph (4) to deliver a disclosure statement to prospective purchasers, (III) no sales will be made or commitment to purchase accepted until five business days after delivery of a disclosure statement and subscription information to the prospective purchaser in accordance with the requirements of this subdivision.

(v) Any other information required by rule of the commissioner.

(vi) The following legend: "For more complete information about (Name of Issuer) and (Full Title of Security), send for additional information from (Name and Address) by sending this coupon or calling (Telephone Number)."

(B) The general announcement of proposed offering referred to in subparagraph (A) may also set forth the following information:

(i) A brief description of the business of the issuer.

(ii) The geographic location of the issuer and its business.

(iii) The price of the security to be issued, or, if the price is not known, the method of its determination or the probable price range as specified by the issuer, and the aggregate offering price.

(C) The general announcement of proposed offering shall contain only the information that is set forth in this paragraph.

(D) Dissemination of the general announcement of proposed offering to persons who are not qualified purchasers, without more, shall not disqualify the issuer from claiming the exemption under this subdivision.

(6) No telephone solicitation shall be permitted until the issuer has determined that the prospective purchaser to be solicited is a qualified purchaser.

(7) The issuer files a notice of transaction under this subdivision both (A) concurrent with the publication of a general announcement of proposed offering or at the time of the initial offer of the securities, whichever occurs first, accompanied by a filing fee, and (B) within 10 business days following the close or abandonment of the offering, but in no case more than 210 days from the date of filing the first notice. The first notice of transaction under subparagraph (A) shall contain an undertaking, in a form acceptable to the commissioner, to deliver any disclosure statement required by paragraph (4) to be delivered to prospective purchasers, and any supplement thereto, to the commissioner within 10 days of the commissioner's request for the information. The exemption from qualification afforded by this subdivision is unavailable if an issuer fails to file the first notice required under subparagraph (A) or to pay the filing fee. The commissioner has the authority to assess an administrative penalty of up to one thousand dollars (\$1,000) against an issuer that fails to deliver the disclosure statement required to be delivered to the commissioner upon the commissioner's request within the time period set forth above. Neither the filing of the disclosure statement nor the failure by the commissioner to comment thereon precludes the commissioner from taking any action deemed necessary or appropriate under this division with respect to the offer and sale of the securities.

(o) An offer or sale of any security issued by a corporation or limited liability company pursuant to a purchase plan or agreement, or issued pursuant to an option plan or agreement, where the security at the time of issuance or grant is exempt from registration under the Securities Act of 1933, as amended, pursuant to Rule 701 adopted pursuant to that act (17 C.F.R. 230.701), the provisions of which are hereby incorporated by reference into this section, provided that (1) the terms of any purchase plan or agreement shall comply with Sections 260.140.42, 260.140.45, and 260.140.46 of Title 10 of the California Code of Regulations, (2) the terms of any option plan or agreement shall comply with Sections 260.140.41, 260.140.45, and 260.140.46 of Title 10 of the California Code of Regulations, and (3) the issuer files a notice of transaction in accordance with rules adopted by the commissioner no later than 30 days after the initial issuance of any security under that plan, accompanied by a filing fee as prescribed by subdivision (y) of Section 25608.

Offers and sales exempt pursuant to this subdivision shall be deemed to be part of a single, discrete offering and are not subject to integration with any other offering or sale, whether qualified under Chapter 2 (commencing with Section 25110), or otherwise exempt, or not subject to qualification.

(p) An offer or sale of nonredeemable securities to accredited investors (Section 28031) by a person licensed under the Capital Access Company Law (Division 3 (commencing with Section 28000) of Title 4). All nonredeemable securities shall be evidenced by certificates that shall have stamped or printed prominently on their face a legend in a form to be prescribed by rule or order of the commissioner restricting transfer of the securities in the manner as the rule or order provides.

(q) Any offer or sale of any viatical or life settlement contract or fractionalized or pooled interest therein in a transaction that meets all of the following criteria:

(1) Sales of securities described in this subdivision are made only to qualified purchasers or other persons the issuer reasonably believes, after reasonable inquiry, to be qualified purchasers. A corporation, partnership, or other organization specifically formed for the purpose of acquiring the securities offered by the issuer in reliance upon this exemption may be a qualified purchaser only if each of the equity owners of the corporation, partnership, or other organization is a qualified purchaser. Qualified purchasers include the following:

(A) A person designated in Section 260.102.13 of Title 10 of the California Code of Regulations.

(B) A person designated in subdivision (i) or any rule of the commissioner adopted thereunder.

(C) A pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or an individual retirement account, if the

investment decisions made on behalf of the trust, plan, or account are made solely by persons who are qualified purchasers.

(D) An organization described in Section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, each with total assets in excess of five million dollars (\$5,000,000) according to its most recent audited financial statements.

(E) A natural person who, either individually or jointly with the person's spouse, (i) has a minimum net worth of one hundred fifty thousand dollars (\$150,000) and had, during the immediately preceding tax year, gross income in excess of one hundred thousand dollars (\$100,000) and reasonably expects gross income in excess of one hundred thousand dollars (\$100,000) during the current tax year or (ii) has a minimum net worth of two hundred fifty thousand dollars (\$250,000). "Net worth" shall be determined exclusive of home, home furnishings, and automobiles. Other assets included in the computation of net worth may be valued at fair market value.

Each natural person specified above, by reason of his or her business or financial experience, or the business or financial experience of his or her professional advisor, who is unaffiliated with and who is not compensated, directly or indirectly, by the issuer or any affiliate or selling agent of the issuer, can be reasonably assumed to have the capacity to protect his or her interests in connection with the transaction.

The amount of the investment of each natural person shall not exceed 10 percent of the net worth, as determined by this subdivision, of that natural person.

(F) Any other purchaser designated as qualified by rule of the commissioner.

(2) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or trust account, if the purchaser is a trustee) and not with a view to or for sale in connection with a distribution of the security.

(3) Each natural person purchaser, including a corporation, partnership, or other organization specifically formed by natural persons for the purpose of acquiring the securities offered by the issuer, receives, at least five business days before securities described in this subdivision are sold to, or a commitment to purchase is accepted from, the purchaser, the following information in writing:

(A) The name, principal business and mailing address, and telephone number of the issuer.

(B) The suitability standards for prospective purchasers as set forth in paragraph (1) of this subdivision.

(C) A description of the issuer's type of business organization and the state in which the issuer is organized or incorporated.

(D) A brief description of the business of the issuer.

(E) If the issuer retains ownership or becomes the beneficiary of the insurance policy, an audit report of an independent certified public accountant together with a balance sheet and related statements of income, retained earnings, and cash-flows that reflect the issuer's financial position, the results of the issuer's operations, and the issuer's cash-flows as of a date within 15 months before the date of the initial issuance of the securities described in this subdivision. The financial statements listed in this subparagraph shall be prepared in conformity with generally accepted accounting principles. If the date of the audit report is more than 120 days before the date of the initial issuance of the securities described in this subdivision, the issuer shall provide unaudited interim financial statements.

(F) The names of all directors, officers, partners, members, or trustees of the issuer.

(G) A description of any order, judgment, or decree that is final as to the issuing entity of any state, federal, or foreign country governmental agency or administrator, or of any state, federal, or foreign country court of competent jurisdiction (i) revoking, suspending, denying, or censuring for cause any license, permit, or other authority of the issuer or of any director, officer, partner, member, trustee, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interest or equity securities of the issuer, to engage in the securities, commodities, franchise, insurance, real estate, or lending business or in the offer or sale of securities, commodities, franchises, insurance, real estate, or loans, (ii) permanently restraining, enjoining, barring, suspending, or censuring any such person from engaging in or continuing any conduct, practice, or employment in connection with the offer or sale of securities, commodities, franchises, insurance, real estate, or loans, (iii) convicting any such person of, or pleading nolo contendere by any such person to, any felony or misdemeanor involving a security, commodity, franchise, insurance, real estate, or loan, or any aspect of the securities, commodities, franchise, insurance, real estate, or lending business, or involving dishonesty, fraud, deceit, embezzlement, fraudulent conversion, or misappropriation of property, or (iv) holding any such person liable in a civil action involving breach of a fiduciary duty, fraud, deceit, embezzlement, fraudulent conversion, or misappropriation of property. This subparagraph does not apply to any order, judgment, or decree that has been vacated, overturned, or is more than 10 years old.

(H) Notice of the purchaser's right to rescind or cancel the investment and receive a refund pursuant to Section 25508.5.

(I) The name, address, and telephone number of the issuing insurance company, and the name, address, and telephone number of the state or foreign country regulator of the insurance company.

(J) The total face value of the insurance policy and the percentage of the insurance policy the purchaser will own.

(K) The insurance policy number, issue date, and type.

(L) If a group insurance policy, the name, address, and telephone number of the group, and, if applicable, the material terms and conditions of converting the policy to an individual policy, including the amount of increased premiums.

(M) If a term insurance policy, the term and the name, address, and telephone number of the person who will be responsible for renewing the policy if necessary.

(N) That the insurance policy is beyond the state statute for contestability and the reason therefor.

(O) The insurance policy premiums and terms of premium payments.

(P) The amount of the purchaser's moneys that will be set aside to pay premiums.

(Q) The name, address, and telephone number of the person who will be the insurance policy owner and the person who will be responsible for paying premiums.

(R) The date on which the purchaser will be required to pay premiums and the amount of the premium, if known.

(S) A statement to the effect that any projected rate of return to the purchaser from the purchase of a viatical or life settlement contract or a fractionalized or pooled interest therein is based on an estimated life expectancy for the person insured under the life insurance policy; that the return on the purchase may vary substantially from the expected rate of return based upon the actual life expectancy of the insured that may be less than, equal to, or may greatly exceed the estimated life expectancy; and that the rate of return would be higher if the actual life expectancy were less than, and lower if the actual life expectancy were greater than the estimated life expectancy of the insured at the time the viatical or life settlement contract was closed.

(T) A statement that the purchaser should consult with his or her tax advisor regarding the tax consequences of the purchase of the viatical or life settlement contract or fractionalized or pooled interest therein and, if the purchaser is using retirement funds or accounts for that purchase, whether or not any adverse tax consequences might result from the use of those funds for the purchase of that investment.

(U) Any other information as may be prescribed by rule of the commissioner.

SEC. 48. Section 25103 of the Corporations Code is amended to read:

25103. The following transactions are exempted from the provisions of Section 25110 and Section 25120:

(a) Any negotiations or agreements prior to general solicitation of approval by the holders of equity securities, and subject to that approval, of (1) a change in the rights, preferences, privileges, or restrictions of or on outstanding securities, (2) a merger, consolidation, or sale of assets in consideration of the issuance of securities, or (3) an entity conversion transaction.

(b) Any change in the rights, preferences, privileges, or restrictions of or on outstanding securities or any entity conversion transaction, unless the holders of at least 25 percent of the outstanding shares or units of any class of securities that will be directly or indirectly affected substantially and adversely by that change or transaction have addresses in this state according to the records of the issuer.

(c) Any exchange incident to a merger, consolidation, or sale of assets in consideration of the issuance of securities of another issuer, unless at least 25 percent of the outstanding securities of any class, any holders of which are to receive securities in the exchange, are held by persons who have addresses in this state according to the records of the issuer of which they are holders. This exemption is not available for a rollup transaction as defined by Section 25014.6. The exemption is also not available for a transaction excluded from the definition of rollup transaction by virtue of paragraph (5) or (6) of subdivision (b) of Section 25014.6 if the transaction is one of a series of transactions that directly or indirectly through acquisition or otherwise involves the combination or reorganization of one or more rollup participants.

(d) For the purposes of subdivision (b) and subdivision (c) of this section, (1) any securities held to the knowledge of the issuer in the names of broker-dealers or nominees of broker-dealers and (2) any securities controlled by any one person who controls directly or indirectly 50 percent or more of the outstanding securities of that class shall not be considered outstanding. The determination of whether 25 percent of the outstanding securities are held by persons having addresses in this state, for the purposes of subdivision (b) and subdivision (c) of this section, shall be made as of the record date for the determination of the security holders entitled to vote on or consent to the action, if approval of those holders is required, or, if not, as of the date of directors' approval of that action.

(e) Any change (other than a stock split or reverse stock split) in the rights, preferences, privileges, or restrictions of or on outstanding equity securities, except the following if they materially and adversely affect any class of equity securities: (1) to add, change, or delete assessment provisions; (2) to change the rights to dividends thereon; (3) to change the redemption provisions; (4) to make them redeemable; (5) to change the amount payable on liquidation; (6) to change, add, or delete conversion rights; (7) to change, add, or delete voting rights; (8) to

change, add, or delete preemptive rights; (9) to change, add, or delete sinking fund provisions; (10) to rearrange the relative priorities of outstanding equity securities; (11) to impose, change, or delete restrictions upon the transfer of equity securities in the organizational documents for the entity; (12) to change the right of holders of equity securities with respect to the calling of special meetings of holders of equity securities; and (13) to change, add, or delete any rights, preferences, privileges, or restrictions of, or on, the outstanding shares or memberships of a mutual water company or other corporation or entity organized primarily to provide services or facilities to its shareholders or members. Changes in the rights, preferences, privileges, or restrictions of or on outstanding equity securities do not materially and adversely affect any class of holders of equity securities within the meaning of this subdivision if they arise from (i) the addition to articles of incorporation of the provisions described or referred to in subdivision (a) of Section 158 upon the conversion of an existing corporation to a close corporation pursuant to subdivision (b) of Section 158, (ii) the deletion from the articles of incorporation of the provisions described or referred to in subdivision (a) of Section 158 upon the voluntary termination of close corporation status pursuant to subdivisions (c) and (e) of Section 158, (iii) the involuntary cessation of close corporation status pursuant to subdivision (e) of Section 158, or (iv) the termination of a shareholders' agreement pursuant to subdivision (b) of Section 300.

(f) Any stock split or reverse stock split, except the following: (1) any stock split or reverse stock split if the corporation has more than one class of shares outstanding and the split would have a material effect on the proportionate interests of the respective classes as to voting, dividends, or distributions; (2) any stock split of a stock that is traded in the market and its market price as of the date of directors' approval of the stock split adjusted to give effect to the split was less than two dollars (\$2) per share; and (3) any reverse stock split if the corporation has the option of paying cash for any fractional shares created by the reverse split and as a result of that action the proportionate interests of the shareholders would be substantially altered. Any shares issued upon a stock split or reverse stock split exempted by this subdivision shall be subject to any conditions previously imposed by the commissioner applicable to the shares with respect to which they are issued.

(g) Any change in the rights of outstanding debt securities, except the following if they substantially and adversely affect any class of securities: (1) to change the rights to interest thereon; (2) to change their redemption provisions; (3) to make them redeemable; (4) to extend the maturity thereof or to change the amount payable thereon at maturity; (5) to change their voting rights; (6) to change their conversion rights; (7)

to change sinking fund provisions; and (8) to make them subordinate to other indebtedness.

(h) Any exchange incident to a merger, consolidation, or sale of assets, other than a rollup transaction (as defined in Section 25014.6), in consideration of the issuance of equity securities of another entity or any entity conversion transaction that meets the following conditions:

(1) The exchange incident to a merger, consolidation, or sale of assets or the entity conversion transaction, had the exchange transaction involved the issuance of a security in a transaction subject to the provisions of Section 25110, would have been exempt from qualification by subdivision (f) of Section 25102, without giving effect to paragraph (3) thereof, and either of the following is applicable:

(A) (i) Not less than 75 percent of the outstanding equity securities of each constituent or converting entity entitled to vote on the proposed transaction voted in favor of the transaction, (ii) not more than 10 percent of the outstanding equity securities of each constituent or converting entity entitled to vote on the proposed transaction voted against the transaction, and (iii) each constituent or converting entity whose security holders are entitled to vote on the proposed transaction is subject to a state statute that has provisions for dissenters' rights for holders of equity securities entitled to vote on the proposed transaction that do not vote in favor of or voted against the transaction.

(B) (i) The transaction is solely for the purposes of changing the issuer's state of incorporation or organization, or form of organization, (ii) all the securities of the same class or series, unless all the security holders of the class or series consent, are treated equally, and (iii) the holders of nonredeemable voting equity securities receive nonredeemable voting equity securities.

(2) The commissioner may, by rule, require the acquiring or surviving entity to file a notice of transaction under this section. However, the failure to file the notice or the failure to file the notice within the time specified by the rule of the commissioner shall not affect the availability of this exemption. An acquiring or surviving entity that fails to file the notice as provided by rule of the commissioner shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110 or 25120.

(i) Any exchange of securities in connection with any merger or consolidation or sale of corporate assets in consideration wholly or in part of the issuance of securities or any entity conversion transaction under, or pursuant to, a plan of reorganization or arrangement that pursuant to the provisions of the United States Bankruptcy Code (Title 11 of the United States Code) has been confirmed or is subject to confirmation by the decree or order of a court of competent jurisdiction.

SEC. 49. Section 25120 of the Corporations Code is amended to read:

25120. It is unlawful for any person to offer or sell in this state any security (a) in an issuer transaction in connection with any change in the rights, preferences, privileges, or restrictions of or on outstanding securities, (b) in any exchange of securities by the issuer with its existing security holders exclusively, (c) in any exchange in connection with any merger or consolidation or purchase of assets in consideration wholly or in part of the issuance of securities, or (d) in an entity conversion transaction, unless the security is qualified for sale under this chapter (and no order under Section 25140 or subdivision (a) of Section 25143 is in effect with respect to the qualification) or unless the security or transaction is exempted or not subject to qualification under Chapter 1 (commencing with Section 25100) of this part.

SEC. 50. Section 313 of the Education Code is amended to read:

313. (a) Each school district that has one or more pupils who are English learners shall assess each pupil's English language development in order to determine the level of proficiency for the purposes of this chapter.

(b) The State Department of Education, with the approval of the State Board of Education, shall establish procedures for conducting the assessment required pursuant to subdivision (a) and for the reclassification of a pupil from English learner to proficient in English.

(c) Commencing with the 2000–01 school year, the assessment shall be conducted upon initial enrollment, and annually, thereafter, during a period of time determined by the Superintendent of Public Instruction and the State Board of Education. The annual assessments shall continue until the pupil is redesignated as English proficient. The assessment shall primarily utilize the English language development test identified or developed by the Superintendent of Public Instruction pursuant to Chapter 7 (commencing with Section 60810) of Part 33. Prior to completion of the English language development test, a school district shall use either an assessment instrument developed by the school district or an assessment recommended by the State Department of Education.

(d) The reclassification procedures developed by the State Department of Education shall utilize multiple criteria in determining whether to reclassify a pupil as proficient in English, including, but not limited to, all of the following:

(1) Assessment of language proficiency using an objective assessment instrument, including, but not limited to, the English language development test pursuant to Section 60810.

(2) Teacher evaluation, including, but not limited to, a review of the pupil's curriculum mastery.

(3) Parental opinion and consultation.

(4) Comparison of the pupil's performance in basic skills against an empirically established range of performance in basic skills based upon the performance of English proficient pupils of the same age, that demonstrates whether the pupil is sufficiently proficient in English to participate effectively in a curriculum designed for pupils of the same age whose native language is English.

(e) It is the intent of the Legislature that nothing in this section preclude a school district or county office of education from testing English language learners more than once in a school year if the school district or county office of education chooses to do so.

SEC. 51. Section 406 of the Education Code is amended to read:

406. (a) The Regents of the University of California are requested to authorize the President of the University of California or his or her designee to jointly develop English Language Development Professional Institutes with the Chancellor of the California State University, the Chancellor of the California Community Colleges, the independent colleges and universities, and the Superintendent of Public Instruction, or their designees. In order to provide maximum access, the institutes shall be offered at sites widely distributed throughout the state, which shall include programs offered through instructor-led, interactive online courses, in accordance with existing state law. In order to maximize access to teachers and administrators who may be precluded from participating in an onsite institute due to geographical, physical, or time constraints, each institute shall accommodate at least 5 percent of the participants through existing state approved online instructor-led courses, programs, or both. The California subject matter projects, an intersegmental, discipline-based professional development network administered by the University of California, is requested to be the organizing entity for the institutes and followup programs.

(b) (1) Commencing in the 1999–2000 academic year, the institutes shall provide instruction for school teams from each school participating in the program established pursuant to this chapter. Commencing in the 2000–01 academic year, the institutes may provide instruction for school teams serving English language learners in kindergarten and grades 1 to 12, inclusive. A school team shall include teachers who do not hold crosscultural or bilingual-crosscultural certificates or their equivalents, teachers who hold those certificates or their equivalents, and a schoolsite administrator. The majority of the team shall be teachers who do not hold those crosscultural certificates or their equivalents. If the participating school team employs instructional assistants who provide instructional services to English language learners, the team may include these instructional assistants.

(2) Commencing in July 2000, the English Language Development Institutes shall provide instruction to an additional 10,000 participants. These participants shall be in addition to the 5,000 participants authorized as of January 1, 2000. Commencing July 2001, and each fiscal year thereafter, the number of participants receiving instruction through the English Language Development Institutes shall be specified in the annual Budget Act.

(3) Criteria and priority for selection of participating school teams shall include, but not necessarily be limited to, all of the following:

(A) Schools whose pupils' reading scores are at or below the 40th percentile on the English language arts portion of the achievement test authorized by Section 60640.

(B) Schools in which a high percentage of pupils score below grade level on the English language development assessment authorized by Section 60810, when it is developed.

(C) Schools with a high number of new, underprepared, and noncredentialed teachers. Underprepared teachers shall be defined as teachers who do not possess a crosscultural or bilingual-crosscultural certificate, or their equivalents.

(D) Schools in which the enrollment of English language learners exceeds 25 percent of the total school enrollment.

(E) Schools with a full complement of team members as described in paragraph (1).

(4) In any fiscal year, if funding is inadequate to accommodate the participation of all eligible school teams, first priority shall be given to schools meeting the criteria set forth in subparagraph (C) of paragraph (3).

(c) Each team member who satisfactorily completes an institute authorized by this section shall receive a stipend, commensurate with the duration of the institute, of not less than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000), as determined by the University of California.

(d) Instruction provided by the institutes shall be consistent with state-adopted academic content standards and with the English language development standards adopted pursuant to Section 60811.

(e) (1) Instruction at the institutes shall consist of an intensive, sustained training period of no less than 40 hours nor more than 80 hours during the summer or during an intersession break or an equivalent instructor-led, online course and shall be supplemented during the following school year with no fewer than 80 hours nor more than 120 hours of instruction and schoolsite meetings, held on at least a monthly basis, to focus on the academic progress of English language learners at that school.

(2) Instruction at the institutes shall be of sufficient scope, depth, and duration to fully equip instructional personnel to offer a comprehensive and rigorous instructional program for English language learners and to assess pupil progress so these pupils can meet the academic content and performance standards adopted by the State Board of Education. The instruction shall be designed to increase the capacity of teachers and other school personnel to provide and assess standards-based instruction for English language learners.

(3) The instruction shall be multidisciplinary and focus on instruction in disciplines for which the State Board of Education has adopted academic content standards. The instruction shall also be research-based and provide effective models of professional development in order to ensure that instructional personnel increase their skills, at a minimum, in all of the following:

(A) Literacy instruction and assessment for diverse pupil populations, including instruction in the teaching of reading that is research-based and consistent with the balanced, comprehensive strategies required under Section 44757.

(B) English language development and second language acquisition strategies.

(C) Specially designed instruction and assessment in English.

(D) Application of appropriate assessment instruments to assess language proficiency and utilization of benchmarks for reclassification of pupils from English language learners to fully English proficient.

(E) Examination of pupil work as a basis for the alignment of standards, instruction, and assessment.

(F) Use of appropriate instructional materials to assist English language learners to attain academic content standards.

(G) Instructional technology and its integration into the school curriculum for English language learners.

(H) Parent involvement and effective practices for building partnerships with parents.

(f) It is the intent of the Legislature that a local educational agency or postsecondary institution that offers an accredited program of professional preparation consider providing partial and proportional credit toward satisfaction of the course requirements to an enrolled candidate who satisfactorily completes a California English Language Development Institute program if the program has been certified by the Commission on Teacher Credentialing as meeting preparation standards.

(g) Nothing in this section shall be construed to prohibit a team member from attending an institute authorized by this section in more than one academic year.

(h) This section shall not apply to the University of California unless and until the Regents of the University of California act, by resolution, to make it applicable.

SEC. 52. Section 426 of the Education Code is amended to read:

426. (a) The State Librarian, with input from the Legislative Analyst's office, the office of the Secretary for Education, and the Department of Finance, shall contract with an independent evaluator to evaluate the portion of the English Language and Intensive Literacy Program that is administered by the State Library, as listed in Item 6120-212-0001 of Section 2.00 of the Budget Act of 2000. The evaluation shall determine the effectiveness of this program, including, but not limited to, improving English language proficiency and identifying the most effective practices for teaching English language learners and their families in improving English language proficiency.

(b) The State Librarian shall provide interim reports to the Legislature that include, but are not limited to, the following:

(1) The amount of funding allocated.

(2) The number of libraries or schools participating in the program.

(3) The number of English language learners participating in this program.

(4) The number of parents participating in the program.

(c) The first report is due March 1, 2001. The second report is due March 1, 2002. The final interim report is due March 1, 2003. However, these reports shall be required only if funds are available for allocation for this program.

SEC. 53. Section 427 of the Education Code is amended to read:

427. (a) It is the intent of the Legislature that data developed through the English Language and Intensive Literacy Program be used to inform curriculum, instruction, assessment, research, and teacher preparation programs regarding use of the most effective practices for teaching English language learners.

(b) It is the intent of the Legislature that, once the most effective programs and processes have been identified, schools be required to incorporate those effective practices into the regular classroom instruction as a condition of receiving funds pursuant to Section 404.

(c) It is further the intent of the Legislature that this program be administered consistent with research-based strategies for teaching English language learners, as well as Chapter 3 (commencing with Section 300), as applicable.

SEC. 54. Section 11700 of the Education Code is amended to read:

11700. (a) It is the intent of the Legislature that the Center for International Education Synergy be established through a joint powers agreement, entered into pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, between

the Sweetwater Union High School District, the Southwestern Community College District, and San Diego State University. It is the intent of the Legislature that a joint powers agency created pursuant to the joint powers agreement own and maintain the land and facilities for the Center for International Education Synergy at the Otay Mesa Off-Campus Center.

(b) In addition to funding appropriated by the Legislature for purposes of the Center for International Education Synergy, entities participating in the establishment and operation of the center are encouraged to seek supplemental funding, including, but not limited to, funding from foundations, corporations, and other public entities.

(c) Any postsecondary education facilities and programs developed pursuant to this section shall be subject to the requirements of Section 66903 as they apply to the governing boards of public postsecondary educational institutes.

(d) The Center for International Education Synergy shall be established only upon approval by the California Postsecondary Education Commission based on a needs study and subsequent approval from the Department of Finance.

SEC. 55. Section 17071.46 of the Education Code is amended to read:

17071.46. (a) When an applicant school district proposes to demolish a single story building and replace it with a multistory building on the same site, the State Allocation Board shall provide a supplemental grant for 50 percent of the replacement cost of the single story building to be demolished, if all of the following conditions are met:

(1) The school at which the building demolition and replacement is to occur is operating on a multitrack year-round education schedule.

(2) The cost of the demolition and replacement is less than the total cost of providing a new school facility, including land, on a new site for the additional number of pupils housed as a result of the replacement building, as determined by the State Allocation Board.

(3) The school district will maximize the increase in pupil capacity on the site when it builds the replacement building, subject to the limits imposed on it pursuant to paragraph (4).

(4) The State Department of Education has determined that the demolition of an existing single story building and replacement with a multistory building at the site is the best available alternative and will not create a school with an inappropriate number of pupils in relation to the size of the site, as determined by the State Department of Education.

(b) The State Allocation Board shall establish additional requirements it deems necessary to ensure that the economic interests of the state and the educational interests of the children of the state are protected.

SEC. 56. Section 17210 of the Education Code is amended to read: 17210. As used in this article, the following terms have the following meanings:

(a) "Administering agency" means any agency designated pursuant to Section 25502 of the Health and Safety Code.

(b) "Environmental assessor" means a class II environmental assessor registered by the Office of Environmental Health Hazard Assessment pursuant to Chapter 6.98 (commencing with Section 25570) of Division 20 of the Health and Safety Code, a professional engineer registered in this state, a geologist registered in this state, a certified engineering geologist registered in this state, or a licensed hazardous substance contractor certified pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code. A licensed hazardous substance contractor shall hold the equivalent of a degree from an accredited public or private college or university or from a private postsecondary educational institution approved by the Bureau for Private Postsecondary and Vocational Education with at least 60 units in environmental, biological, chemical, physical, or soil science; engineering; geology; environmental or public health; or a directly related science field. In addition, any person who conducts phase I environmental assessments shall have at least two years' experience in the preparation of those assessments and any person who conducts a preliminary endangerment assessment shall have at least three years' experience in conducting those assessments.

(c) "Handle" has the meaning the term is given in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

(d) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(e) "Hazardous material" has the meaning the term is given in subdivision (d) of Section 25260 of the Health and Safety Code.

(f) "Operation and maintenance," "removal action work plan," "respond," "response," "response action," and "site" have the meanings those terms are given in Article 2 (commencing with Section 25310) of the state act.

(g) "Phase I environmental assessment" means a preliminary assessment of a property to determine whether there has been or may have been a release of a hazardous material, or whether a naturally

occurring hazardous material is present, based on reasonably available information about the property and the area in its vicinity. A phase I environmental assessment may include, but is not limited to, a review of public and private records of current and historical land uses, prior releases of a hazardous material, data base searches, review of relevant files of federal, state, and local agencies, visual and other surveys of the property, review of historical aerial photographs of the property and the area in its vicinity, interviews with current and previous owners and operators, and review of regulatory correspondence and environmental reports. Sampling or testing is not required as part of the phase I environmental assessment. A phase I environmental assessment conducted pursuant to the requirements adopted by the American Society for Testing and Materials for due diligence for commercial real estate transactions and that includes a review of all reasonably available records and data bases regarding current and prior gas or oil wells and naturally occurring hazardous materials located on the site or located where they could potentially effect the site, satisfies the requirements of this article for conducting a phase I environmental assessment unless and until the Department of Toxic Substances Control adopts final regulations that establish guidelines for a phase I environmental assessment for purposes of schoolsites that impose different requirements from those imposed by the American Society for Testing and Materials.

(h) "Preliminary endangerment assessment" means an activity that is performed to determine whether current or past hazardous material management practices or waste management practices have resulted in a release or threatened release of hazardous materials, or whether naturally occurring hazardous materials are present, which pose a threat to children's health, children's learning abilities, public health or the environment. A preliminary endangerment assessment requires sampling and analysis of a site, a preliminary determination of the type and extent of hazardous material contamination of the site, and a preliminary evaluation of the risks that the hazardous material contamination of a site may pose to children's health, public health, or the environment, and shall be conducted in a manner that complies with the guidelines published by the Department of Toxic Substances Control entitled "Preliminary Endangerment Assessment: Guidance Manual," including any amendments that are determined by the Department of Toxic Substances Control to be appropriate to address issues that are unique to schoolsites.

(i) "Proposed schoolsite" means real property acquired or to be acquired or proposed for use as a schoolsite, prior to its occupancy as a school.

(j) "Regulated substance" means any material defined in subdivision (g) of Section 25532 of the Health and Safety Code.

(k) "Release" has the same meaning the term is given in Article 2 (commencing with Section 25310) of Chapter 6.8 of Division 20 of the Health and Safety Code, and includes a release described in subdivision (d) of Section 25321 of the Health and Safety Code.

(l) "Remedial action plan" means a plan approved by the Department of Toxic Substances Control pursuant to Section 25356.1 of the Health and Safety Code.

(m) "State act" means the Carpenter-Presley-Tanner Hazardous Substance Account Act (Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code).

SEC. 57. Section 17317 of the Education Code is amended to read:

17317. (a) The Department of General Services shall, in consultation with the Seismic Safety Commission, conduct an inventory of public school buildings that are concrete tilt-up school buildings and school buildings with nonwood frame walls that do not meet the minimum requirements of the 1976 Uniform Building Code. Priority shall be given to the school buildings identified in the act that added this section that are in the highest seismic risk zones in accordance with the seismic hazard maps of the Division of Mines and Geology of the Department of Conservation.

(b) The Department of General Services shall submit a report by December 31, 2001, to the Legislature and the Governor that summarizes the findings of the seismic safety inventory and makes recommendations about future actions that should be taken to address the problems found by the seismic safety inventory. The report shall not identify individual schoolsites on which inventoried school buildings are located.

SEC. 58. Section 17610.5 of the Education Code is amended to read:

17610.5. Sections 17611 and 17612 shall not apply to a pesticide product deployed in the form of a self-contained bait or trap, to gel or paste deployed as a crack and crevice treatment, to any pesticide exempted from regulation by the United States Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.), or to antimicrobial pesticides, including sanitizers and disinfectants.

SEC. 59. Section 22660 of the Education Code is amended to read:

22660. (a) The nonmember spouse who is awarded a separate account under this part shall have the right to designate, pursuant to Sections 23300 to 23304, inclusive, a beneficiary or beneficiaries to receive the accumulated retirement contributions under the Defined Benefit Program and to designate a payee to receive the accumulated

Defined Benefit Supplement account balance under the Defined Benefit Supplement Program remaining in the separate account of the nonmember spouse on his or her date of death, and any accrued allowance or accrued benefit under the Defined Benefit Supplement Program that is attributable to the separate account of the nonmember spouse and that is unpaid on the date of the death of the nonmember spouse.

(b) This section shall not be construed to provide the nonmember spouse with any right to elect to modify a retirement allowance under Section 24300 or to elect a joint and survivor annuity under the Defined Benefit Supplement Program.

SEC. 60. Section 22950 of the Education Code is amended to read:

22950. (a) Employers shall contribute monthly to the system 8 percent of the creditable compensation upon which members' contributions under this part are based.

(b) From the contributions required under subdivision (a), there shall be deposited in the Teachers' Retirement Fund an amount, determined by the board, that is not less than the amount, determined in an actuarial valuation of the Defined Benefit Program pursuant to Section 22311.5, necessary to finance the liabilities associated with the benefits of the Defined Benefit Program over the funding period adopted by the board, after taking into account the contributions made pursuant to Sections 22901, 22951, and 22955.

(c) The amount of contributions required under subdivision (a) that is not deposited in the Teachers' Retirement Fund pursuant to subdivision (b) shall be deposited directly into the Teachers' Health Benefits Fund, as established in Section 25930, and shall not be deposited into or transferred from the Teachers' Retirement Fund.

SEC. 61. Section 25933 of the Education Code is amended to read:

25933. (a) For purposes of this section, "plan" means any health benefits program that is financed from the proceeds of the fund.

(b) The board shall maintain all data necessary to perform an actuarial investigation of the demographic and economic experience of the plan and for the actuarial valuation of the assets and liabilities of the plan.

(c) The board shall retain the services of an actuary to do all of the following:

(1) Make recommendations to the board for the adoption of actuarial assumptions that, in the aggregate, are reasonably related to the past experience of the plan and reflect the actuary's informed estimate of future experience.

(2) Make an actuarial investigation of the demographic and economic experience, including the mortality, service, and other experience, of the plan with respect to members or any other persons eligible to receive benefits from the plan.

(3) At least biennially, using actuarial assumptions adopted by the board, perform an actuarial valuation of the plan that identifies the assets and liabilities of the plan, and report the findings to the board. The report of the actuary on the results of the actuarial valuation shall identify and include the components of normal cost and adequate information to determine the effects of changes in actuarial assumptions. Copies of the report on the actuarial valuation shall be transmitted to the Governor and to the Legislature.

(4) Recommend to the board all rates and factors necessary to administer the plan, including, but not limited to, mortality tables and interest rates.

(5) Recommend to the board a strategy for amortizing any unfunded actuarial obligation.

SEC. 62. Section 33126.1 of the Education Code is amended to read:

33126.1. (a) The State Department of Education shall develop and recommend for adoption by the State Board of Education a standardized template intended to simplify the process for completing the school accountability report card and make the school accountability report card more meaningful to the public.

(b) The standardized template shall include fields for the insertion of data and information by the State Department of Education and by local educational agencies. When the template for a school is completed, it should enable parents and guardians to compare how local schools compare to other schools within that district as well as other schools in the state.

(c) In conjunction with the development of the standardized template, the State Department of Education shall furnish standard definitions for school conditions included in the school accountability report card. The standard definitions shall comply with the following:

(1) Definitions shall be consistent with the definitions already in place or under the development at the state level pursuant to existing law.

(2) Definitions shall enable schools to furnish contextual or comparative information to assist the public in understanding the information in relation to the performance of other schools.

(3) Definitions shall specify the data for which the State Department of Education will be responsible for providing and the data and information for which the local educational agencies will be responsible.

(d) By December 1, 2000, the State Department of Education shall report to the State Board of Education on the school conditions for which it already has standard definitions in place or under development. The report shall include a survey of the conditions for which the State Department of Education has valid and reliable data at the state, district, or school level. The report shall provide a timetable for the inclusion of

conditions for which standard definitions or valid and reliable data do not yet exist through the State Department of Education.

(e) By December 1, 2000, the Superintendent of Public Instruction shall recommend and the State Board of Education shall appoint 13 members to serve on a broad-based advisory committee of local administrators, educators, parents, and other knowledgeable parties to develop definitions for the school conditions for which standard definitions do not yet exist. The State Board of Education may designate outside experts in performance measurements in support of activities of the advisory board.

(f) By January 1, 2001, the State Board of Education shall approve available definitions for inclusion in the template as well as a timetable for the further development of definitions and data collection procedures. By July 1, 2001, and each year thereafter, the State Board of Education shall adopt the template for the current year's school accountability report card. Definitions for all school conditions shall be included in the template by July 1, 2002.

(g) The State Department of Education shall annually post the completed and viewable template on the Internet. The template shall be designed to allow schools or districts to download the template from the Internet. The template shall further be designed to allow local educational agencies, including individual schools, to enter data into the school accountability report card electronically, individualize the report card, and further describe the data elements. The State Department of Education shall establish model guidelines and safeguards that may be used by school districts secured access only for those school officials authorized to make modifications.

(h) The State Department of Education shall maintain current Internet links with the Web sites of local educational agencies to provide parents and the public with easy access to the school accountability report cards maintained on the Internet. In order to ensure the currency of these Internet links, local educational agencies that provide access to school accountability report cards through the Internet shall furnish current Uniform Resource Locators for their Web sites to the State Department of Education.

(i) A school or school district that chooses not to utilize the standardized template adopted pursuant to this section shall report the data for its school accountability report card in a manner that is consistent with the definitions adopted pursuant to subdivision (c) of this section.

(j) The State Department of Education shall provide recommendations for changes to the California Basic Education Data System, or any successor data system, and other data collection

mechanisms to ensure that the information will be preserved and available in the future.

(k) Local educational agencies shall make these school accountability report cards available through the Internet or through paper copies.

(l) The State Department of Education shall monitor the compliance of local educational agencies with the requirements to prepare and to distribute school accountability report cards.

SEC. 63. Section 37252 of the Education Code is amended to read:

37252. (a) The governing board of each district maintaining any or all of grades 7 to 12, inclusive, shall offer, and a charter school may offer, supplemental instructional programs for pupils enrolled in grades 7 to 12, inclusive, who do not demonstrate sufficient progress toward passing the exit examination required for high school graduation pursuant to Chapter 8 (commencing with Section 60850) of Part 33.

(b) Sufficient progress, as described in subdivision (a), shall be determined on the basis of either of the following:

(1) The results of the assessments administered pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 and the minimum levels of proficiency recommended by the State Board of Education pursuant to Section 60648.

(2) The pupils' grades and other indicators of academic achievement designated by the district.

(c) For purposes of this section, a pupil shall be considered to be enrolled in a grade immediately upon completion of the preceding grade. Supplemental instruction may also be offered to a pupil who was enrolled in grade 12 during the prior school year.

(d) For the purposes of this section, pupils who do not possess sufficient English language skills to be assessed, as set forth in Sections 60850 and 60853, shall be considered pupils who do not demonstrate sufficient progress towards passing the exit examination required for high school graduation and shall receive supplemental instruction designed to assist pupils to succeed on the high school exit examination.

(e) Instructional programs may be offered pursuant to this section during the summer, before school, after school, on Saturday, or during intersession, or in any combination of summer, before school, after school, Saturday, or intersession instruction, but shall be in addition to the regular schoolday. Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program for religious reasons, shall be given priority for enrollment in supplemental instruction offered at a time other than Saturday over a

pupil who is not unable to attend a Saturday school program for religious reasons.

(f) A school district or charter school offering supplemental instructional programs pursuant to this section shall receive funding as described in Section 42239 and in the annual Budget Act.

(g) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.

SEC. 64. Section 37252.2 of the Education Code is amended to read:

37252.2. (a) The governing board of each school district maintaining any or all of grades 2 to 9, inclusive, shall offer, and a charter school may offer, programs of direct, systematic, and intensive supplemental instruction to pupils enrolled in grades 2 to 9, inclusive, who have been recommended for retention or who have been retained pursuant to Section 48070.5. A school district or charter school may require a pupil who has been retained to participate in supplemental instructional programs. Notwithstanding the requirements of this section, the school district or charter school shall provide a mechanism for a parent or guardian to decline to enroll his or her child in the program. Attendance in supplemental instructional programs shall not be compulsory within the meaning of Section 48200.

(b) Supplemental educational services pursuant to subdivision (a) may be offered during the summer, before school, after school, on Saturdays, or during intersession, or in a combination of summer school, before school, after school, Saturday, or intersession instruction. Services shall not be provided during the pupil's regular instructional day. Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program for religious reasons, shall be given priority for enrollment in supplemental instruction offered at a time other than Saturday, over a pupil who is not unable to attend a Saturday school program for religious reasons.

(c) For purposes of this section, a pupil shall be considered to be enrolled in a grade immediately upon completion of the preceding grade. Summer school instruction may also be offered to pupils who were enrolled in grade 6 during the prior school year. For ninth grade pupils identified in subdivision (a), summer school instruction may also be offered to pupils who were enrolled in grade 9 during the prior school year.

(d) Each school district or charter school shall use results from tests administered under the Standardized Testing and Reporting Program, established pursuant to Article 4 (commencing with Section 60640) of

Chapter 5 of Part 33 or other evaluative criteria to identify eligible pupils pursuant to subdivision (b).

(e) An intensive remedial program in reading or written expression offered pursuant to this section shall, as needed, include instruction in phoneme awareness, systematic explicit phonics and decoding, word attack skills, spelling and vocabulary, explicit instruction of reading comprehension, writing, and study skills.

(f) Each school district or charter school shall seek the active involvement of parents and classroom teachers in the development and implementation of supplemental instructional programs provided pursuant to this section.

(g) It is the intent of the Legislature that pupils who are at risk of failing to meet state adopted standards, or who are at risk of retention, be identified as early in the school year and as early in their school careers as possible, and be provided the opportunity for supplemental instruction sufficient to assist them in attaining expected levels of academic achievement.

(h) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.

(i) This section shall become operative on January 1, 2003.

SEC. 65. Section 37619 of the Education Code is amended to read: 37619. Each selected school shall be closed for all students and employees on regular school holidays specified in Article 3 (commencing with Section 37220) of Chapter 2.

SEC. 66. Section 41329.1 of the Education Code is amended to read:

41329.1. (a) The County Office Fiscal Crisis and Management Assistance Team shall conduct comprehensive assessments and shall complete, by July 1, 2001, the following improvement plans for the West Contra Costa Unified School District:

(1) An instructional improvement plan that includes special education and programs for English language learners and is consistent with the financial improvement plan required by paragraph (2). The plan shall specify pupil outcomes that reflect significant improvement in pupil achievement, particularly in the areas of reading, writing, and mathematics. Among the areas addressed by the plan shall be the alignment between the written, taught, and tested curriculum consistent with the state's adopted instructional standards. Included in the plan shall be a clear link between professional development for all instructional staff consistent with pupil achievement objectives.

(2) A financial improvement plan that is consistent with the instructional improvement plan required by paragraph (1) and that includes the current and future projected solvency and fiscal integrity of

the school district. The financial improvement plan shall also include, but not be limited to, specific strategies for developing a loan repayment plan to fully extinguish the balance on state loans provided to the district and for improving the following:

- (A) Management information systems.
- (B) Accounting and internal control procedures.
- (C) Attendance accounting procedures.

(3) A facilities improvement plan that shall be consistent with the financial improvement plan required by paragraph (2) and that includes, but is not limited to, specific strategies for improving the following:

- (A) Protection and safety for pupils, employees, and district property.
- (B) Ongoing maintenance of district property.

(C) Management control and procedures for managing all construction and modernization projects.

(4) A personnel management improvement plan that is consistent with the financial improvement plan required by paragraph (2) and that includes, but is not limited to, specific strategies for improving the following:

(A) The recruitment, retention, screening, assessment, and hiring procedures for all district staff.

(B) The training of members of the governing board of the school district in the subjects about which members of the governing board must have knowledge in order to discharge their duties as board members effectively.

(C) The assessment of the administrative practices of the school district and staff development to ensure that staff have the knowledge and skills required to manage effectively the educational programs, finances, safety, and facilities maintenance of the school district.

(D) The calculation and maintenance of appropriate and efficient full-time equivalent staffing ratios for all school district staff.

(E) The governance structure of the school district in relation to board policy development, operational effectiveness, and responsiveness to the community.

(5) A community relations improvement plan that is consistent with the financial improvement plan required by paragraph (2) and that includes, but is not limited to, specific strategies for improving the communication among the governing board, personnel of the school district, pupils, and parents.

(b) Beginning on December 1, 2001, and each six months thereafter until July 1, 2003, the County Office Fiscal Crisis and Management Assistance Team shall file a written status report with the appropriate fiscal and policy committees of the Legislature, including any special committees created for the purpose of reviewing the reports, and with the governing board of the school district, the Superintendent of Public

Instruction, the Director of Finance, and the Secretary for Education. The reports shall include the progress that the West Contra Costa Unified School District is making in meeting the recommendations of the improvement plans developed pursuant to subdivision (a).

(c) The County Office Fiscal Crisis and Management Assistance Team shall provide to the Controller an accounting of expenditures made by it pursuant to the requirements of this act.

(d) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

SEC. 67. Section 42239 of the Education Code is amended to read: 42239. For the 2000–01 fiscal year, and each fiscal year thereafter, the Superintendent of Public Instruction shall compute funding for supplemental instruction for each school district or charter school in the following manner:

(a) Multiply the number of pupil hours of supplemental instruction claimed pursuant to Sections 37252, 37252.2, and 37252.5 by the pupil hour allowance specified in subdivision (c) or by a pupil hour allowance specified in the annual Budget Act in lieu of the amount computed in subdivision (c).

(b) Multiply the number of pupil hours of supplemental instruction claimed pursuant to Sections 37252.6, 37252.8, and 37253 by the pupil hour allowance specified in subdivision (c) or by a per-pupil hour allowance specified in the annual Budget Act in lieu of the amount computed in subdivision (c). The total number of pupil hours of supplemental instruction that may be claimed pursuant to Section 37253 may not exceed the limits on pupil hours that may be claimed as established by subdivisions (c) and (d) of Section 37253. The total number of pupil hours of supplemental instruction that may be claimed pursuant to Section 37252.6 may not exceed the limits on pupil hours that may be claimed as established in subdivision (g) of that section.

(c) Commencing with the 2000–01 fiscal year, hours of supplemental instruction shall be reimbursed at a rate of three dollars and 25 cents (\$3.25) per pupil hour, adjusted in future years as specified in this section, provided that a different reimbursement rate may be specified for each fiscal year in the annual Budget Act that appropriates funding for that fiscal year. This amount shall be increased annually by the percentage increase pursuant to subdivision (b) of Section 42238.1 granted to school districts or charter schools for base revenue limit cost-of-living increases.

(d) (1) If appropriated funding is insufficient to pay all claims made in any fiscal year pursuant to Section 37252, 37252.2, or 37252.5, the superintendent shall use any available funding appropriated for the

purposes of reimbursing school districts pursuant to Section 37252, 37252.2, 37252.5, or subdivision (d) of Section 37253.

(2) If appropriated funding is still insufficient to pay all claims made in any fiscal year pursuant to Section 37252, 37252.2, or 37252.5, the superintendent shall use any available funding appropriated for the purposes of reimbursing school districts for supplemental instruction in the prior fiscal year.

(3) If appropriated funding is still insufficient to pay all claims made in any fiscal year pursuant to Section 37252, 37252.2, or 37252.5, the superintendent shall use any available funding appropriated for the purposes of reimbursing school districts for supplemental instruction in the current fiscal year.

(4) The superintendent shall notify the Director of Finance that there is a deficiency of funding appropriated for the purposes of Sections 37252, 37252.2, and 37252.5 only after the superintendent has exhausted all available balances of appropriations made for the current or prior fiscal years for the reimbursement of school districts for supplemental instruction.

(e) Notwithstanding any other provision of law, neither the State Board of Education nor the Superintendent of Public Instruction may waive any provision of this section.

SEC. 68. Section 44114 of the Education Code is amended to read:

44114. (a) A public school employee or applicant for employment with a public school employer who files a written complaint with his or her supervisor, a school administrator, or the public school employer alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts prohibited by Section 44113 for having disclosed improper governmental activities or for refusing to obey an illegal order may also file a copy of the written complaint with the local law enforcement agency together with a sworn statement that the contents of the written complaint are true, or are believed by the affiant to be true, under penalty of perjury. The complaint filed with the local law enforcement agency shall be filed within 12 months of the most recent act of reprisal that is the subject of the complaint.

(b) A person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a public school employee or applicant for employment with a public school employer for having made a protected disclosure is subject to a fine not to exceed ten thousand dollars (\$10,000) and imprisonment in the county jail for a period not to exceed one year. Any public school employee, officer, or administrator who intentionally engages in that conduct shall also be subject to discipline by the public school employer. If no adverse action is instituted by the public school employer and it is determined that there is reasonable cause to believe that an act of reprisal, retaliation, threats,

coercion, or similar acts prohibited by Section 44113 occurred, the local law enforcement agency may report the nature and details of the activity to the governing board of the school district or county board of education, as appropriate.

(c) In addition to all other penalties provided by law, a person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a public school employee or applicant for employment with a public school employer for having made a protected disclosure shall be liable in an action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court where the acts of the offending party are proven to be malicious. Where liability has been established, the injured party shall also be entitled to reasonable attorney's fees as provided by law. However, an action for damages shall not be available to the injured party unless the injured party has first filed a complaint with the local law enforcement agency.

(d) This section is not intended to prevent a public school employer, school administrator, or supervisor from taking, failing to take, directing others to take, recommending, or approving a personnel action with respect to a public school employee or applicant for employment with a public school employer if the public school employer, school administrator, or supervisor reasonably believes the action or inaction is justified on the basis of evidence separate and apart from the fact that the person has made a protected disclosure as defined in subdivision (e) of Section 44112.

(e) In any civil action or administrative proceeding, once it has been demonstrated by a preponderance of evidence that an activity protected by this article was a contributing factor in the alleged retaliation against a former, current, or prospective public school employee, the burden of proof shall be on the supervisor, school administrator, or public school employer to demonstrate by clear and convincing evidence that the alleged action would have occurred for legitimate, independent reasons even if the public school employee had not engaged in protected disclosures or refused an illegal order. If the supervisor, school administrator, or public school employer fails to meet this burden of proof in an adverse action against the public school employee in any administrative review, challenge, or adjudication in which retaliation has been demonstrated to be a contributing factor, the public school employee shall have a complete affirmative defense in the adverse action.

(f) Nothing in this article shall be deemed to diminish the rights, privileges, or remedies of a public school employee under any other federal or state law or under an employment contract or collective bargaining agreement.

(g) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action.

SEC. 69. Section 45005.25 of the Education Code is amended and renumbered to read:

48005.25. (a) Notwithstanding any provision of law to the contrary, including, but not limited to, Section 48000, for the 2001–02 school year, and each school year thereafter in which a school district continues to participate in the program, the school district shall offer admission to kindergarten at the beginning of the school year, or at a later time in the same school year, only to children who will have their fifth birthday on or before September 1 of that school year.

(b) Notwithstanding any provision of law to the contrary, including, but not limited to, Section 48010, for the 2001–02 school year, and each school year thereafter in which a school district continues to participate in the program, a school district shall offer admission to first grade at the beginning of the school year, or at a later time in the same school year, only to children who will have their sixth birthday on or before September 1 of that school year. Kindergarten shall not be a prerequisite for enrollment in first grade pursuant to this article.

(c) Notwithstanding subdivisions (a) and (b), the governing board of each school district participating in this program shall adopt a policy to allow, for good cause, admission of a child to kindergarten or to the first grade at the beginning of a school year in which the child's birthday will be after September 1, or at a later time in the same school year.

SEC. 70. Section 45005.30 of the Education Code is amended and renumbered to read:

48005.30. (a) For the 2001–02 school year the Superintendent of Public Instruction shall allocate a grant of funds for a participating school district as follows:

(1) A grant provided for each year of participation to cover the costs of developing and operating the school district kindergarten readiness program, including, but not limited to, the costs of administration and the costs associated with services provided to parents and children in the program. For any participating school district, annual funding pursuant to this paragraph shall not exceed the per-pupil amounts set forth in subparagraph (A) or (B) multiplied by a number equal to 50 percent of the entire annual kindergarten enrollment of the school district:

(A) Five hundred dollars (\$500) for every child participating in the kindergarten readiness program for 110 hours.

(B) Seven hundred fifty dollars (\$750) for every child participating in the kindergarten readiness program for 150 or more hours.

(2) Funding necessary to fully mitigate the financial impact upon the school district of the reduced attendance that results from the program, to be determined as follows:

(A) Multiply one-fourth of the kindergarten average daily attendance for the 2000–01 school year by the school district's base revenue limit per unit of average daily attendance.

(B) From the 2000–01 school year funded average daily attendance subtract the 2001–02 school year funded average daily attendance for the participating school district's base revenue limit. If the difference is zero or less, the result of this calculation shall be zero. If the difference is greater than zero, multiply the difference by the district's base revenue limit per unit of average daily attendance.

(C) From the product of subparagraph (A) subtract the result of subparagraph (B). If the result of subparagraph (B) is greater than the product of subparagraph (A), then this calculation shall be zero.

(b) For the 2002–03 school year, and each school year thereafter in which the school district participates in the program up to and including the 2007–08 school year, the Superintendent of Public Instruction shall allocate a grant of funds for a participating school district as follows:

(1) A grant provided for each year of participation to cover the costs of developing and operating the school district kindergarten readiness program, including, but not limited to, the costs of administration and the costs associated with services provided to parents and children in the program. For any participating school district, annual funding pursuant to this paragraph shall not exceed the per-pupil amounts set forth in subparagraph (A) or (B) multiplied by a number equal to 50 percent of the entire annual kindergarten enrollment of the school district:

(A) Five hundred dollars (\$500) for every child participating in the kindergarten readiness program for 110 hours.

(B) Seven hundred fifty dollars (\$750) for every child participating in the kindergarten readiness program for 150 or more hours.

(2) Funding necessary to fully mitigate the financial impact upon the school district of the reduced attendance that results from the program to be calculated by multiplying one-fourth of the kindergarten average daily attendance for the 2000–01 school year, by the school district's base revenue limit per unit of average daily attendance, adjusted annually for cost of living as provided generally for school district base revenue limits.

(c) In addition to providing funding for costs associated with current annual operation of the program as set forth in subdivisions (a) and (b), it is the intent of the Legislature to establish a mechanism to provide sufficient funding in future years to ensure that participant school districts are annually provided funding to fully mitigate any ongoing financial consequences from reduced enrollment due to participation in

the program for every school year up to and including the 2013–14 school year.

(d) (1) Total annual funding for mitigation of lost revenues due to reduced enrollment provided pursuant to this article shall be subject to a statewide annual maximum funding level equal to the equivalent of 2,300 full annual units of average daily attendance.

(2) It is the intent of the Legislature that the annual funding mechanism to be provided for subsequent school years as described in subdivision (c) be subject to a similar maximum statewide level of funding as set forth in paragraph (1).

SEC. 71. Section 45023.1 of the Education Code is amended to read:

45023.1. (a) Commencing with the 2000–01 fiscal year, the governing board of a school district, the county superintendent of schools, or the county board of education may increase, for teachers meeting the requirements prescribed by this section, the salary on its adopted certificated employee salary schedule as provided in subdivision (b). For purposes of this section, any teacher for whom the governing board, county superintendent of schools, or county board of education may increase salaries shall meet all of the following criteria:

(1) Hold a valid California teaching credential, not including an emergency permit, intern certificate or credential, or waiver.

(2) Possess a baccalaureate or higher degree.

(3) Receive a salary paid through the general fund of the district or county office.

(b) The governing board, county superintendent of schools, or county board of education that increases its salaries pursuant to subdivision (a) shall perform the following computations:

(1) The governing board, county superintendent of schools, or county board of education shall designate as the lowest salary on the salary schedule for a certificated employee meeting the criteria in subdivision (a) an amount that is at least an annual salary of thirty-four thousand dollars (\$34,000) in the 2000–01 fiscal year.

(2) The governing board, county superintendent of schools, or county board of education shall increase to the annual salary amount in paragraph (1) the salary of any certificated employee meeting the criteria in subdivision (a) whose salary on the salary schedule for the 1999–2000 fiscal year was less than the amount computed in paragraph (1) and, notwithstanding Section 45028, shall incorporate that increase into the salary schedule commencing with the 2000–01 fiscal year.

(c) Each school district or county office of education that increases its beginning teacher annual minimum salary to thirty-four thousand dollars (\$34,000) pursuant to subdivision (b) shall elect, except as

provided in subdivision (j), to receive reimbursement for the cost of the increase pursuant to only one of the following two options:

(1) Option One:

(A) In fiscal year 2000–01, a school district, county superintendent of schools, or county office of education that increases salaries pursuant to paragraph (2) of subdivision (b) and selects reimbursement Option One shall receive an amount equal to six dollars (\$6) times the district's or county office's second principal apportionment average daily attendance for the 1999–2000 fiscal year, excluding attendance in adult education programs and charter schools participating in the charter school block grant pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(B) Divide the amount received from the state pursuant to subparagraph (A) for the 2000–01 fiscal year by the school district or county office of education second principal apportionment average daily attendance for the 1999–2000 fiscal year, excluding attendance in adult education programs and charter schools participating in the charter school block grant pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(C) For the 2001–02 fiscal year and each fiscal year thereafter, for each school district that increases its salaries pursuant to subdivision (a), the Superintendent of Public Instruction shall sum the results of paragraphs (i) and (ii) and add that figure to the total school district revenue limit computed pursuant to Section 42238:

(i) Annually increase the funding rate per unit of average daily attendance specified in subparagraph (B) by the percentage increase pursuant to subdivision (b) of Section 42238.1 and multiply the resulting product by the school district's second principal apportionment average daily attendance for the current fiscal year excluding attendance in regional occupational centers/programs, adult education programs, and charter schools participating in the charter school block grant pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(ii) Annually increase the funding rate per unit of average daily attendance specified in subparagraph (B) by the percentage increase pursuant to subdivision (b) of Section 42238.1 and multiply the resulting product by the school district's second principal apportionment average daily attendance for the current fiscal year in regional occupational centers/programs excluding attendance in charter schools participating in the charter school block grant pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(D) For the 2001–02 fiscal year and each fiscal year thereafter, for each county office of education that increases its salaries pursuant to subdivision (a), the Superintendent of Public Instruction shall add the

sum of paragraphs (i) and (ii) to the county office of education revenue limit computed pursuant to Section 2550:

(i) Annually increase the funding rate per unit of average daily attendance specified in subparagraph (B) by the percentage increase identified pursuant to Section 2557 and multiply the resulting product by the county office of education's second principal apportionment average daily attendance for the current fiscal year excluding attendance in regional occupational centers/programs, adult education programs, and charter schools participating in the charter school block grant pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(ii) Annually increase the funding rate per unit of average daily attendance specified in subparagraph (B) by the percentage increase identified pursuant to Section 2557 and multiply the resulting product by the county office of education's second principal apportionment average daily attendance for the current fiscal year in regional occupational centers/programs excluding attendance in charter schools participating in the charter school block grant pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(E) The school district, county superintendent of schools, or county office of education shall utilize these incentive funds not only to meet the new beginning teacher annual minimum salary of thirty-four thousand dollars (\$34,000), but may also use the funds to generally enhance teachers' salaries in order to achieve the goals of retention of qualified, competent, and experienced teachers and the attainment of a reasonable salary commensurate with a teacher's experience, education, and responsibilities.

(2) Option Two: A school district, county superintendent of schools, or county office of education may submit a request to the Superintendent of Public Instruction, on a form supplied by the Superintendent of Public Instruction, for state funding computed as follows:

(A) Total the salaries of all certificated employees receiving increased salaries up to a maximum of thirty-four thousand dollars (\$34,000) per person pursuant to subdivision (b) for the 2000-01 fiscal year.

(B) Total all salaries, based on the salary schedule for the 2000-01 fiscal year before the increase made pursuant to subdivision (b), of all certificated employees receiving increased salaries pursuant to subdivision (b).

(C) Subtract the amount in subparagraph (B) from the amount in subparagraph (A).

(D) Multiply the amount in subparagraph (C) by the district's statutory benefit rates.

(E) For the 2000–01 fiscal year, a school district, county superintendent of schools, or county office of education that increases salaries pursuant to paragraph (2) of subdivision (b) and selects reimbursement Option Two shall receive the sum of subparagraphs (C) and (D).

(F) Divide the sum of the amounts received pursuant to subparagraphs (C) and (D) for the 2000–01 fiscal year by the school district and county office of education average daily attendance for the second principal apportionment for the 2000–01 fiscal year, excluding attendance in adult education programs and charter schools participating in the charter school block grant pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(G) For the 2001–02 fiscal year and each fiscal year thereafter, for each school district that increases its salaries pursuant to subdivision (a), the Superintendent of Public Instruction shall sum the results of paragraphs (i) and (ii) and add that figure to the total school district revenue limit computed pursuant to Section 42238:

(i) Annually increase the funding rate per unit of average daily attendance calculated pursuant to subparagraph (F) by the percentage increase pursuant to subdivision (b) of Section 42238.1 and multiply the resulting product by the school district's second principal apportionment average daily attendance for the current fiscal year excluding attendance in regional occupational centers/programs, adult education programs, and charter schools participating in the charter school block grant pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(ii) Annually increase the funding rate per unit of average daily attendance calculated pursuant to subparagraph (F) by the percentage increase pursuant to subdivision (b) of Section 42238.1 and multiply the resulting product by the school district's second principal apportionment average daily attendance for the current fiscal year in regional occupational centers/programs excluding attendance in charter schools participating in the charter school block grant pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(H) For the 2001–02 fiscal year and each fiscal year thereafter, for each county office of education that increases its salaries pursuant to subdivision (a), the Superintendent of Public Instruction shall add the sum of paragraphs (i) and (ii) to the county office of education revenue limit computed pursuant to Section 2550:

(i) Annually increase the funding rate per unit of average daily attendance calculated pursuant to subparagraph (F) by the percentage increase identified pursuant to Section 2557 and multiply the resulting product by the county office of education's second principal apportionment average daily attendance for the current fiscal year

excluding attendance in regional occupational centers/programs, adult education programs, and charter schools participating in the charter school block grant pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(ii) Annually increase the funding rate per unit of average daily attendance calculated pursuant to subparagraph (F) by the percentage increase identified pursuant to Section 2557 and multiply the resulting product by the county office of education's second principal apportionment average daily attendance for the current fiscal year in regional occupational centers/programs excluding attendance in charter schools participating in the charter school block grant pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(d) Any state funds received pursuant to this section and not used pursuant to the conditions of this section shall be returned to the state.

(e) If the funds requested by school districts, county superintendents of schools, and county offices of education for the 2000–01 fiscal year exceed the state appropriation for this section, the Superintendent of Public Instruction shall reduce all requests by the application of a single, common percentage factor for apportionment purposes, so as not to exceed the amount appropriated for this purpose.

(f) A school district or county office of education shall receive reimbursement pursuant to subdivision (c) only. However, this section does not prohibit a school district and its employees from negotiating salary schedules.

(g) The adjustments to school district and county office of education revenue limits prescribed in subparagraphs (C) and (D) of paragraph (1) of subdivision (c) and subparagraphs (G) and (H) of paragraph (2) of subdivision (c), respectively, shall continue so long as the increase in the salary schedule made pursuant to paragraph (2) of subdivision (b) or subdivision (i) is maintained.

(h) The Superintendent of Public Instruction shall issue appropriate forms to school districts and county offices of education no later than September 1, 2000. School districts, county superintendents of schools, or county offices of education shall notify the Superintendent of Public Instruction no later than December 31, 2000, regarding which option they wish to exercise for the 2000–01 fiscal year. School districts, county superintendents of schools, or county offices of education shall file their claim form for state funds with the Superintendent of Public Instruction no later than March 1, 2001.

(i) Adjustments made to school district or county office of education revenue limits pursuant to subparagraphs (C) and (D) of paragraph (1) of subdivision (c) and subparagraphs (G) and (H) of paragraph (2) of subdivision (c), respectively, shall not be considered part of the base

revenue limit for the purpose of computing equalization adjustments or determining other wealth-related differences in school funding.

(j) Notwithstanding subdivision (c), a school district or county office of education that already has as the annual minimum salary for beginning teachers who meet the criteria in subdivision (a) in an amount equal to or greater than thirty-four thousand dollars (\$34,000) shall be eligible to receive reimbursement pursuant to Option One.

SEC. 72. Section 48664 of the Education Code is amended to read:

48664. (a) (1) In addition to funds from all other sources, the Superintendent of Public Instruction shall apportion to each school district that operates a community day school four thousand dollars (\$4,000) per year, and for each county office of education that operates a community day school three thousand dollars (\$3,000) per year, for each unit of average daily attendance reported at the annual apportionment for pupil attendance at community day schools, adjusted annually commencing with the 1999–2000 fiscal year for the inflation adjustment calculated pursuant to subdivision (b) of Section 42238.1. Average daily attendance reported for this program shall not exceed 0.375 percent of a district's prior year P2 average daily attendance in an elementary school district, 0.5 percent of a district's prior year P2 average daily attendance in a unified school district, or 0.625 percent of a district's prior year P2 average daily attendance in a high school district. The units of average daily attendance of a community day school operated by a county office of education shall not exceed the unused units of average daily attendance of the community day schools operated by the school districts within the jurisdiction of that county office of education.

(2) The Superintendent of Public Instruction may reallocate to any school district any unexpended balance of the appropriations made for the purposes of this subdivision for actual pupil attendance in excess of the percentage specified in this subdivision for the school district in an amount not to exceed one-half of that percentage. However, the average daily attendance generated by pupils expelled pursuant to subdivision (d) of Section 48915, shall not be subject to these percentage caps on average daily attendance.

(b) The average daily attendance of a community day school shall be determined by dividing the total number of days of attendance in all full school months, by a divisor of 70 in the first period of each fiscal year, by a divisor of 135 in the second period of each fiscal year, and by a divisor of 180 at the annual time of each fiscal year.

(c) The Superintendent of Public Instruction shall apportion to each school district that operates a community day school an amount equal to four dollars (\$4), adjusted annually commencing with the 1999–2000 fiscal year for inflation pursuant to subdivision (b) of Section 42238.1,

multiplied by the total of the number of hours each schoolday, up to a maximum of two hours daily, that each community day school pupil remains at the community day school under the supervision of an employee of the school district, or a consortium of school districts pursuant to Section 48916.1, reporting the attendance of the pupils for apportionment funding following completion of the full six-hour instructional day.

(d) It is the intent of the Legislature that districts enter into consortia, as feasible, for the purpose of providing community day school programs. Any school district with fewer than 2,501 units of average daily attendance may request a waiver for any fiscal year of the funding limitations set forth in this section. The Superintendent of Public Instruction shall approve a waiver if he or she deems it necessary in order to permit the operation of a community day school of reasonably comparable quality to those offered in a school district with 2,501 or more units of average daily attendance. In no event shall the amount allocated pursuant to a waiver exceed the amount provided for one teacher pursuant to Section 42284, for pupils enrolled in kindergarten and grades 1 to 6, inclusive, or the amount provided for one teacher pursuant to Section 42284, for pupils enrolled in grades 7 to 12, inclusive. The provisions of this act shall not apply to any school district that applied for a waiver within the funding limits established by this subdivision but was denied funding or not fully funded.

(e) The State Department of Education shall evaluate and report to the appropriate legislative policy committees and budget committees on or before October 1, 1998, and for two years thereafter the following programmatic and fiscal issues:

- (1) The number of expulsions statewide.
- (2) The number of school districts operating community day schools.
- (3) Status of the countywide plans as defined in Section 48926.
- (4) An evaluation of the community day school average daily attendance funding percentage cap.
- (5) Number of small school districts requesting and the number receiving a waiver under this section.
- (6) The effect of hourly accounting under Section 48663 for purposes of receiving the additional funding under Section 48664.
- (7) The number of pupils and average daily attendance served in community day programs, further identified as the number expelled pursuant to subdivision (b) of Section 48915, subdivision (d) of Section 48915, other expulsion criteria, or referred through a formal district process.
- (8) Pupil outcome data and other data as required under Section 48916.1.

(9) Other programmatic or fiscal matters as determined by the State Department of Education.

(f) The additional funds provided in subdivisions (a), (c), and (d) shall only be allocated to the extent that funds are appropriated for this purpose in the annual Budget Act or other legislation, or both, except for pupils expelled pursuant to subdivision (d) of Section 48915. For pupils expelled pursuant to subdivision (d) of Section 48915, the funds apportioned under subdivision (a) are continuously appropriated from the General Fund to Section A of the State School Fund.

(g) A one-time adjustment shall be made to the amount specified in subdivision (a), for the 1998–99 fiscal year and subsequent fiscal years, by increasing that amount by the statewide average quotient resulting from dividing the average daily attendance specified in subparagraph (B) of paragraph (3) of subdivision (a) of Section 42238.8 by the amount specified in subparagraph (C) of paragraph (3) of subdivision (a) of Section 42238.8.

SEC. 73. Section 52054 of the Education Code is amended to read:

52054. (a) By November 15 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program shall contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

(b) The selected external evaluator shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator shall do all of the following:

(1) Inform the parents and legal guardians, in writing, that the school has been selected to participate in the Immediate Intervention/Underperforming Schools Program due to its below average performance.

(2) Hold a public meeting at the school, in cooperation with the principal, to which all parents and legal guardians of pupils in the school receive a written invitation. The invitation to the meeting may be combined with the written notice required by paragraph (1).

(3) Solicit, at the public meeting, the recommendations and opinions of the participating parents and legal guardians of pupils in the school regarding actions that should be taken to improve the performance of the school. These opinions and recommendations shall be considered by the

external evaluator and the community team in the development of the action plan pursuant to this section.

(4) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator and the community team in the development of the action plan pursuant to this section. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By February 15 of the school year in which the school is selected to participate, the selected external evaluator, in collaboration with the broad-based schoolsite and community team selected pursuant to subdivision (a), shall complete a review of the school that identifies weaknesses that contribute to the school's below average performance, make recommendations for improvement, and begin to develop an action plan to improve the academic performance of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the State Board of Education pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a scope that requires reimbursement by the Commission on State Mandates for its implementation.

(d) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

(2) Identify the current barriers at the school and district toward improvements in pupil achievement.

(3) Identify schoolwide and districtwide strategies to remove these barriers.

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding the achievement of English language learners, pupils with exceptional needs, pupils who qualify for free and reduced price meals, and all pupils, by race, ethnicity, and gender.

(6) Set short-term academic objectives pursuant to Section 52052 for a two-year period that will allow the school to make adequate progress toward the growth targets established for each participating school for

pupil achievement as measured by all of the following to the extent that the data is available for the school:

- (A) The achievement test administered pursuant to Section 60640.
- (B) Graduation rates for grades 7 to 12, inclusive.
- (C) Attendance rates for pupils and school personnel for elementary, middle, and secondary schools.
- (D) Any other indicators approved by the State Board of Education.
- (e) The school action plan shall focus on improving pupil academic performance, improving the involvement of parents and guardians, improving the effective and efficient allocation of resources and management of the school, and identifying and developing solutions that take into account the underlying causes for low performance by pupils.
- (f) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.
- (g) The school action plan may propose to increase the number of instructional days offered at the schoolsite and also may propose to increase up to a full 12 months the amount of time for which certificated employees are contracted, if all of the following conditions are met:
  - (1) Provisions of the plan proposed pursuant to this subdivision do not violate current applicable collective bargaining agreements.
  - (2) An agreement is reached with the exclusive representative concerning staffing specifically to accommodate the extended school year or 12-month contract.
- (h) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.
- (i) Upon its completion, the action plan shall be submitted to the governing board of the school districts for its approval. After the plan is approved, but no later than May 15 of the year that follows the year the school is selected to participate, the plan shall be submitted to the Superintendent of Public Instruction with a request for funding in the form prescribed by the Superintendent of Public Instruction, who shall review the school action plan and recommend approval or disapproval of the school's request for funding to the State Board of Education.
- (j) Not later than July 15 of the year next following the year in which a school is selected for participation, the State Board of Education shall review and approve or disapprove the school's request for funding, based on the recommendation of the Superintendent of Public Instruction. Within thirty days of the State Board of Education's review, the Superintendent of Public Instruction shall notify the effected school districts of the state of the board's action regarding the request for funding. In conjunction with its approval of a request for funding to implement a school's action plan, the State Board of Education may, at

the request of the governing board of the school district or the county board of education for a school under its jurisdiction, waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300.

SEC. 74. Section 52270 of the Education Code is amended to read: 52270. The Education Technology Grant Program is hereby established to provide one-time grants to school districts and charter schools for purposes of acquiring computers for instructional purposes at public schools. The Office of the Secretary for Education shall administer the application process for the award of grants.

(a) The first priority for the use of the funds is to ensure that high school pupils in schools offering three or fewer advanced placement courses have access to advanced placement courses online. Grants awarded for the first priority may be expended to purchase or lease computers and related equipment and for wiring or infrastructure necessary to achieve connectivity to online advanced placement courses.

(b) The second priority for the use of the funds is to increase the number of computers available to all other public schools that offer instruction in kindergarten or any of grades 1 to 12, inclusive. Grants awarded for the purposes of the second priority shall be awarded at the school district level and shall be based on a ratio of pupils per computer, as determined by the Office of the Secretary for Education. A school district that receives a grant shall award the funds to its schools that have the highest number of pupils per computer. Each education technology grant awarded based on the second priority shall only be used for the purchase or lease of computers including system configuration, software, and instructional material. The grant amount awarded to each school district or charter school for the second priority shall be determined by the Office of the Secretary for Education.

(c) All funds awarded pursuant to this section shall be used solely to purchase or lease equipment and related materials for instructional purposes and limited to classroom, library, or technology and media centers in order to provide access to online advanced placement courses for pupils and increase the number of computers per pupil. These grant funds are to supplement, not supplant, existing local, state, and federal education technology funds, including Digital High School funds.

(d) To receive a grant pursuant to this section, school districts and charter schools shall have developed an education technology plan or shall develop a plan with the assistance of the California Technology

Assistance Project specifically for the use of the funds available pursuant to this section within 90 days after submission of the application for a grant pursuant to this chapter. The plan shall address the use of these and other technology funds to ensure they are used effectively and in a manner consistent with other education technology available at the schoolsite. School districts and charter schools that choose to lease equipment shall include in their technology plan a payment schedule and shall identify the funding source or sources for lease payments over the life of the lease, including, but not limited to, establishing a technology leasing account and amortizing the available state funding over the term of the lease, if appropriate. In addition, the term of the lease shall be no longer than four years unless authorized at local discretion, in which case the lease or purchase shall be funded at local expense. A school district or charter school with an existing certified or approved education technology plan developed pursuant to other provisions of law may utilize the existing plan for the purposes of this program but shall, if necessary, amend that plan to meet the requirements of this subdivision if the school district or charter school chooses to lease the computers.

(e) School districts and charter schools may purchase or lease computers, related equipment and materials, and other goods and services using any statewide or cooperative contracts, schedules, or other agreements, established by the Department of General Services.

(f) Funding for the purposes of this section is contingent on an appropriation made in the annual Budget Act or other legislation, or both.

(g) Funds appropriated to carry out this section in the 2000–01 fiscal year shall only be available to high schools, or charter schools, that serve any of grades 9 to 12, inclusive.

(h) The Secretary for Education may adopt emergency regulations governing the method of allocating funds for the Education Technology Grant Program for the 2000–01 fiscal year.

SEC. 75. Section 52485 of the Education Code is amended to read:

52485. (a) The Legislature recognizes that home economics career technical education includes two distinct programs, consumer home economics education which is crucial to the economic and social well-being of individuals and families, and home economics related occupation programs, which provide a continued source of trained and qualified individuals for employment in various fields, including child development and education, consumer services, fashion design, manufacturing and merchandising, food science, dietetics and nutrition, food service and hospitality, hospitality, tourism and recreation, interior design, furnishings, and maintenance. These industries are of central importance to the economic growth and development of the state, and

their maintenance requires a continued source of trained and qualified individuals in order to maintain a productive workforce.

(b) The Legislature hereby declares that it is in the best interests of the people of the State of California that a comprehensive home economics careers and technology career technical program be created and maintained by the public school system to include instruction in consumer home economics education, which prepares individuals for effective personal life management and to be a member of a well-functioning family, and instruction in home economics related occupations education, in order to ensure both an adequate supply of trained and skilled individuals, and appropriate representation of racial and ethnic groups in all phases of the industries.

(c) For this purpose, the Legislature affirms that a program of home economics career technical education shall be a part of the curriculum of the public school system and made readily available to all school districts which may, at their option, include programs in career technical home economics education as a part of the curriculum of that district.

SEC. 76. Section 54749 of the Education Code is amended to read: 54749. (a) For the 2000–01 fiscal year and each fiscal year thereafter, a school district or county superintendent of schools participating in Cal-SAFE shall be eligible for state funding from funds appropriated for services provided for the purposes of the program as follows:

(1) A support services allowance of two thousand two hundred thirty-seven dollars (\$2,237) for each unit of average daily attendance generated by each pupil who has completed the intake process pursuant to subdivision (a) of Section 54746 and is receiving services pursuant to subdivision (b) of Section 54746. This allowance shall be adjusted annually by the inflation factor set forth in subdivision (b) of Section 42238.1. In no event shall more than one support service allowance be generated by any pupil concurrently enrolled in more than one educational program.

This allowance may not be claimed for units of average daily attendance reported pursuant to the following:

(A) Subdivision (b) of Section 1982 for pupils attending county community schools operated pursuant to Chapter 6.5 of Part 2 (commencing with Section 1980).

(B) Pupils attending juvenile court schools operated pursuant to Article 2.5 (commencing with Section 48645) of Chapter 4 of Part 27.

(C) Pupils attending community day schools operated pursuant to Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

(D) Pupils attending county operated Cal-SAFE programs pursuant to this article whose attendance is reported pursuant to Section 2551.3.

(2) Average daily attendance and revenue limit funding for pupils receiving services in the Cal-SAFE program shall be computed pursuant to provisions and regulations applicable to the educational program or programs that each pupil attends, except as provided in paragraph (3).

(3) For attendance not claimed pursuant to paragraph (2), county offices of education may claim the statewide average revenue limit per unit of average daily attendance for high school districts, payable from Section A of the State School Fund, for the attendance of pupils receiving services in the Cal-SAFE program, provided that no other revenue limit funding is claimed for the same pupil and pupil attendance of no less than 240 minutes per day and is computed and maintained pursuant to Section 46300.

(4) Except as provided in subdivision (c) of Section 54749.5, operators of Cal-SAFE programs shall be reimbursed in accordance with the amount specified in subdivision (b) of Section 8265 and the amounts specified in subdivisions (a) and (b) of Section 8265.5 for each child receiving services pursuant to the Cal-SAFE program who is the child of teen parents enrolled in the Cal-SAFE program. To be eligible for funding pursuant to this paragraph, the operational days of child care and development programs shall be only those necessary to provide child care services to children of pupils participating in Cal-SAFE.

(5) Notwithstanding paragraph (1), pupils for whom attendance is reported pursuant to subdivision (b) of Section 1982, pupils attending juvenile court schools, and pupils attending community day schools may complete the intake process for the Cal-SAFE program and, if the intake process is completed, shall receive services pursuant to subdivision (b) of Section 54746. The children of pupils receiving services in the Cal-SAFE program pursuant to subdivision (b) of Section 54746 and attending juvenile court schools, county community schools, or community day schools shall be eligible for funding pursuant to paragraph (4) and no other provisions of this section.

(b) Funds allocated pursuant to paragraph (1) of subdivision (a) shall be maintained in a separate account and shall be expended only to provide the supportive services enumerated in subdivision (b) of Section 54746, in-service training as specified in subdivision (d) of Section 54746, and expenditures enumerated in subdivision (d) of this section, to pupils enrolled in the Cal-SAFE program as determined pursuant to Section 54746.

(c) Funds allocated pursuant to paragraph (4) of subdivision (a) shall be maintained in a separate account and shall be expended only to provide developmentally appropriate child care and development services pursuant to subdivision (c) of Section 54746 and staff development of child development program staff pursuant to subdivision (d) of Section 54746 for children of teen parents enrolled in

the Cal-SAFE program for the purpose of promoting the children's development comparable to age norms, access to health and preventive services, and enhanced school readiness.

(d) Funds generated pursuant to Section 2551.3 and this section shall be maintained in a separate account and shall be expended only to provide the services enumerated in Section 54746 and the following expenditures as defined by the California State School Accounting Manual:

- (1) Expenditures defined as direct costs of instructional programs.
- (2) Expenditures defined as documented direct support costs.
- (3) Expenditures defined as allocated direct support costs.
- (4) Expenditures for indirect charges.
- (5) Expenditures defined as facility costs, including the costs of renting, leasing, lease purchase, remodeling, or improving buildings.

(e) Indirect costs shall not exceed the lesser of the approved indirect cost rate or 10 percent.

(f) Expenditures that represent contract payments to community-based organizations and other governmental agencies pursuant to paragraph (10) of subdivision (b) of Section 54745 for the operation of a Cal-SAFE program shall be included in the Cal-SAFE program account.

(g) To the extent permitted by federal law, any funding made available to a school district or county superintendent of schools shall be subject to all of the following conditions:

- (1) The program is open to all eligible pupils without regard to any pupil's religious beliefs or any other factor related to religion.
- (2) No religious instruction is included in the program.
- (3) The space in which the program is operated is not used in any manner to foster religion during the time used for operation of the program.

(h) A school district or county superintendent of schools implementing a Cal-SAFE program may establish a claims process to recover federal funds available for any services provided that are Medi-Cal eligible.

(i) For purposes of serving pupils enrolled in the Cal-SAFE program in a summer school program or enrolled in a school program operating more than 180 days, eligibility for child care services pursuant to subdivision (c) of Section 54746 shall be determined by the parent's hours of enrollment and shall be for only those hours necessary to further the completion of the parent's educational program.

(j) To meet startup costs for the opening of child care and development sites, as defined in subdivision (ac) of Section 8208, and applicable regulations, a school district or county office of education may apply for a one-time 15-percent service level exemption within the

amount appropriated in the annual Budget Act for the purposes of paragraph (4) of subdivision (a) for each site meeting the provision of subdivision (ac) of Section 8208. To the extent that Budget Act funding is insufficient to cover the full costs of Cal-SAFE child care, reimbursements to all participating programs shall be reduced on a pro rata basis. A school district or county office of education shall submit claims pursuant to this subdivision with other claims submitted pursuant to this section. Funding provided for startup costs shall be utilized for approvable startup costs enumerated in subdivision (a) of Section 8275.

(k) Notwithstanding any other provision of this article, implementation of this article is contingent upon appropriations in the annual Budget Act for the purpose of its administration and evaluation by the State Department of Education.

(l) Notwithstanding any other provision of law, a charter school may apply for funding pursuant to this article and shall meet the requirements of this article to be eligible for funding pursuant to this section.

SEC. 77. Section 56045 of the Education Code is amended to read: 56045. (a) The superintendent shall send a notice to the governing board of each local education agency within 30 days of when the superintendent determines any of the following:

(1) The district, special education local plan area, or county office is substantially out of compliance with one or more significant provisions of this part, the implementing regulations, provisions of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or the implementing regulations.

(2) The district, special education local plan area, or county office fails to comply substantially with corrective action orders issued by the department resulting from focused monitoring findings or complaint investigations.

(3) The district, special education local plan area, or county office fails to implement the decision of a due process hearing officer for noncompliance with provisions of this part, the implementing regulations, provisions of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or the implementing regulations, which noncompliance results in the denial of, or impedes the delivery of, a free and appropriate public education for an individual with exceptional needs.

(b) The notice shall provide a description of the special education and related services that are required by law and with which the district, special education local plan area, or county office is not in compliance.

(c) Upon receipt of the notification sent pursuant to subdivision (a), the governing board shall at a regularly scheduled public hearing address the issue of noncompliance.

SEC. 78. Section 56845 of the Education Code is amended to read:

56845. (a) The superintendent may withhold, in whole or in part, state funds or federal funds allocated under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) from a district, special education local plan area, or county office after reasonable notice and opportunity for a hearing if the superintendent finds either of the following:

(1) The district, special education local plan area, or county office failed to comply substantially with a provision of state law, federal law, or regulations governing the provision of special education and related services to individuals with exceptional needs which results in the failure to comply substantially with corrective action orders issued by the department resulting from monitoring findings or complaint investigations.

(2) The district, special education local plan area, or county office failed to implement the decision of a due process hearing officer based on noncompliance with provisions of this part, the implementing regulations, provisions of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or the implementing regulations, which noncompliance results in the denial of, or impedes the delivery of, a free and appropriate public education for an individual with exceptional needs.

(b) When the superintendent determines that a district, special education local plan area, or county office made substantial progress toward compliance with state law, federal law, or regulations governing the provision of special education and related services to individuals with exceptional needs, the superintendent may apportion the state or federal funds withheld from the district, special education local plan area, or county office.

(c) Notwithstanding any other provision of law, state funds may not be allocated to offset any federal funding intended for individuals with exceptional needs, as defined in Section 56026, and withheld from a local educational agency due to the agency's noncompliance with state or federal law.

(d) For purposes of this section, in order to enter into contracts with one or more local education agencies to serve individuals with exceptional needs who are not being served as required under this part, the department is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

SEC. 79. Section 69432.7 of the Education Code is amended to read:

69432.7. As used in this chapter, the following terms have the following meanings:

(a) An “academic year” is July 1 to June 30, inclusive. The starting date of a session shall determine the academic year in which it is included.

(b) “Access costs” means living expenses and expenses for transportation, supplies, and books.

(c) “Award year” means one academic year, or the equivalent, of attendance at a qualifying institution.

(d) “College grade point average” and “community college grade point average” mean a grade point average calculated on the basis of all college work completed, except for nontransferable units and courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree.

(e) “Commission” means the Student Aid Commission.

(f) “Enrollment status” means part-time status or full-time status.

(1) Part time, for purposes of Cal Grant eligibility, is defined as 6 to 11 semester units, inclusive, or the equivalent.

(2) Full time, for purposes of Cal Grant eligibility, is defined as 12 or more semester units or the equivalent.

(g) “Expected family contribution,” with respect to an applicant, shall be determined using the federal methodology pursuant to subdivision (a) of Section 69506 (as established by Title IV of the federal Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.)) and applicable rules and regulations adopted by the commission.

(h) “High school grade point average” means a grade point average calculated on a 4.0 scale, using all academic coursework, for the sophomore year, the summer following the sophomore year, the junior year, and the summer following the junior year, excluding physical education, reserve officer training corps (ROTC), and remedial courses, and computed pursuant to regulations of the commission. However, for high school graduates who apply after their senior year, “high school grade point average” includes senior year coursework.

(i) “Instructional program of not less than one academic year” means a program of study that results in the award of an associate or baccalaureate degree or certificate requiring at least 24 semester units or the equivalent, or that results in eligibility for transfer from a community college to a baccalaureate degree program.

(j) “Instructional program of not less than two academic years” means a program of study that results in the award of an associate or baccalaureate degree requiring at least 48 semester units or the equivalent, or that results in eligibility for transfer from a community college to a baccalaureate degree program.

(k) “Maximum household income and asset levels” means the applicable household income and household asset levels for participants in the Cal Grant Program, as defined and adopted in regulations by the

commission for the 2001–02 academic year, which shall be set pursuant to the following income and asset ceiling amounts:

CAL GRANT PROGRAM INCOME CEILINGS

	Cal Grant A, C, and T	Cal Grant B
Dependent and Independent students with dependents*		
Family Size		
Six or more	\$74,100	\$40,700
Five	\$68,700	\$37,700
Four	\$64,100	\$33,700
Three	\$59,000	\$30,300
Two	\$57,600	\$26,900
Independent		
Single, no dependents	\$23,500	\$23,500
Married	\$26,900	\$26,900

\*Applies to independent students with dependents other than a spouse.

CAL GRANT PROGRAM ASSET CEILINGS

	Cal Grant A, C, and T	Cal Grant B
Dependent**	\$49,600	\$49,600
Independent	\$23,600	\$23,600

\*\*Applies to independent students with dependents other than a spouse.

The commission shall annually adjust the maximum household income and asset levels based on the percentage change in the cost of living within the meaning of paragraph (1) of subdivision (e) of Section 8 of Article XIII B of the California Constitution.

(l) “Qualifying institution” means any of the following:

(1) Any California private or independent postsecondary educational institution that participates in the Pell Grant program and in at least two of the following federal campus-based student aid programs:

(A) Federal Work-Study.

(B) Perkins Loan Program.

(C) Supplemental Educational Opportunity Grant Program.

(2) Any nonprofit institution headquartered and operating in California that certifies to the commission that 10 percent of the

institution's operating budget, as demonstrated in an audited financial statement, is expended for the purposes of institutionally funded student financial aid in the form of grants, that demonstrates to the commission that it has the administrative capacity to administer the funds, that is accredited by the Western Association of Schools and Colleges, and that meets any other state-required criteria adopted by regulation by the commission in consultation with the Department of Finance. A regionally accredited institution that was deemed qualified by the commission to participate in the Cal Grant Program for the 2000-01 academic year shall retain its eligibility as long as it maintains its existing accreditation status.

(3) Any California public postsecondary educational institution.

(m) "Satisfactory academic progress" means those criteria required by applicable federal standards published in Title 34 of the Code of Federal Regulations. The commission may adopt regulations defining "satisfactory academic progress" in a manner that is consistent with those federal standards.

SEC. 80. Section 69434.5 of the Education Code is amended to read:

69434.5. An individual selected for a Cal Grant A award who enrolls in a California community college may elect to have the award held in reserve for him or her for a period not to exceed two academic years, except that the commission may extend the period in which his or her award may be held in reserve for up to three academic years if, in the commission's judgment, the rate of academic progress has been as rapid as could be expected for the personal and financial conditions that the student has encountered. The commission shall, in this case, hold the award in reserve for the additional year. Upon receipt of a request to transfer the award to a tuition or fee charging qualifying institution, the individual shall be eligible to receive the Cal Grant A award previously held in reserve if, at the time of the request, he or she meets all of the requirements of this article. Upon receipt of the request, the commission shall reassess the financial need of the award recipient. The commission may prescribe the forms and procedures to be utilized for the purposes of this section. A recipient's years of eligibility for payment of benefits shall be based upon his or her grade level at the time the award is transferred to the tuition or fee charging qualifying institution.

SEC. 81. Section 69437.6 of the Education Code is amended to read:

69437.6. (a) An applicant competing for an award under this article shall meet all the requirements of Article 1 (commencing with Section 69430).

(b) To compete for a competitive Cal Grant A award, an applicant shall, at a minimum, meet all of the requirements of Article 2

(commencing with Section 69434), with the exception of paragraph (1) of subdivision (b) of Section 69434.

(c) To compete for a competitive Cal Grant B award, an applicant shall, at a minimum, meet all of the requirements of Article 3 (commencing with Section 69435). However, in lieu of meeting the grade point average requirements of paragraph (3) of subdivision (a) of Section 69435.3, a student may reestablish his or her grade point average by completing at least 16 cumulative units of credit for academic coursework at an accredited California Community College, as defined by the commission, by regulation, with at least a 2.0 community college grade point average.

(d) To compete for a competitive California Community College Transfer Cal Grant Award, an applicant shall, at a minimum, meet the requirements of Article 4 (commencing with Section 69436), with the exception of paragraph (8) of subdivision (b) of Section 69436.

(e) All other competitors shall, at a minimum, comply with all of the requirements of subdivision (b) of Section 69432.9.

(f) An individual selected for a Cal Grant A award who enrolls in a California Community College may elect to have the award held in reserve for him or her for a period not to exceed two academic years, except that the commission may extend the period in which his or her award may be held in reserve for up to three academic years if, in the commission's judgment, the rate of academic progress has been as rapid as could be expected for the personal and financial conditions that the student has encountered. The commission shall, in this case, hold the award in reserve for the additional year. Upon receipt of a request to transfer the award to a tuition or fee charging qualifying institution, the individual shall be eligible to receive the Cal Grant A award previously held in reserve if, at the time of the request, he or she meets all of the requirements of this article. Upon receipt of the request, the commission shall reassess the financial need of the award recipient. The commission may prescribe the forms and procedures to be utilized for the purposes of this section. A recipient's years of eligibility for payment of benefits shall be based upon his or her grade level at the time the award is transferred to the tuition or fee charging qualifying institution. Any award so held in reserve shall only be counted once toward the 22,500 awards authorized by this article.

SEC. 82. Section 69439 of the Education Code is amended to read:

69439. (a) Commencing with the 2001-02 academic year, and each academic year thereafter, a Cal Grant C award shall be utilized only for occupational or technical training in a course of not less than four months. There shall be the same number of Cal Grant C awards each year as were made in the 2000-01 fiscal year. The maximum award amount

and the total amount of funding shall be determined each year in the annual Budget Act.

(b) "Occupational or technical training" means that phase of education coming after the completion of a secondary school program and leading toward recognized occupational goals approved by the commission.

(c) The commission may use criteria it deems appropriate in selecting students with occupational talents to receive grants for occupational or technical training.

(d) The Cal Grant C recipients shall be eligible for renewal of their grants until they have completed their occupational or technical training in conformance with terms prescribed by the commission. In no case shall the grants exceed two calendar years.

(e) Cal Grant C awards shall be for institutional fees, charges, and other costs, including tuition, plus training-related costs, such as special clothing, local transportation, required tools, equipment, supplies, and books. In determining the amount of grants and training-related costs, the commission shall take into account other state and federal programs available to the applicant.

(f) Cal Grant C awards shall be awarded in areas of occupational or technical training as determined by the commission after consultation with appropriate state and federal agencies.

SEC. 83. Section 69613.1 of the Education Code is amended to read:

69613.1. The Superintendent of Public Instruction shall furnish the commission with all of the following:

(a) Commencing January 1, 1990, and every January 1 thereafter, a list of teaching fields that have the most critical shortage of teachers. The superintendent shall review this list annually and revise the list as he or she deems necessary. Commencing January 1, 2001, the list of shortage areas furnished pursuant to this subdivision shall include the state special schools as a category separate from special education.

(b) A list of schools that serve a large population of pupils from low-income families, as designated for purposes of the Perkins Loan Program, or according to standards the superintendent deems appropriate.

(c) Commencing January 31, 2001, and every January 1 thereafter, a list of schools with a high percentage of teachers holding emergency permits. The list shall be established according to criteria determined by the superintendent.

(d) Commencing January 31, 2001, and every January 1 thereafter, a list of schools serving rural areas. The list shall be established according to standards deemed appropriate by the superintendent.

(e) Commencing January 31, 2001, and every January 1 thereafter, a list of low-performing schools.

SEC. 84. Section 87164 of the Education Code is amended to read:

87164. (a) An employee or applicant for employment with a public school employer who files a written complaint with his or her supervisor, a community college administrator, or the public school employer alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts prohibited by Section 87163 for having disclosed improper governmental activities or for refusing to obey an illegal order may also file a copy of the written complaint with the local law enforcement agency, together with a sworn statement that the contents of the written complaint are true, or are believed by the affiant to be true, under penalty of perjury. The complaint filed with the local law enforcement agency shall be filed within 12 months of the most recent act of reprisal that is the subject of the complaint.

(b) A person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against an employee or applicant for employment with a public school employer for having made a protected disclosure is subject to a fine not to exceed ten thousand dollars (\$10,000) and imprisonment in the county jail for a period not to exceed one year. An employee, officer, or administrator who intentionally engages in that conduct shall also be subject to discipline by the public school employer. If no adverse action is instituted by the public school employer and it is determined that there is reasonable cause to believe that an act of reprisal, retaliation, threats, coercion, or similar acts prohibited by Section 87163 occurred, the local law enforcement agency may report the nature and details of the activity to the governing board of the community college district.

(c) In addition to all other penalties provided by law, a person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against an employee or applicant for employment with a public school employer for having made a protected disclosure shall be liable in an action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court where the acts of the offending party are proven to be malicious. Where liability has been established, the injured party shall also be entitled to reasonable attorney's fees as provided by law. However, an action for damages shall not be available to the injured party unless the injured party has first filed a complaint with the local law enforcement agency.

(d) This section is not intended to prevent a public school employer, school administrator, or supervisor from taking, failing to take, directing others to take, recommending, or approving a personnel action with respect to an employee or applicant for employment with a public school employer if the public school employer, school administrator, or

supervisor reasonably believes an action or inaction is justified on the basis of evidence separate and apart from the fact that the person has made a protected disclosure as defined in subdivision (e) of Section 87162.

(e) In any civil action or administrative proceeding, once it has been demonstrated by a preponderance of evidence that an activity protected by this article was a contributing factor in the alleged retaliation against a former, current, or prospective employee, the burden of proof shall be on the supervisor, school administrator, or public school employer to demonstrate by clear and convincing evidence that the alleged action would have occurred for legitimate, independent reasons even if the employee had not engaged in protected disclosures or refused an illegal order. If the supervisor, school administrator, or public school employer fails to meet this burden of proof in an adverse action against the employee in any administrative review, challenge, or adjudication in which retaliation has been demonstrated to be a contributing factor, the employee shall have a complete affirmative defense in the adverse action.

(f) Nothing in this article shall be deemed to diminish the rights, privileges, or remedies of an employee under any other federal or state law or under an employment contract or collective bargaining agreement.

(g) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action.

SEC. 85. Section 92901 of the Education Code is amended to read: 92901. It is the intent of the Legislature that all of the following occur:

(a) That the University of California receive seventy-five million dollars (\$75,000,000) for each year for four years, for a total of three hundred million dollars (\$300,000,000) for the 2000–01 fiscal year to the 2003–04 fiscal year, inclusive, for capital and operating budget purposes.

(b) That a portion of the funds referenced in subdivision (a) be available, in an amount not to exceed 5 percent of the annual appropriation, for annual operating budget expenditures. At the end of four years, the level of ongoing funding for the operating budget of the institutes will be determined by the Governor and the Legislature through the annual budget process.

(c) That the University of California not seek further state funding for capital outlay associated with these three institutes beyond that provided within the three hundred million dollar (\$300,000,000) total.

(d) That every dollar of state funds appropriated for these institutes be matched by at least two dollars (\$2) of nonstate funds, including, but not necessarily limited to, federal and private funds.

SEC. 86. Section 1405 of the Elections Code is amended to read:

1405. (a) Except as provided below, the election for a county, municipal, or district initiative that qualifies pursuant to Section 9116, 9214, or 9310 shall be held not less than 88 nor more than 103 days after the date of the order of election.

(1) When it is legally possible to hold a special election on an initiative measure that has qualified pursuant to Section 9116, 9214, or 9310 within 180 days prior to a regular or special election occurring wholly or partially within the same territory, the election on the initiative measure may be held on the same date as, and be consolidated with, that regular or special election.

(2) To avoid holding more than one special election within any 180-day period, the date for holding the special election on an initiative measure that has qualified pursuant to Section 9116, 9214, or 9310, may be fixed later than 103 days but at as early a date as practicable after the expiration of 180 days from the last special election.

(3) Not more than one special election for an initiative measure that qualifies pursuant to Section 9116, 9214, or 9310 may be held by a jurisdiction during any period of 180 days.

(b) The election for a county initiative that qualifies pursuant to Section 9118 shall be held at the next statewide election occurring not less than 88 days after the date of the order of election. The election for a municipal or district initiative that qualifies pursuant to Section 9215 or 9311 shall be held at the jurisdiction's next regular election occurring not less than 88 days after the date of the order of election.

SEC. 87. Section 8040 of the Elections Code is amended to read:

8040. (a) The declaration of candidacy by a candidate shall be substantially as follows:

DECLARATION OF CANDIDACY

I hereby declare myself a \_\_\_\_ Party candidate for nomination to the office of \_\_\_\_ District Number \_\_\_\_ to be voted for at the primary election to be held \_\_\_\_, 20\_\_, and declare the following to be true:

My name is \_\_\_\_\_.

I want my name and occupational designation to appear on the ballot as follows: \_\_\_\_\_.

Addresses:

Residence \_\_\_\_\_

Business \_\_\_\_\_

\_\_\_\_\_

Mailing \_\_\_\_\_

Telephone numbers: Day \_\_\_\_\_ Evening \_\_\_\_\_

I meet the statutory and constitutional qualifications for this office (including, but not limited to, citizenship, residency, and party affiliation, if required).

I am at present an incumbent of the following public office (if any) \_\_\_\_\_.

If nominated, I will accept the nomination and not withdraw.

\_\_\_\_\_  
Signature of candidate

State of California )  
County of \_\_\_\_\_ ) ss.  
)

Subscribed and sworn to before me this \_\_\_ day of \_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public (or other official)

Examined and certified by me this \_\_\_ day of \_\_\_\_, 20\_\_.

\_\_\_\_\_  
Registrar of Voters—County Clerk

**WARNING:** Every person acting on behalf of a candidate is guilty of a misdemeanor who deliberately fails to file at the proper time and in the proper place any declaration of candidacy in his or her possession which is entitled to be filed under the provisions of the Elections Code Section 18202.

(b) A candidate for a judicial office may not be required to state his or her residential address on the declaration of candidacy. However, in cases where the candidate does not state his or her residential address on the declaration of candidacy, the elections official shall verify whether his or her address is within the appropriate political subdivision and add the notation “verified” where appropriate.

SEC. 88. Section 9118 of the Elections Code is amended to read:

9118. If the initiative petition is signed by voters not less in number than 10 percent of the entire vote cast in the county for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate an initiative petition, the board of supervisors shall do one of the following:

(a) Adopt the ordinance without alteration at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.

(b) Submit the ordinance, without alteration, to the voters pursuant to subdivision (b) of Section 1405, unless the ordinance petitioned for is required to be, or for some reason is, submitted to the voters at a special election pursuant to subdivision (a) of Section 1405.

(c) Order a report pursuant to Section 9111 at the regular meeting at which the certification of the petition is presented. When the report is presented to the board of supervisors, it shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

SEC. 89. Section 15375 of the Elections Code is amended to read: 15375. The elections official shall send to the Secretary of State within 35 days of the election in the manner requested one complete copy of all results as to all of the following:

(a) All candidates voted for statewide office.

(b) All candidates voted for the following offices:

(1) Member of the Assembly.

(2) Member of the Senate.

(3) Member of the United States House of Representatives.

(4) Member of the State Board of Equalization.

(5) Justice of the Court of Appeal.

(6) Judge of the superior court.

(7) Judge of the municipal court.

(c) All persons voted for at the presidential primary. The results for all persons voted for at the presidential primary for delegates to national conventions shall be canvassed and shall be sent within 28 days after the election. The results at the presidential primary for candidates for President to whom delegates of a political party are pledged shall be reported according to the number of votes each candidate received from all voters and separately according to the number of votes each candidate received from voters affiliated with each political party qualified to participate in the presidential primary election, and from voters who have declined to affiliate with a qualified political party.

(d) The vote given for persons for electors of President and Vice President of the United States. The results for presidential electors shall be endorsed "Presidential Election Returns."

(e) All statewide measures.

SEC. 90. Section 17504 of the Family Code is amended to read:

17504. The first fifty dollars (\$50) of any amount of child support collected in a month in payment of the required support obligation for that month shall be paid to a recipient of aid under Article 2 (commencing with Section 11250) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, except recipients of foster care payments under Article 5 (commencing with Section 11400) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code shall not be considered income or resources of the recipient family, and shall not

be deducted from the amount of aid to which the family would otherwise be eligible. The local child support agency in each county shall ensure that payments are made to recipients as required by this section.

SEC. 91. Section 761.5 of the Financial Code is amended to read:  
761.5. (a) In this section:

(1) "Depository institution" has the meaning set forth in Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(c)).

(2) "Depository institution holding company" has the meaning set forth in Section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(w)).

(b) Notwithstanding any provision of this code to the contrary, and except as the commissioner may otherwise order, a California state bank may purchase for its own account shares of the stock of an insured bank or of a holding company that owns or controls an insured bank if the stock of the bank or company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions or depository institution holding companies and if the bank or company and all subsidiaries thereof are engaged exclusively in providing services to or for other depository institutions, their holding companies, and the officers, directors, and employees of these institutions and companies and in providing correspondent banking services at the request of other depository institutions or their holding companies.

SEC. 92. Section 4827 of the Financial Code is amended to read:  
4827. Except as expressly provided otherwise in this division:

(a) (1) No sale of a whole business unit (as defined in Section 4840) or merger in which the selling or disappearing depository corporation is a California state savings association, in which the purchasing or surviving depository corporation is a California state bank, a California industrial loan company, or a California state-licensed foreign (other nation) bank, and which may be effected with the approval of the commissioner pursuant to this division is prohibited or restricted by any provision of Division 2 (commencing with Section 5000) or requires any approval, consent, or other authorization of the commissioner pursuant to Division 2 (commencing with Section 5000).

(2) No conversion in which the converting depository corporation is a California state savings association in which the resulting depository corporation is a California state bank or a California industrial loan company, and which may be effected with the approval of the commissioner pursuant to this division is prohibited or restricted by any provision of Division 2 (commencing with Section 5000) or requires any approval, consent, or other authorization of the commissioner pursuant to Division 2 (commencing with Section 5000).

(b) (1) No sale of a whole business unit (as defined in Section 4840) or merger in which the selling or disappearing depository corporation is a California state bank, a California state-licensed foreign (other nation) bank, or a California industrial loan company, in which the purchasing or surviving depository corporation is a California state savings association, and which may be effected with the approval of the commissioner pursuant to this division is prohibited or restricted by any provision of Division 1 (commencing with Section 99), except the provisions of Chapter 22 (commencing with Section 3800) of Division 1, or requires any approval, consent, or other authorization of the commissioner pursuant to Division 1, except as may be required under the provisions of Chapter 22 (commencing with Section 3800) of Division 1.

(2) No conversion in which the converting depository corporation is a California state bank or a California industrial loan company, in which the resulting depository corporation is a California state savings association, and which may be effected with the approval of the commissioner pursuant to this division is prohibited or restricted by any provision of Division 1 (commencing with Section 99), except the provisions of Chapter 22 (commencing with Section 3800) of Division 1, or requires any approval, consent, or other authorization of the commissioner pursuant to Division 1, except as may be required under the provisions of Chapter 22 (commencing with Section 3800) of Division 1.

SEC. 93. Section 16024 of the Financial Code is amended to read:

16024. (a) Within 30 days of establishing a California facility, a foreign (other state) credit union shall notify the commissioner in writing of its intent to establish a California facility. The notice shall identify the proposed location of the facility, describe its proposed activities, and contain any other information which the commissioner may by regulation or order specify.

(b) A foreign (other state) credit union shall not commence business at a proposed facility without a license having been issued by the commissioner.

SEC. 94. Section 16501 of the Financial Code is amended to read: 16501. In this chapter:

(a) "Agency," when used with respect to a foreign (other nation) credit union, means an office in this state at which the foreign (other nation) credit union transacts credit union business, other than branch business.

(b) "Branch business" means the business of issuing shares or certificates, receiving deposits, paying checks, making loans, and other activities that the commissioner may specify by order or regulation.

(c) "Branch office," when used with respect to a foreign (other nation) credit union, means an office in this state at which the foreign (other nation) credit union engages in branch business.

(d) "Business in this state," when used with respect to a foreign (other nation) credit union that is licensed to maintain one or more offices, includes the aggregate business of all of the offices.

(e) "Foreign nation" means any nation other than the United States, including, without limitation, any subdivision, territory, trust territory, dependency, colony, or possession of any nation other than the United States.

(f) "Foreign (other nation) credit union" means any credit union or similar institution that is organized under the laws of a foreign nation.

(g) "Foreign (other state) state credit union" means a credit union that is organized under the laws of a state of the United States other than California.

(h) "Home country," when used with respect to a foreign (other nation) credit union, means the foreign nation under whose laws the foreign (other nation) credit union is organized.

(i) "Home country regulator," when used with respect to a foreign (other nation) credit union, means the regulatory agency in the home country of the foreign (other nation) credit union that has primary regulatory authority over the foreign (other nation) credit union.

(j) (1) "License" means a license issued under this chapter, authorizing a foreign (other nation) credit union to maintain an office.

(2) To be "licensed" means to be issued or to hold a license.

(3) To be "licensed to transact business in this state," when used with respect to a foreign (other nation) credit union, means that the foreign (other nation) credit union is licensed to maintain an agency or branch office.

(k) "Office," when used with respect to a foreign (other nation) credit union, means a branch office, an agency, or a representative office maintained by the foreign (other nation) credit union.

(l) "Representative office," when used with respect to a foreign (other nation) credit union, means an office in this state at which the foreign (other nation) credit union engages in representational functions but at which it does not transact business.

(m) "State of the United States" means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

SEC. 95. Section 18586 of the Financial Code is amended to read: 18586. The provisions of Sections 18023, 18024, 18120, 18205, 18268, 18269, 18271, 18272, 18274, and 18455 shall not apply to a premium finance agency.

SEC. 96. Section 1506 of the Fish and Game Code is amended to read:

1506. (a) The fisheries management program described in the Kings River Fisheries Management Program Framework Agreement, effective May 28, 1999, as approved by the department, is adopted and authorized. The department may contribute, from the Fish and Game Preservation Fund, or otherwise upon appropriation by the Legislature, up to 50 percent of any capital costs incurred by local agencies for the recreation and fish and wildlife enhancement features of the program.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends that date.

SEC. 97. Section 2921 of the Fish and Game Code is amended to read:

2921. For purposes of this chapter, the following terms shall have the following meanings:

(a) "Conservation district" means the Suisun Resource Conservation District.

(b) "Early flooding program" means the flooding of privately owned wetlands on which waterfowl ponds are located and that are initially flooded prior to October 1 of each year and that may remain flooded after that date.

(c) "Late flooding program" means the flooding of privately owned wetlands on which waterfowl ponds are located and that are initially flooded on or after October 1 of each year.

(d) "Mosquito district" means the Solano County Mosquito Abatement District.

(e) "Program" means the Suisun Marsh Wetland Enhancement and Mosquito Abatement Demonstration Program.

SEC. 98. Section 8276.3 of the Fish and Game Code is amended to read:

8276.3. (a) If there is any delay ordered by the director pursuant to Section 8276.2 in the opening of the Dungeness crab fishery in Districts 6, 7, 8, and 9, a vessel may not take or land crab within Districts 6, 7, 8, and 9 during any closure.

(b) If there is any delay in the opening of the Dungeness crab season pursuant to Section 8276.2, the opening date in Districts 6, 7, 8, and 9 shall be preceded by a 36-hour gear setting period, as ordered by the director.

(c) This section shall become inoperative on April 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 99. Section 492 of the Food and Agricultural Code is amended to read:

492. (a) The Legislature hereby creates the Food Biotechnology Task Force. The task force shall be cochaired by the Secretary of the California Health and Welfare Agency, the Secretary of the California Trade and Commerce Agency, and the Secretary of the California Department of Food and Agriculture. The task force shall consult with appropriate state agencies and the University of California. The California Department of Food and Agriculture shall be the lead agency.

(b) An advisory committee shall be appointed by the task force to provide input on issues reviewed by the task force. The advisory committee shall consist of representatives from consumer groups, environmental organizations, farmers, ranchers, representatives from the biotechnology industry, researchers, organic farmers, food processors, retailers, and others with interests in the issues surrounding biotechnology.

(c) The California Department of Food and Agriculture shall make funds available to other agencies to accomplish the purposes of this article and shall contract, where appropriate, with the California Council on Science and Technology, the University of California, or other entities to review issues evaluated by the task force or support activities of the advisory committee.

(d) The task force may request particular agencies to lead the effort to evaluate various factors related to food biotechnology. As funding becomes available, the task force shall evaluate factors including all of the following:

(1) Definition and categorization of food biotechnology and production processes.

(2) Scientific literature on the subject, and a characterization of information resources readily available to consumers.

(3) Issues related to domestic and international marketing of biotechnology foods such as the handling, processing, manufacturing, distribution, labeling, and marketing of these products.

(4) Potential benefits and impacts to human health, the state's economy, and the environment accruing from food biotechnology.

(5) Existing federal and state evaluation and oversight procedures.

(e) The task force shall report issues studied, findings, basis for their findings, and recommendations to the Governor and the Legislature by January 1, 2003.

(f) An initial sum of one hundred twenty-five thousand dollars (\$125,000) is hereby appropriated from the General Fund for disbursement to the California Department of Food and Agriculture. It is the intent of the Legislature to make further funds available to accomplish the purposes contained in this article.

SEC. 100. Section 6046 of the Food and Agricultural Code is amended to read:

6046. (a) There is hereby created in the Department of Food and Agriculture the Pierce's Disease Control Program.

(b) The Governor shall appoint a statewide coordinator, and the secretary shall provide an appropriate level of support staffing and logistical support for combating Pierce's disease and its vectors.

(c) (1) There is hereby created the Pierce's Disease Management Account in the Food and Agriculture Fund.

(2) The account shall consist of money transferred from the General Fund under subdivision (d) and money made available from federal, industry, and other sources. Money made available from federal, industry, and other sources shall be available for expenditure without regard to fiscal year for the purpose of combating Pierce's disease or its vectors. State general funds to be utilized for research shall only be expended when the secretary has received commitments from nonstate sources for at least a 25-percent match for each state dollar to be expended.

(d) (1) The sum of six million nine hundred thousand dollars (\$6,900,000) is hereby appropriated from the General Fund to the account created by this article in the Department of Food and Agriculture Fund and shall be available for expenditure by the department without regard to fiscal year for the purpose of combating Pierce's disease or its vectors.

(2) It is the intent of the Legislature that a total of thirteen million eight hundred thousand dollars (\$13,800,000) be made available from the General Fund for purposes of providing funding to the program established by subdivision (a). Therefore, it is further the intent of the Legislature, in addition to the appropriation in paragraph (1), to appropriate six million nine hundred thousand dollars (\$6,900,000) from the General Fund in the Budget Act of 2000 to the department for the purpose of funding the program established by subdivision (a).

(e) The funds appropriated pursuant to this section to the Food and Agriculture Fund for the purpose of combating Pierce's disease and its vectors shall be used for costs that are incurred by the state or by local entities during and subsequent to the fiscal year of the act that added this section for the purpose of research and other efforts to combat Pierce's disease and its vectors.

(f) Whenever, in any county, funds are allocated by the Department of Food and Agriculture for local assistance regarding Pierce's disease and its vectors, those funds shall be made available to a local public entity, or local public entities, designated by that county's board of supervisors.

(g) Funds appropriated for local assistance shall not be allocated to the local public entity until the local public entity creates a Pierce's disease work plan that is approved by the department. Any funds allocated by the department to a designated local public entity shall be utilized for activities consistent with the local Pierce's disease work plan or other programs or work plans approved by the department. It shall be the responsibility of the designated local public entity to develop and implement the local Pierce's disease work plan. Upon request, the department shall provide consultation to the local public entity regarding its work plan.

(h) The work plan created by the designated local public entity shall include, but is not limited to, all of the following:

(1) In coordination with the department, the development and delivery of producer outreach information and training to local communities, groups, and individuals to organize their involvement with the work plan and to raise awareness regarding Pierce's disease and its vectors.

(2) In coordination with the department, the development and delivery of ongoing training of the designated local public entity's employees in the biology, survey, and treatment of Pierce's disease and its vectors.

(3) The identification within the designated local public entity of a local Pierce's disease coordinator.

(4) The proposed treatment of Pierce's disease and its vectors. Treatment programs shall comply with all applicable laws and regulations and shall be conducted in an environmentally responsible manner.

(5) In coordination with the department, the development and implementation of a data collection system to track and report new infestations of Pierce's disease and its vectors in a manner respectful of property and other rights of those affected.

(6) On an annual basis, while funds appropriated by this section are available for encumbrance, the department shall review the progress of each local public entity's activities regarding Pierce's disease and its vectors and, as needed, make recommendations regarding those activities to the local public entity.

(i) Notwithstanding Section 7550.5 of the Government Code, the department shall report to the Legislature on January 1, 2001, and each January 1 while this section is operative, regarding its expenditures, progress, and ongoing priorities in combating Pierce's disease and its vectors in California.

(j) This article shall become inoperative on January 1, 2006, and as of January 1, 2007, is repealed, unless a later enacted statute that is

enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 101. Section 75131 of the Food and Agricultural Code is amended to read:

75131. (a) The assessment on eggs and egg products shall be established by the commission, with the approval of not less than five handler members, prior to the beginning of each marketing season and, except as provided in subdivision (c), shall not exceed one cent (\$.01) per dozen for shell eggs, or the equivalent thereof, as determined by the commission, for egg products.

(b) The commission may establish an assessment rate that is different for eggs than for egg products, so long as it does not exceed the maximum assessment authorized in subdivision (a).

(c) An assessment greater than the maximum specified in subdivision (a) may be charged but only if it is approved by a vote of the handlers as provided for in Section 75112.

SEC. 102. Section 3543.4 of the Government Code is amended to read:

3543.4. A person serving in a management position, senior management position, or a confidential position may not be represented by an exclusive representative. Any person serving in such a position may represent himself or herself individually or by an employee organization whose membership is composed entirely of employees designated as holding those positions, in his or her employment relationship with the public school employer, but, in no case, shall such an organization meet and negotiate with the public school employer. A representative may not be permitted by a public school employer to meet and negotiate on any benefit or compensation paid to persons serving in a management position, senior management position, or a confidential position.

SEC. 103. Section 3562.2 of the Government Code is amended to read:

3562.2. Notwithstanding subdivision (r) of Section 3562, for purposes of the California State University only, "scope of representation" also means any retirement benefits available to a state member under Part 3 (commencing with Section 20000) of Division 5 of Title 2.

SEC. 104. Section 3583.5 of the Government Code is amended to read:

3583.5. (a) (1) Notwithstanding any other provision of law, any employee of the California State University or the University of California, other than a faculty member of the University of California who is eligible for membership in the Academic Senate, who is in a unit for which an exclusive representative has been selected pursuant to this

chapter, shall be required, as a condition of continued employment, either to join the recognized employee organization or to pay the organization a fair share service fee. The amount of the fee shall not exceed the dues that are payable by members of the employee organization, and shall cover the cost of negotiation, contract administration, and other activities of the employee organization that are germane to its functions as the exclusive bargaining representative. Upon notification to the employer by the exclusive representative, the amount of the fee shall be deducted by the employer from the wages or salary of the employee and paid to the employee organization.

(2) The costs covered by the fee under this section may include, but shall not necessarily be limited to, the cost of lobbying activities designed to foster collective bargaining negotiations and contract administration, or to secure for the represented employees advantages in wages, hours, and other conditions of employment in addition to those secured through meeting and conferring with the higher education employer.

(b) The organizational security arrangement described in subdivision (a) shall remain in effect unless it is rescinded pursuant to subdivision (c). The higher education employer shall remain neutral, and shall not participate in any election conducted under this section unless required to do so by the board.

(c) (1) The organizational security arrangement described in subdivision (a) may be rescinded by a majority vote of all the employees in the negotiating unit subject to that arrangement, if a request for a vote is supported by a petition containing the signatures of at least 30 percent of the employees in the negotiating unit, and the signatures are obtained in one academic year. There shall not be more than one vote taken during the term of any memorandum of understanding in effect on or after January 1, 2000.

(2) If the organizational security arrangement described in subdivision (a) is rescinded pursuant to paragraph (1), a majority of all the employees in the negotiating unit may request that the arrangement be reinstated. That request shall be submitted to the board along with a petition containing the signatures of at least 30 percent of the employees in the negotiating unit. The vote shall be conducted at the worksite by secret ballot, and shall be conducted no sooner than one year after the rescission of the organizational security arrangement under this subdivision.

(3) If the board determines that the appropriate number of signatures have been collected, it shall conduct the vote to rescind or reinstate in a manner that it shall prescribe in accordance with this subdivision.

(4) The cost of conducting an election under this subdivision to reinstate the organizational security arrangement shall be borne by the

petitioning party, and the cost of conducting an election to rescind the arrangement shall be borne by the board.

SEC. 105. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved

in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (c) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflect the analysis or conclusions of the investigating officer.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may

be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code, except that the address of the victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided that public records shall not be

transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public data base maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services that is

entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 12050 of the Penal

Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695) and Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695) or Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (3).

(w) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of the Department of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code, on or after January 1, 1998, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract entered into pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(z) Records obtained pursuant to paragraph (2) of subdivision (c) of Section 2891.1 of the Public Utilities Code.

Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

SEC. 106. Section 6516.6 of the Government Code is amended to read:

6516.6. (a) Notwithstanding any other provision of law, a joint powers agency established pursuant to a joint powers agreement in accordance with this chapter may issue bonds pursuant to Article 2 (commencing with Section 6540) or Article 4 (commencing with Section 6584), in order to purchase obligations of local agencies or make loans to local agencies, which moneys the local agencies are hereby authorized to borrow, to finance the local agencies' unfunded actuarial pension liability or to purchase, or to make loans to finance the purchase of, delinquent assessments or taxes levied on the secured roll by the local agencies, the county, or any other political subdivision of the state. Notwithstanding any other provision of law, including Section 53854, the local agency obligations or loans, if any, shall be repaid in the time, manner and amounts, with interest, security, and other terms as agreed to by the local agency and the joint powers authority.

(b) Notwithstanding any other provision of law, a joint powers authority established pursuant to a joint powers agreement in accordance with this chapter may issue bonds pursuant to Article 2 (commencing with Section 6540) or Article 4 (commencing with Section 6584), in order to purchase or acquire, by sale, assignment, pledge, or other transfer, any or all right, title, and interest of any local agency in and to the enforcement and collection of delinquent and uncollected property taxes, assessments, and other receivables that have been levied by or on behalf of the local agency and placed for collection on the secured, unsecured, or supplemental property tax rolls. Local agencies, including, cities, counties, cities and counties, school districts, redevelopment agencies, and all other special districts that are authorized by law to levy property taxes on the county tax rolls, are hereby authorized to sell, assign, pledge, or otherwise transfer to a joint powers authority any or all of their right, title, and interest in and to the enforcement and collection of delinquent and uncollected property taxes, assessments, and other receivables that have been levied by or on behalf of the local agency for collection on the secured, unsecured, or supplemental property tax rolls in accordance with the terms and conditions that may be set forth in an agreement with a joint powers authority.

(c) Notwithstanding Division 1 (commencing with Section 50) of the Revenue and Taxation Code, upon any transfer authorized in subdivision (b), the following shall apply:

(1) A local agency shall be entitled to timely payment of all delinquent taxes, assessments, and other receivables collected on its behalf on the secured, unsecured, and supplemental tax rolls, along with all penalties, interest, costs, and other charges thereon, no later than 30 calendar days after the close of the preceding monthly or four week accounting period during which the delinquencies were paid by or on account of any property owner.

(2) Upon its receipt of the delinquent taxes, assessments, and receivables that it had agreed to be transferred, a local agency shall pay those amounts, along with all applicable penalties, interest, costs, and other charges, to the joint powers authority in accordance with the terms and conditions that may be agreed to by the local agency and the joint powers authority.

(3) The joint powers authority shall be entitled to assert all right, title, and interest of the local agency in the enforcement and collection of the delinquent taxes, assessments, and receivables, including without limitation, its lien priority, its right to receive the proceeds of delinquent taxes, assessments, and receivables, and its right to receive all penalties, interest, administrative costs, and any other charges, including attorney fees and costs, if otherwise authorized by law to be collected by the local agency.

(4) (A) For any school district that participates in a joint powers authority using financing authorized by this section and that does not participate in the alternative method of distribution of tax levies under Chapter 3 of Division 1 of Part 8 of the Revenue and Taxation Code, the amount of property tax receipts to be reported in a fiscal year for the district under subdivision (f) of Section 75.70 of the Revenue and Taxation Code, or any other similar law requiring reporting of school district property tax receipts, shall be equal to 100 percent of the school district's allocable share of the taxes levied for the fiscal year on its behalf. One hundred percent of the school district's allocable share of the delinquent taxes levied for the fiscal year, whether or not the delinquent taxes are ever collected, shall be paid by the joint powers authority to the county auditor and shall be distributed to the school district by the county auditor in the same time and manner otherwise specified for the distribution of tax revenues generally to school districts pursuant to current law. Any additional amounts shall not be so reported and may be provided directly to a school district by a joint powers authority.

(B) A joint powers authority financing delinquent school district taxes and related penalties pursuant to this subdivision shall be solely responsible for, and shall pay directly to the county, all reasonable and identifiable administrative costs and expenses of the county which are incurred as a direct result of the compliance of the county tax collector or county auditor, or both, with any new or additional administrative

procedures required for the county to comply with this subdivision. Where reasonably possible, the county shall provide a joint powers authority with an estimate of the amount of and basis for any additional administrative costs and expenses within a reasonable time after written request for an estimate.

(C) In no event shall the state be responsible or liable for a joint powers authority's failure to actually pay the amounts required by subparagraphs (A) and (B), nor shall a failure constitute a basis for a claim against the state by a school district, county, or joint powers authority.

(D) The phrase "school district," as used in this section, includes all school districts of every kind or class, including, without limitation, community college districts and county superintendents of schools.

(d) The powers conferred by this section upon joint powers authorities and local agencies shall be complete, additional, and cumulative to all other powers conferred upon them by law. Except as otherwise required by this section, the agreements authorized by this section need not comply with the requirements of any other laws applicable to the same subject matter.

(e) An action to determine the validity of any bonds issued, any joint powers agreements entered into, any related agreements, including, without limitation, any bond indenture or any agreements relating to the sale, assignment, or pledge entered into by a joint powers authority or a local agency, the priority of any lien transferred in accordance with this section, and the respective rights and obligations of any joint powers authority and any party with whom the joint powers authority may contract pursuant to this chapter, may be brought by the joint powers authority pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. Any appeal from a judgment in the action shall be commenced within 30 days after entry of judgment.

(f) This section shall not be construed to affect the manner in which an agency participates in or withdraws from the alternative distribution method established by Chapter 3 (commencing with Section 4701) of Part 8 of Division 1 of the Revenue and Taxation Code.

SEC. 107. Section 6599.2 of the Government Code is amended to read:

6599.2. Notwithstanding Sections 863 and 869 of the Code of Civil Procedure, the Attorney General or the Treasurer may jointly or separately file an action pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure at any time up to 55 days after notice required by Section 6586.7 is mailed by certified mail to the Sacramento offices of both the Attorney General and the Treasurer.

SEC. 108. Section 7074 of the Government Code is amended to read:

7074. (a) In the case of any enterprise zone, including an enterprise zone formerly designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or as a program area pursuant to Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997, a city or county, or city and county may propose that the enterprise zone be expanded by 15 percent to include definitive boundaries that are contiguous to the enterprise zone.

(b) The agency may approve an enterprise zone expansion proposed pursuant to this section based on the following criteria:

(1) Each of the adjacent jurisdictions' governing bodies approves the expansion by adoption of an ordinance or resolution.

(2) Land included within the proposed expansion is zoned for industrial or commercial use.

(3) Basic infrastructure, including, but not limited to, gas, water, electrical service, and sewer systems, is available to the area that would be included in the expansion.

(c) An enterprise zone may propose to use an eligible expansion allotment to expand into an adjacent jurisdiction pursuant to this section if the agency finds that all of the following conditions exist:

(1) The governing body of the local agency with jurisdiction over the existing enterprise zone and the governing body of the local agency with jurisdiction over the proposed expansion area each approve the expansion by adoption of an ordinance or resolution. The ordinance or resolution by the jurisdiction containing the proposed expansion area shall indicate that the jurisdiction will provide the same or equivalent local incentives as provided by the jurisdiction of the existing enterprise zone.

(2) (A) Land included within the proposed expansion is zoned for industrial or commercial use.

(B) An expansion area may contain noncommercial or nonindustrial land only if that land is a right-of-way and is needed to meet the requirement for a contiguous expansion between an existing enterprise zone and a proposed expansion area.

(3) Basic infrastructure, including, but not limited to, gas, water, electrical service, and sewer systems, is available to the area that would be included in the expansion.

(4) The expansion area is contiguous to the existing enterprise zone.

(d) (1) Except as otherwise provided in paragraph (2), in no event shall an enterprise zone be permitted to expand more than 15 percent in size from its size on the date of original designation, including any expansion authorized pursuant to Chapter 12.8 (commencing with

Section 7070), or Chapter 12.9 (commencing with Section 7080), as those chapters read prior to January 1, 1997.

(2) If an enterprise zone, on the date of original designation, is no greater than 13 square miles, it may be permitted to expand up to 20 percent in size from its size on the date of original designation.

SEC. 109. Section 18935 of the Government Code is amended to read:

18935. The board may refuse to examine or, after examination, may refuse to declare as eligible or may withhold or withdraw from certification, prior to appointment, anyone who comes under any of the following categories:

(a) Lacks any of the requirements established by the board for the examination or position for which he or she applies.

(b) At the time of examination has permanent status in a position of equal or higher class than the examination or position for which he or she applies.

(c) Is physically or mentally so disabled as to be rendered unfit to perform the duties of the position to which he or she seeks appointment.

(d) Is addicted to the use of intoxicating beverages to excess.

(e) Is addicted to the use of controlled substances.

(f) Has been convicted of a felony, or convicted of a misdemeanor involving moral turpitude.

(g) Has been guilty of infamous or notoriously disgraceful conduct.

(h) Has been dismissed from any position for any cause which would be a cause for dismissal from the state service.

(i) Has resigned from any position not in good standing or in order to avoid dismissal.

(j) Has intentionally attempted to practice any deception or fraud in his or her application, in his or her examination, or in securing his or her eligibility.

(k) Has waived appointment three times after certification from the same employment list.

(l) Has failed to reply within a reasonable time, as specified by the board, to communications concerning his or her availability for employment.

(m) Has made himself or herself unavailable for employment by requesting that his or her name be withheld from certification.

(n) Is, in accordance with board rule, found to be unsuited or not qualified for employment.

(o) Has engaged in unlawful reprisal or retaliation in violation of Article 3 (commencing with Section 8547) of Chapter 6.5 of Division 1, as determined by the board or the court.

SEC. 110. Section 20028 of the Government Code is amended to read:

20028. "Employee" means all of the following:

(a) Any person in the employ of the state, a county superintendent of schools, or the university whose compensation, or at least that portion of his or her compensation that is provided by the state, a county superintendent of schools, or the university, is paid out of funds directly controlled by the state, a county superintendent of schools, or the university, excluding all other political subdivisions, municipal, public and quasi-public corporations. "Funds directly controlled by the state" includes funds deposited in and disbursed from the State Treasury in payment of compensation, regardless of their source.

(b) Any person in the employ of any contracting agency.

(c) City employees who prior to the effective date of the contract with the hospital are assigned to a hospital that became a contracting agency because of subdivision (p) of Section 20057 shall be deemed hospital employees from and after the effective date of the contract with the hospital for retirement purposes. City employees who after the effective date of the contract with the hospital become employed by the hospital, shall be considered as new employees of the hospital for retirement purposes.

(d) Any person in the employ of a school employer.

(e) Public health department or district employees who were employees prior to the date of assumption of the contract by the governing body of a county of the 15th class shall be deemed public health department or district employees from and after the effective date of assumption of the contract for retirement purposes. Employees who after the effective date of assumption of the contract become employed by the public health department or district shall be considered as new employees for retirement purposes.

SEC. 111. Section 20300 of the Government Code is amended to read:

20300. The following persons are excluded from membership in this system:

(a) Inmates of state or public agency institutions who are allowed compensation for the service they are able to perform.

(b) Independent contractors who are not employees.

(c) Persons employed as student assistants in the state colleges and persons employed as student aides in the special schools of the State Department of Education and in the public schools of the state.

(d) Persons employed as teacher-assistants pursuant to Section 44926 of the Education Code.

(e) Participants, other than staff officers and employees, in the California Conservation Corps.

(f) Persons employed as participants in a program of, and whose wages are paid in whole or in part by federal funds in accordance with,

Section 1501 et seq. of Title 29 of the United States Code. This subdivision does not apply with respect to persons employed in job classes that provide eligibility for patrol or safety membership or to the career staff employees of an employer.

(g) All persons who are members in any teachers' retirement system, as to the service in which they are members of any teachers' retirement system.

(h) Except as otherwise provided in this part, persons rendering professional legal services to a city, other than the person holding the office of city attorney, the office of assistant city attorney, or an established position of deputy city attorney.

(i) A person serving the university as a teacher in university extension, whose compensation for that service is established on the basis of class enrollment, either actual or estimated, with respect to that service.

(j) A person serving a California State University as a teacher in extension service, whose compensation for that service is established on the basis of class enrollment, either actual or estimated, with respect to that service.

(k) A teacher or academic employee of the university or any California State University who is otherwise fully employed and who serves as a teacher or in an academic capacity in any summer session or intersession, for which he or she receives compensation specifically attributable to that service in summer session or intersession, with respect to that service.

(l) A person who is employed under the Senate Fellows, the Assembly Fellows, or the Executive Fellows programs.

SEC. 112. Section 20392 of the Government Code is amended to read:

20392. "State peace officer/firefighter member" also includes officers and employees with the following class titles:

Class Code	Classification
6875	Air Operations Officer I
1056	Air Operations Officer II
1053	Air Operations Officer III
6877	Air Operations Officer I (Maintenance)
6882	Air Operations Officer II (Maintenance)
1050	Air Operations Officer III (Maintenance)
8997	Arson and Bomb Investigator
9694	Board Coordinating Parole Agent, Youthful Offender Parole Board

9904	Correctional Counselor I
9903	Correctional Counselor II
9662	Correctional Officer
9911	Case Work Specialist, Youth Authority
9013	Deputy State Fire Marshal III (Specialist)
9086	Deputy State Fire Marshal
9010	Deputy State Fire Marshal III (Supervisor)
1077	Fire Apparatus Engineer
1095	Fire Captain
1072	Fire Control Aid
8979	Firefighter
1083	Firefighter I
1082	Firefighter II
9001	Firefighter (Correctional Institution)
8990	Firefighter/Security Officer
1047	Fire Prevention Officer I
1049	Fire Prevention Officer II
9090	Fire Service Training Specialist III
8418	Fish and Game Patrol, Lieutenant
8421	Fish and Game Warden, Department of Fish and Game
9039	Senior Food and Drug Investigator
9028	Food and Drug Program Specialist
9007	Food Technology Specialist
1060	Forestry Aid
1046	Forestry Pilot (Helicopter)
9579	Group Supervisor/Youth Correctional Officer
9578	Group Supervisor Trainee
6387	Heavy Fire Equipment Operator
1937	Hospital Peace Officer I
8416	Lieutenant Fish and Game Patrol Boat
0992	Lifeguard
8217	Medical Technical Assistant, Correctional Facility
1992	Museum Security Officer I
9701	Parole Agent I, Youth Authority
9765	Parole Agent I, Adult Parole
9696	Parole Agent II, Youth Authority (Specialist)
9763	Parole Agent II, Adult Parole (Supervisor)
9762	Patrol Agent II, Adult Parole (Specialist)
8215	Senior Medical Technical Assistant
8359	Sergeant, California State Police

8980	State Fire Marshal Trainee
9723	State Forest Ranger I (Nonsupervisory)
9724	State Forest Ranger II (Nonsupervisory)
0983	State Park Ranger I
8464	State Police Officer
8358	State Security Officer
8989	Captain Firefighter/Security Officer
8410	Warden–Pilot Department of Fish and Game
9581	Youth Counselor/Youth Correctional Counselor

A member who is employed in a position that is reclassified to state peace officer/firefighter pursuant to this section may make an irrevocable election in writing to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to reclassification by filing a notice of the election with the board within 90 days after notification by the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service also included in the federal system.

SEC. 113. Section 21006 of the Government Code is amended to read:

21006. (a) “Leave of absence” also means any time during which a state member was excused from performance of his or her duties on approved leave for the purpose of further education. Any member electing to receive service credit for that leave of absence shall make the contributions as specified in Sections 21050 and 21052. However, any eligible member who applies to make that election between January 1, 2001, and December 31, 2003, may, instead of making those contributions, make the payment calculated under this article as it read on December 31, 2000, which payment shall be made in the manner described in Section 21050.

(b) Credit granted under this section may not exceed two years.

(c) This section shall be applicable to persons who are members or became members of this system on and after January 1, 1975.

SEC. 114. Section 21547.7 of the Government Code is amended to read:

21547.7. (a) Notwithstanding any other provision of this article requiring attainment of the minimum age for voluntary service retirement applicable to him or her in his or her last employment preceding death, upon the death of a local firefighter member while in the employ of an agency subject to this section on or after January 1, 2001, who is credited with 20 years or more of state service, the surviving spouse, or eligible children, if there is no eligible spouse, may

receive a monthly allowance in lieu of the basic death benefit. The board shall notify the eligible survivor, as defined in Section 21546, of this alternate death benefit. The board shall calculate the monthly allowance that shall be payable as follows:

(1) To the member's surviving spouse, an amount equal to the amount the member would have received if he or she had retired for service at the minimum retirement age on the date of death and had elected optional settlement 2 and Section 21459. The retirement allowance shall be calculated using all service earned by the member in this system.

(2) If there is no surviving spouse or the spouse dies before all of the children of the deceased member attain the age of 18 years, to the surviving children, under the age of 18 years, collectively, an amount equal to one-half of, and derived from the same source as, the unmodified allowance the member would have received if he or she had retired for service at the minimum retirement age on the date of death. No child shall receive any allowance after marrying or attaining the age of 18 years. As used in this paragraph, "surviving children" includes a posthumously born child or children of the member. The retirement allowance shall be calculated using all service earned by the member in this system.

(3) The cost of the allowance paid pursuant to this subdivision shall be paid from the assets of the employer at the member's date of death. All member contributions made by the member to this system shall be transferred to the plan assets of the employer liable for the funding of this benefit.

(b) (1) Upon the death of a local firefighter member while in the employ of an agency subject to this section on or after January 1, 2001, who is credited with 20 years or more of state service and who has attained the minimum age for voluntary service retirement applicable to him or her in his or her last employment preceding death, the surviving spouse, or eligible children, if there is no eligible spouse, may elect to receive a monthly allowance that is equal to the amount that member would have received if the member had been retired from service on the date of death and had elected optional settlement 2 and Section 21459 in lieu of the basic death benefit. The retirement allowance will be calculated using all service earned by the member in this system.

(2) If there is no surviving spouse or the spouse dies before all of the children of the deceased member attain the age of 18 years, the allowance shall continue to the surviving children, under the age of 18 years, collectively, in an amount equal to one-half of, and derived from the same source as, the unmodified allowance the member would have received if he or she had been retired from service on the date of death. No child shall receive any allowance after marrying or attaining the age of 18 years. As used in this paragraph, "surviving children" includes a

posthumously born child or children of the member. The retirement allowance will be calculated using all service earned by the member in this system.

(3) The cost of the increase in service allowance paid pursuant to this subdivision shall be paid from the assets of the employer at the member's date of death.

(c) This section shall not apply to any contracting agency, nor to the employees of any contracting agency, unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required.

SEC. 115. Section 30064.1 of the Government Code is amended to read:

30064.1. This chapter shall become inoperative on July 1, 2002, and, as of January 1, 2003, is repealed, unless a later enacted statute that is enacted before January 1, 2003, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 116. Section 31461.3 of the Government Code is amended to read:

31461.3. (a) The average compensation during any period of service as a member of the Public Employees' Retirement System, a member of a retirement system established under this chapter in another county, a member of the State Teachers' Retirement System, or a member of a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2 shall be considered compensation earnable by a member for purposes of computing final compensation for that member provided:

(1) The period intervening between active memberships in the respective systems does not exceed 90 days, or six months if Section 31840.4 applies.

(2) He or she retires concurrently under both systems and is credited with that period of service under the other system at the time of retirement.

(b) This section shall be applied retroactively under this chapter in favor of any member whose membership in the Public Employees' Retirement System or in a retirement system established under this chapter in any county terminated prior to October 1, 1957, provided that he or she was eligible to and elected deferred retirement therein within 90 days after eligibility for reciprocity, the period intervening between active memberships in the respective systems did not exceed 90 days, or six months if Section 31840.4 applies, and he or she retires concurrently under both systems and is credited with that period of service under the other system at the time of retirement. The limitation of the 90-day or

six-month period between the active membership in the two retirement systems shall not apply to an employee who entered the employment in which he or she became a member of the State Employees' Retirement System prior to July 18, 1961; provided he or she entered that employment within 90 days, or six months if Section 31840.4 applies, after the termination of employment in the county system, whether that employment is with the state or with a county, a city, or other public agency that contracts with the Public Employees' Retirement System, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2.

SEC. 117. Section 31681.55 of the Government Code is amended to read:

31681.55. Effective the first day of the first month after adoption of this section by the board of supervisors, the allowance paid with respect to any member of this system who retired or died prior to January 1, 2001, shall be increased by the percentage set forth opposite the year of retirement or death in the following schedule:

Period during which retirement or death occurred:	Percentage:
January 1, 1998, or later	0.0%
12 months ending Dec. 31, 1997	1.0%
24 months ending Dec. 31, 1996	2.0%
60 months ending Dec. 31, 1994	3.0%
60 months ending Dec. 31, 1989	4.0%
120 months ending Dec. 31, 1984	5.0%
12 months ending Dec. 31, 1974, or earlier	6.0%

The percentage shall be applied to the allowance payable on the effective date, and the allowance as so increased shall be paid for time on and after that date and shall be subject to annual cost-of-living adjustments.

(b) This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make the provisions of this section applicable in that county.

SEC. 118. Section 31835.02 of the Government Code is amended to read:

31835.02. Notwithstanding any other provision of this part, Section 31835 shall also apply to any member who was a member of a retirement system established under this chapter and who subsequently becomes a

member of the Public Employees' Retirement System, a retirement system established under this chapter in another county, the State Teachers' Retirement System, or a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, providing the period intervening between the periods for which active service was credited does not exceed 90 days, or six months if Section 31840.2 applies, and the member retires concurrently under both systems and is credited with the periods of service at the time of retirement.

This section shall only be operative in any county of the fourth class as described in Sections 28020 and 28025 if it is adopted by a majority vote of the board of supervisors.

SEC. 119. Section 38773.6 of the Government Code is amended to read:

38773.6. (a) As an alternative to the procedure specified in Section 38773.2, the legislative body of a city, county, or city and county may, by ordinance, establish a procedure for the abatement of any nuisance resulting from the defacement by a minor or other person of property of another by graffiti or other inscribed material and make the abatement and related administrative costs a special assessment against a parcel of land owned by the minor or other person or by the parent or guardian having custody and control of the minor. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the abatement and related administrative costs relate has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon prior to the date on which the first installment of the taxes would become delinquent, then the abatement and related administrative costs shall not result in a lien against the real property but shall instead be transferred to the unsecured roll for collection. Notices or instruments relating to the abatement proceeding or special assessment may be recorded.

(b) The terms "abatement and related administrative costs," "graffiti or other inscribed material," "minor," and "other person" have the same meaning as specified in Sections 38772 and 38773.2.

SEC. 120. Section 55720 of the Government Code is amended to read:

55720. (a) The Board of Supervisors of the County of San Diego may enter into an agreement with the owner of "telecommuting center

property” to pay to that owner in each fiscal year, for a period not to exceed five consecutive fiscal years, a Telecommuting Property Amount (TPA). Any agreement that is entered into pursuant to this subdivision shall specify matters including, but not limited to, both of the following:

(1) Those conditions that the owner of the property is required to meet to receive a TPA.

(2) That period of consecutive fiscal years to which it applies. The agreement shall designate as the first fiscal year of that period the first fiscal year beginning after the date upon which the County of San Diego enters into the agreement.

An agreement entered into pursuant to this subdivision may not become invalid by reason of the repeal of this chapter.

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

(1) “Telecommuting center property” means tangible personal property that meets all of the following requirements:

(A) The property is directly involved in providing not less than 10 separate fully functional workstations with access to high speed data communications, including, but not limited to, telecommunications services, cable services, broadcast services, mobile services, wireless services, satellite services, and Internet access.

(B) The property is located at a remote worksite not less than 15 miles from the normal workplace.

(C) Ancillary services may include facsimile transmissions, high volume copying, laser printing, video conferencing, and voice mail.

(D) Use of the property will lead to usage by at least 10 full-time employees for not less than one regular workday of each week.

(E) Employees using the telecommuting center property will, by going to the telecommuting center, reduce their travel distance from home to their work location by not less than 15 miles one way.

(F) The Board of Supervisors of the County of San Diego shall make a finding, in its sole discretion, that the property meets the requirements of subparagraphs (A) through (E).

(2) “Telecommuting Property Amount” means an amount equal to the amount of ad valorem property tax revenue derived from that telecommuting center property for that fiscal year that is allocated to the County of San Diego pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(c) The County of San Diego may cease any further payment of a TPA under an agreement entered into by the county pursuant to subdivision (a), and may recapture from the recipient-owner the amount of any or every TPA previously paid to that recipient-owner under the agreement, if, at any time during the term of that agreement, the county determines that either of the following is true:

(1) The property with respect to which the agreement was entered into does not qualify as telecommuting property as defined in paragraph (1) of subdivision (b).

(2) The owner-recipient is not in compliance with the conditions set forth in the agreement for the receipt of a TPA.

(d) This section applies only with respect to property that is placed in service on or after January 1, 2001.

SEC. 121. Section 65584 of the Government Code is amended to read:

65584. (a) For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing needs includes that share of the housing need of persons at all income levels within the area significantly affected by a general plan of the city or county. The distribution of regional housing needs shall, based upon available data, take into consideration market demand for housing, employment opportunities, the availability of suitable sites and public facilities, commuting patterns, type and tenure of housing need, the loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions, and the housing needs of farmworkers. The distribution shall seek to reduce the concentration of lower income households in cities or counties that already have disproportionately high proportions of lower income households. Based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, and in consultation with each council of governments, the Department of Housing and Community Development shall determine the regional share of the statewide housing need at least two years prior to the second revision, and all subsequent revisions as required pursuant to Section 65588. Based upon data provided by the department relative to the statewide need for housing, each council of governments shall determine the existing and projected housing need for its region. Within 30 days following notification of this determination, the department shall ensure that this determination is consistent with the statewide housing need. The department may revise the determination of the council of governments if necessary to obtain this consistency. The appropriate council of governments shall determine the share for each city or county consistent with the criteria of this subdivision and with the advice of the department subject to the procedure established pursuant to subdivision (c) at least one year prior to the second revision, and at five-year intervals following the second revision pursuant to Section 65588. The council of governments shall submit to the department information regarding the assumptions and methodology to be used in allocating the regional

housing need. As part of the allocation of the regional housing need, the council of governments, or the department pursuant to subdivision (b), shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. The department shall submit to each council of governments information regarding the assumptions and methodology to be used in allocating the regional share of the statewide housing need. As part of its determination of the regional share of the statewide housing need, the department shall provide each council of governments with data describing the assumptions and methodology used in calculating its share of the statewide housing need. The councils of governments shall provide each city and county with the department's information. The council of governments shall provide a subregion with its share of the regional housing need, and delegate responsibility for providing allocations to cities and a county or counties in the subregion to a subregional entity if this responsibility is requested by a county and all cities in the county, a joint powers authority established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, or the governing body of a subregional agency established by the council of governments, in accordance with an agreement entered into between the council of governments and the subregional entity that sets forth the process, timing, and other terms and conditions of that delegation of responsibility.

(b) For areas with no council of governments, the department shall determine housing market areas and define the regional housing need for cities and counties within these areas pursuant to the provisions for the distribution of regional housing needs in subdivision (a). If the department determines that a city or county possesses the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the identification and determination of housing market areas and regional housing needs, the department shall delegate this responsibility to the cities and counties within these areas.

(c) (1) Within 90 days following a determination of a council of governments pursuant to subdivision (a), or the department's determination pursuant to subdivision (b), a city or county may propose to revise the determination of its share of the regional housing need in accordance with the considerations set forth in subdivision (a). The proposed revised share shall be based upon available data and accepted planning methodology, and supported by adequate documentation.

(2) Within 60 days after the time period for the revision by the city or county, the council of governments or the department, as the case may be, shall accept the proposed revision, modify its earlier determination, or indicate, based upon available data and accepted planning

methodology, why the proposed revision is inconsistent with the regional housing need.

(A) If the council of governments or the department, as the case may be, does not accept the proposed revision, then the city or county shall have the right to request a public hearing to review the determination within 30 days.

(B) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(C) The date of the hearing shall be at least 30 days from the date of the notification.

(D) Before making its final determination, the council of governments or the department, as the case may be, shall consider comments, recommendations, available data, accepted planning methodology, and local geological and topographical restraints on the production of housing.

(3) If the council of governments or the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the council of governments or the department grants a revised allocation pursuant to paragraph (1), the council of governments or the department shall ensure that the current total housing need is maintained. If the council of governments or the department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share that was originally determined by the council of governments or the department.

(4) The determination of the council of governments or the department, as the case may be, shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

(5) The council of governments or the department shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(A) One or more cities within the county agree to increase its share or their shares in an amount that will make up for the reduction.

(B) The transfer of shares shall only occur between a county and cities within that county.

(C) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.

(D) The council of governments or the department, whichever assigned the county's share, shall have authority over the approval of the proposed reduction, taking into consideration the criteria of subdivision (a).

(6) The housing element shall contain an analysis of the factors and circumstances, with all supporting data, justifying the revision. All

materials and data used to justify any revision shall be made available upon request by any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship.

(d) (1) Except as provided in paragraph (2), any ordinance, policy, or standard of a city or county that directly limits, by number, the building permits that may be issued for residential construction, or limits for a set period of time the number of buildable lots that may be developed for residential purposes, shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(2) Paragraph (1) does not apply to any city or county that imposes a moratorium on residential construction for a specified period of time in order to preserve and protect the public health and safety. If a moratorium is in effect, the city or county shall, prior to a revision pursuant to subdivision (c), adopt findings that specifically describe the threat to the public health and safety and the reasons why construction of the number of units specified as its share of the regional housing need would prevent the mitigation of that threat.

(e) Any authority to review and revise the share of a city or county of the regional housing need granted 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.

(f) A fee may be charged to interested parties for any additional costs caused by the amendments made to subdivision (c) by Chapter 1684 of the Statutes of 1984 reducing from 45 to 7 days the time within which materials and data shall be made available to interested parties.

(g) Determinations made by the department, a council of governments, or a city or county pursuant to this section are exempt from the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

SEC. 122. Section 65585.1 of the Government Code is amended to read:

65585.1. (a) The San Diego Association of Governments (SANDAG), if it approves a resolution agreeing to participate in the self-certification process, and in consultation with the cities and county within its jurisdiction, its housing element advisory committee, and the department, shall work with a qualified consultant to determine the maximum number of housing units that can be constructed, acquired, rehabilitated, and preserved as defined in paragraph (11) of subdivision (e) of Section 33334.2 of the Health and Safety Code, and the maximum number of units or households that can be provided with rental or ownership assistance, by each jurisdiction during the third and fourth housing element cycles to meet the existing and future housing needs for

low- and very low income households as defined in Sections 50079.5, 50093, and 50105 of the Health and Safety Code, and extremely low income households. The methodology for determining the maximum number of housing units that can be provided shall include a recognition of financial resources and regulatory measures that local jurisdictions can use to provide additional affordable lower income housing. This process is intended to identify the available resources that can be used to determine the maximum number of housing units each jurisdiction can provide. The process acknowledges that the need to produce housing for low-, very low, and extremely low income households may exceed available resources. The department and SANDAG, with input from its housing element advisory committee, the consultant, and local jurisdictions, shall agree upon definitions for extremely low income households and their affordable housing costs, the methodology for the determination of the maximum number of housing units and the number each jurisdiction can produce at least one year before the due date of each housing element revision, pursuant to paragraph (4) of subdivision (e) of Section 65588. If SANDAG fails to approve a resolution agreeing to participate in this pilot program, or SANDAG and the department fail to agree upon the methodology by which the maximum number of housing units is determined, then local jurisdictions may not self-certify pursuant to this section.

(1) The “housing element advisory committee” should include representatives of the local jurisdictions, nonprofit affordable housing development corporations and affordable housing advocates, and representatives of the for-profit building, real estate and banking industries.

(2) The determination of the “maximum number of housing units” that the jurisdiction can provide assumes that the needs for low-, very low, and extremely low income households, including those with special housing needs, will be met in approximate proportion to their representation in the region’s population.

(3) A “qualified consultant” for the purposes of this section means an expert in the identification of financial resources and regulatory measures for the provision of affordable housing for lower income households.

(b) A city or county within the jurisdiction of the San Diego Association of Governments that elects not to self-certify, or is ineligible to do so, shall submit its housing element or amendment to the department, pursuant to Section 65585.

(c) A city or county within the jurisdiction of the San Diego Association of Governments that elects to self-certify shall submit a self-certification of compliance to the department with its adopted housing element or amendment. In order to be eligible to self-certify, the

legislative body, after holding a public hearing, shall make findings, based on substantial evidence, that it has met the following criteria for self-certification:

(1) The jurisdiction's adopted housing element or amendment substantially complies with the provisions of this article, including addressing the needs of all income levels.

(2) For the third housing element revision, pursuant to Section 65588, the jurisdiction met its fair share of the regional housing needs for the second housing element revision cycle, as determined by the San Diego Association of Governments.

In determining whether a jurisdiction has met its fair share, the jurisdiction may count each additional lower income household provided with affordable housing costs. Affordable housing costs are defined in Section 6918 for renters, and in Section 6925 for purchasers, of Title 25 of the California Code of Regulations, and in Sections 50052.5 and 50053 of the Health and Safety Code, or by the applicable funding source or program.

(3) For subsequent housing element revisions, pursuant to Section 65588, the jurisdiction has provided the maximum number of housing units as determined pursuant to subdivision (a), within the previous planning period.

(A) The additional units provided at affordable housing costs as defined in paragraph (2) in satisfaction of a jurisdiction's maximum number of housing units shall be provided by one or more of the following means:

- (i) New construction.
- (ii) Acquisition.
- (iii) Rehabilitation.
- (iv) Rental or ownership assistance.

(v) Preservation of the availability to lower income households of affordable housing units in developments which are assisted, subsidized, or restricted by a public entity and which are threatened with imminent conversion to market rate housing.

(B) The additional affordable units shall be provided in approximate proportion to the needs defined in paragraph (2) of subdivision (a).

(4) The city or county provides a statement regarding how its adopted housing element or amendment addresses the dispersion of lower income housing within its jurisdiction, documenting that additional affordable housing opportunities will not be developed only in areas where concentrations of lower income households already exist, taking into account the availability of necessary public facilities and infrastructure.

(5) No local government actions or policies prevent the development of the identified sites pursuant to Section 65583, or

accommodation of the jurisdiction's share of the total regional housing need, pursuant to Section 65584.

(d) When a city or county within the jurisdiction of the San Diego Association of Governments duly adopts a self-certification of compliance with its adopted housing element or amendment pursuant to subdivision (c), all of the following shall apply:

(1) Section 65585 shall not apply to the city or county.

(2) In any challenge of a local jurisdiction's self-certification, the court's review shall be limited to determining whether the self-certification is accurate and complete as to the criteria for self-certification. Where there has not been a successful challenge of the self-certification, there shall be a rebuttable presumption of the validity of the housing element or amendment.

(3) Within six months after the completion of the revision of all housing elements in the region, the council of governments, with input from the cities and county within its jurisdiction, the housing element advisory committee, and qualified consultant shall report to the Legislature on the use and results of the self-certification process by local governments within its jurisdiction. This report shall contain data for the last planning period regarding the total number of additional affordable housing units provided by income category, the total number of additional newly constructed housing units, and any other information deemed useful by SANDAG in the evaluation of the pilot program.

(e) This section shall become inoperative on June 30, 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. 123. Section 75059.1 of the Government Code is amended to read:

75059.1. (a) A former spouse of a judge retired or deceased as of January 1, 2001, shall be eligible for the benefits provided by this section if the community property interest in the system was divided by court order pursuant to paragraph (4) of subdivision (a) of Section 2610 of the Family Code, the former spouse retained an interest in the system, and the parties did not divide the member's account pursuant to Section 75050. The monthly allowance payable pursuant to that division to the former spouse shall be a lifetime benefit and the former spouse shall have the right to designate a beneficiary for any unpaid allowance payable at the time of his or her death.

(b) The section shall apply retroactively to establish eligibility for a former spouse to the benefits provided by this section, but any payment made to the former spouse shall be prospective and shall commence no earlier than (1) the first day of the month in which the application was

received by the system in those cases where the member is deceased, or (2) the first day of the month in which a valid court order is received in cases where the retired judge is still living.

(c) The board has no duty to locate or notify the members or former spouses who may be eligible to apply for the benefits under this section.

(d) The benefits provided by this section shall be applicable to persons otherwise eligible who notify the system in writing prior to January 1, 2002.

SEC. 124. Section 444.21 of the Health and Safety Code is amended to read:

444.21. (a) All communications between a representative of the program described in subdivision (c) of Section 444.20 and a subscriber or enrollee, or agent of the subscriber or enrollee, or any other recipient of health care services or any individual assisting the recipient of health care services, seeking assistance regarding a grievance or complaint, if reasonably related to the requirements of the representative's responsibilities for the program, and made in good faith, shall be privileged subject to Division 8 (commencing with Section 900) of the Evidence Code. The subscriber, enrollee, or other recipient of health care services shall be the holder of the privilege and may refuse to disclose, and may prevent others from disclosing, a communication described in this subdivision. Any communication described in this subdivision shall be a privileged communication, which shall serve as a defense to any civil action in libel or slander against any of the persons described in this subdivision.

(b) All records and files of a program described in subdivision (c) of Section 444.20 relating to any complaint or request for assistance regarding a subscriber or enrollee, or any other recipient of health care services, and their identity, shall remain confidential, and shall not be subject to discovery, unless disclosure is authorized by the subscriber or enrollee, or any other recipient of health care services, or his or her legal representative. No disclosures shall be made outside of the program without the consent of the subscriber or enrollee, or any other recipient of health care services, that is the subject of the record or file, unless disclosure is made without disclosing the identity of that individual.

(c) Any representative of the program described in subdivision (c) of Section 444.20 shall be exempt from being required to testify in court as to any communications described in subdivision (a) except as the court may deem necessary to fulfill the purposes of the program.

(d) Nothing in this section shall affect the right of a person or entity to discover if the communication was not made in good faith pursuant to an in camera inspection of the communication by a court.

SEC. 125. Section 1358.11 of the Health and Safety Code is amended to read:

1358.11. (a) An issuer shall not deny or condition the offering or effectiveness of any Medicare supplement contract available for sale in this state, nor discriminate in the pricing of a contract because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a contract that is submitted prior to or during the six-month period beginning with the first day of the first month in which an individual is both 65 years of age or older and is enrolled for benefits under Medicare Part B. Each Medicare supplement contract currently available from an issuer shall be made available to all applicants who qualify under this subdivision and are 65 years of age or older. Medicare supplement contracts A, B, C, F, and at least one letter-designated plan (H, I, or J, at the discretion of the issuer) that includes coverage for prescription medications, if currently available from an issuer, shall be made available to any applicant who qualifies under this subdivision who is 64 years of age or younger and who does not have End-Stage Renal Disease. This section does not prohibit an issuer in determining subscriber rates from treating applicants who are under 65 years of age and are eligible for Medicare Part B as a separate risk classification.

(b) (1) If an applicant qualifies under subdivision (a) and submits an application during the time period referenced in subdivision (a) and, as of the date of application, has had a continuous period of creditable coverage of at least six months, the issuer shall not exclude benefits based on a preexisting condition.

(2) If the applicant qualifies under subdivision (a) and submits an application during the time period referenced in subdivision (a) and, as of the date of application, has had a continuous period of creditable coverage that is less than six months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The manner of the reduction under this subdivision shall be as specified by the director.

(c) Except as provided in subdivision (b) and Section 1358.23, subdivision (a) shall not be construed as preventing the exclusion of benefits under a contract, during the first six months, based on a preexisting condition for which the enrollee received treatment or was otherwise diagnosed during the six months before the coverage became effective.

(d) An individual enrolled in Medicare Part B by reason of disability shall be entitled to open enrollment described in this section for six months after he or she first becomes eligible for Medicare Part B. Sales during the open enrollment period shall not be discouraged by any means, including the altering of the commission structure.

There shall be a one-time open enrollment period of 120 days commencing on January 1, 2001, for all individuals eligible for Medicare by reason of disability who do not have End-Stage Renal Disease.

(e) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section for six months following:

(1) Receipt of a notice of termination or, if no notice is received, the effective date of termination, from any employer-sponsored health plan including an employer-sponsored retiree health plan. For purposes of this section, "employer-sponsored retiree health plan" includes any coverage for medical expenses that is directly or indirectly sponsored or established by an employer for employees or retirees, their spouses, dependents, or other included covered persons.

(2) Termination of health care services for a military retiree or the retiree's Medicare eligible spouse or dependent as a result of a military base closure.

(f) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section if the individual was covered under a policy, certificate, or contract providing Medicare supplement coverage but that coverage terminated because the individual established residence at a location not served by the issuer.

(g) (1) An individual who was previously enrolled in, but whose coverage was terminated between September 1, 1998, and December 31, 1998, by a Medicare managed care plan shall be entitled to a new 60-day open enrollment period in addition to any open enrollment authorized by federal law or regulation, for any and all Medicare supplement coverage available on a guaranteed basis under state and federal law or regulation for persons terminated by their Medicare managed care plan.

(2) The new open enrollment period specified in paragraph (1) shall commence 90 days after January 1, 2000. Within 30 days of January 1, 2000, health plans shall notify their former Medicare enrollees who were terminated during the period specified in paragraph (1) of the new open enrollment period. Health plan notices shall inform the terminated enrollees of the opportunity to secure advice and assistance from the Health Insurance Counseling and Advocacy Program (HICAP) in their area, along with the toll-free telephone number for HICAP.

(3) An individual who was previously enrolled in but whose coverage was terminated after January 1, 1999, by a Medicare managed care plan shall be entitled to an additional 60-day open enrollment period to be added on to and run consecutively after any open enrollment period authorized by federal law or regulation, for any and all Medicare supplement coverage available on a guaranteed basis under state and

federal law or regulations for persons terminated by their Medicare managed care plan.

(4) Health plans that terminate Medicare enrollees shall notify those enrollees in the termination notice of the additional open enrollment period authorized by this subdivision. Health plan notices shall inform enrollees of the opportunity to secure advice and assistance from the Health Insurance Counseling Advocacy Program (HICAP) in their area, along with the toll-free telephone number for HICAP.

(h) An individual shall be entitled to an annual open enrollment period lasting 30 days or more, commencing with the individual's birthday, during which time that person may purchase any Medicare supplement coverage, with the exception of a Medicare Select contract, that offers benefits equal to or lesser than those provided by the previous coverage. During this open enrollment period, no issuer that falls under this provision shall deny or condition the issuance or effectiveness of Medicare supplement coverage, nor discriminate in the pricing of coverage, because of health status, claims experience, receipt of health care, or medical condition of the individual if, at the time of the open enrollment period, the individual is covered under another Medicare supplement policy, certificate, or contract. An issuer that offers Medicare supplement contracts shall notify an enrollee of his or her rights under this subdivision at least 30 and no more than 60 days before the beginning of the open enrollment period.

SEC. 126. The heading of Article 10.5 (commencing with Section 1399.801) of Chapter 2.2 of Division 2 of the Health and Safety Code is amended and renumbered to read:

Article 11.5. Individual Access to Contracts for Health Care  
Services

SEC. 127. Section 11836 of the Health and Safety Code is amended to read:

11836. (a) The department shall have the sole authority to issue, deny, suspend, or revoke the license of a driving-under-the-influence program. As used in this chapter, "program" means any firm, partnership, association, corporation, local governmental entity, agency, or place that has been initially recommended by the county board of supervisors, subject to any limitation imposed pursuant to subdivisions (c) and (d), and that is subsequently licensed by the department to provide alcohol or drug recovery services in that county to any of the following:

(1) A person whose license to drive has been administratively suspended or revoked for, or who is convicted of, a violation of Section 23152 or 23153 of the Vehicle Code, and admitted to a program pursuant

to Section 13352, 13353.4, 23538, 23542, 23548, 23552, 23556, 23562, or 23568 of the Vehicle Code.

(2) A person who is convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 of the Harbors and Navigation Code, or of Section 655.4 of that code, and admitted to the program pursuant to Section 668 of that code.

(3) A person who has pled guilty or nolo contendere to a charge of a violation of Section 23103 of the Vehicle Code, under the conditions set forth in subdivision (c) of Section 23103.5 of the Vehicle Code, and who has been admitted to the program under subdivision (e) of Section 23103.5 of the Vehicle Code.

(4) A person whose license has been suspended, revoked, or delayed due to a violation of Section 23140, and who has been admitted to a program under Article 2 (commencing with Section 23502) of Chapter 1 of Division 11.5 of the Vehicle Code.

(b) If a firm, partnership, corporation, association, local government entity, agency, or place has, or is applying for, more than one license, the department shall treat each licensed program, or each program seeking licensure, as belonging to a separate firm, partnership, corporation, association, local government entity, agency, or place for the purposes of this chapter.

(c) For purposes of providing recommendations to the department pursuant to subdivision (a), a county board of supervisors may limit its recommendations to those programs that provide services for persons convicted of a first driving-under-the-influence offense, or services to those persons convicted of a second or subsequent driving-under-the-influence offense, or both services. If a county board of supervisors fails to provide recommendations, the department shall determine the program or programs to be licensed in that county.

(d) After determining a need, a county board of supervisors may also place one or more limitations on the services to be provided by a driving-under-the-influence program or the area the program may operate within the county, when it initially recommends a program to the department pursuant to subdivision (a).

(1) For purposes of this subdivision, a board of supervisors may restrict a program for those convicted of a first driving-under-the-influence offense to providing only a three-month program, or may restrict a program to those convicted of a second or subsequent driving-under-the-influence offense to providing only an 18-month program, as a condition of its recommendation.

(2) A board of supervisors may not place any restrictions on a program that would violate any statute or regulation.

(3) When recommending a program, if a board of supervisors fails to place any limitation on a program pursuant to this subdivision, the

department may license that program to provide any driving-under-the-influence program services that are allowed by law within that county.

(4) This subdivision is intended to apply only to the initial recommendation to the State Department of Alcohol and Drug Programs for licensure of a program by the county. It is not intended to affect any license that has been previously issued by the department or the renewal of any license for a driving-under-the-influence program. In counties where a contract or other written agreement is currently in effect between the county and a licensed driving-under-the-influence program operating in that county, this subdivision is not intended to alter the terms of that relationship or the renewal of that relationship.

(e) This section shall become operative on January 1, 2001.

SEC. 128. Section 11877.2 of the Health and Safety Code is amended to read:

11877.2. (a) The department shall establish a program for the operation and regulation of office-based opiate treatment programs. An office-based opiate treatment program established pursuant to this section shall meet either of the following conditions:

(1) Hold a primary narcotics treatment program license.

(2) Be affiliated and associated with a primary licensed narcotics treatment program. An office-based opiate treatment program meeting the requirement of this paragraph shall not be required to have a separate license from the primary licensed narcotics treatment program with which it is affiliated and associated.

(b) For purposes of this section, "office-based opiate treatment program" means a program in which interested and knowledgeable physicians provide addiction treatment services, and in which community pharmacies supply necessary medication both to these physicians for distribution to patients and through direct administration and specified dispensing services.

(c) Notwithstanding any other provision of law or regulation, including Section 10020 of Title 9 of the California Code of Regulations, an office-based opiate treatment program in a remote site, that is affiliated and associated with a licensed narcotics treatment program, may be approved by the department, if all of the following conditions are met:

(1) A physician may provide office-based addiction services only if each office-based patient is registered as a patient in the licensed narcotic treatment program and both the licensed narcotic treatment program and the office-based opiate treatment program ensure that all services required under Chapter 4 (commencing with Section 10000) of Division 4 of Title 9 of the California Code of Regulations for the management of opiate addiction are provided to all patients treated in the remote site.

(2) A physician in an office-based opiate treatment program may provide treatment for a maximum of 20 patients under the appropriate United States Drug Enforcement Administration registration. The primary licensed narcotics treatment program shall be limited to its total licensed capacity as established by the department, including the patients of physicians in the office-based opiate treatment program.

(3) The physicians in the office-based opiate treatment program shall dispense or administer pharmacologic treatment for opiate addiction that has been approved by the federal Food and Drug Administration such as levoalphacetylmethadol (LAAM) or methadone.

(4) Office-based opiate treatment programs, in conjunction with primary licensed narcotics treatment programs, shall develop protocols to prevent the diversion of methadone. The department may develop regulations to prevent the diversion of methadone.

(d) For purposes of this section, "remote site" means a site that is geographically or physically isolated from any licensed narcotic treatment program. Therefore, the requirements in this subdivision regarding a remote site do not apply to an office-based opiate treatment program that holds a primary narcotics treatment license.

(e) In considering an office-based opiate treatment program application, the department shall independently weigh the treatment needs and concerns of the county, city, or areas to be served by the program.

(f) Nothing in this section is intended to expand the scope of the practice of pharmacy.

SEC. 129. Section 17922 of the Health and Safety Code is amended to read:

17922. (a) Except as otherwise specifically provided by law, the building standards adopted and submitted by the department for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5, and the other rules and regulations that are contained in Title 24 of the California Code of Regulations, as adopted, amended, or repealed from time to time pursuant to this chapter shall be adopted by reference, except that the building standards and rules and regulations shall include any additions or deletions made by the department. The building standards and rules and regulations shall impose substantially the same requirements as are contained in the most recent editions of the following uniform industry codes as adopted by the organizations specified:

(1) The Uniform Housing Code of the International Conference of Building Officials, except its definition of "substandard building."

(2) The Uniform Building Code of the International Conference of Building Officials.

(3) The Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials.

(4) The Uniform Mechanical Code of the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials.

(5) The National Electrical Code of the National Fire Protection Association.

(6) Appendix Chapter 1 of the Uniform Code for Building Conservation of the International Conference of Building Officials.

(b) In adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for publication in the California Building Standards Code and in adopting other regulations, the department shall consider local conditions and any amendments to the uniform codes referred to in this section. Except as provided in Part 2.5 (commencing with Section 18901), in the absence of adoption by regulation, the most recent editions of the uniform codes referred to in this section shall be considered to be adopted one year after the date of publication of the uniform codes.

(c) Except as provided in Section 17959.5, local use zone requirements, local fire zones, building setback, side and rear yard requirements, and property line requirements are hereby specifically and entirely reserved to the local jurisdictions notwithstanding any requirements found or set forth in this part.

(d) Regulations other than building standards which are adopted, amended, or repealed by the department, and building standards adopted and submitted by the department for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5, governing alteration and repair of existing buildings and moving of apartment houses and dwellings shall permit the replacement, retention, and extension of original materials and the continued use of original methods of construction as long as the hotel, lodginghouse, motel, apartment house, or dwelling, or portions thereof, or building and structure accessory thereto, complies with the provisions published in the California Building Standards Code and the other rules and regulations of the department or alternative local standards adopted pursuant to subdivision (b) of Section 13143.2 or Section 17958.5 and does not become or continue to be a substandard building. Building additions or alterations which increase the area, volume, or size of an existing building, and foundations for apartment houses and dwellings moved, shall comply with the requirements for new buildings or structures specified in this part, or in building standards published in the California Building Standards Code, or in the other rules and regulations adopted pursuant to this part. However, the additions and alterations shall not

cause the building to exceed area or height limitations applicable to new construction.

(e) Regulations other than building standards which are adopted by the department and building standards adopted and submitted by the department for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 governing alteration and repair of existing buildings shall permit the use of alternate materials, appliances, installations, devices, arrangements, or methods of construction if the material, appliance, installation, device, arrangement, or method is, for the purpose intended, at least the equivalent of that prescribed in this part, the building standards published in the California Building Standards Code, and the rules and regulations promulgated pursuant to the provisions of this part in performance, safety, and for the protection of life and health. Regulations governing abatement of substandard buildings shall permit those conditions prescribed by Section 17920.3 which do not endanger the life, limb, health, property, safety, or welfare of the public or the occupant thereof.

(f) A local enforcement agency may not prohibit the use of materials, appliances, installations, devices, arrangements, or methods of construction specifically permitted by the department to be used in the alteration or repair of existing buildings, but those materials, appliances, installations, devices, arrangements, or methods of construction may be specifically prohibited by local ordinance as provided pursuant to Section 17958.5.

(g) A local ordinance may not permit any action or proceeding to abate violations of regulations governing maintenance of existing buildings, unless the building is a substandard building or the violation is a misdemeanor.

SEC. 130. Section 25358.6.1 of the Health and Safety Code is amended to read:

25358.6.1. (a) For purposes of this section, the following definitions shall apply:

(1) "Engineering, architectural, environmental, landscape architectural, construction project management, or land surveying services" includes professional services of an engineering, architectural, environmental, landscape architectural, construction project management, land surveying, or similar nature, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

(2) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of engineering, architecture, environmental, landscape architecture, construction project management, or land surveying.

(3) "Prequalified list" means a list of engineering, architectural, environmental, landscape architectural, construction project management, or land surveying firms that possess the qualifications established by the department to perform specific types of engineering, architectural, environmental, and land surveying services, with each firm ranked in order of its qualifications and costs.

(b) Notwithstanding Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, the department may advertise and award a contract, in accordance with this section, for engineering, architectural, environmental, landscape architectural, construction project management, or land surveying services pursuant to this chapter or Chapter 6.5 (commencing with Section 25100), if the contract is individually in an amount equal to, or less than, one million dollars (\$1,000,000).

(c) The department may establish prequalified lists of engineering, architectural, environmental, landscape architectural, construction project management, or land surveying firms in accordance with the following process:

(1) For each type of engineering, architectural, environmental, landscape architectural, construction project management, or land surveying services work for which the department elects to use this section for advertising and awarding contracts, the department shall request annual statements of qualifications from interested firms. The request for statements of qualifications shall be announced statewide through the California State Contracts Register and publications, Internet Web sites, or electronic bulletin boards of respective professional societies that are intended, designed, and maintained by the professional societies to communicate with their memberships. Each announcement shall describe the general scope of services to be provided within each generic project category for engineering, architectural, environmental, landscape architectural, construction project management, or land surveying services that the department anticipates may be awarded during the period covered by the announcement.

(2) The department shall define a generic project category so that each specific project to be awarded within that generic project category is substantially similar to all other projects within that generic project category, may be within the same size range and geographical area, and requires substantially similar skills and magnitude of professional effort as every other project within that generic project category. The generic categories shall provide a basis for evaluating and establishing the type, quality, and costs, including hourly rates for personnel and field activities and equipment, of the services that would be provided by the firm.

(3) The department shall evaluate the statements of qualifications received pursuant to paragraph (1) and the department shall develop a short list of the most qualified firms that meet the criteria established and published by the department. The department shall hold discussions regarding each firm's qualifications with all firms listed on the short list. The department shall then rank the firms listed on the short list according to each firm's qualifications and the evaluation criteria established and published by the department.

(4) The department shall maintain prequalified lists of civil engineering, architectural, environmental, landscape architectural, construction project management, or land surveying firms ranked pursuant to paragraph (3) on an ongoing basis, except that no firm may remain on a list developed pursuant to paragraph (3) based on a single qualification statement for more than three years. The department shall include in each prequalified list adopted pursuant to paragraph (3) no less than three firms, unless the department certifies that the scope of the prequalified list is appropriate for the department's needs, taking into account the nature of the work, that the department made reasonable efforts to solicit qualification statements from qualified firms, and that the efforts were unsuccessful in producing three firms that met the established criteria. A firm may remain on the prequalified list up to three years without resubmitting a qualification statement, but the department may add additional firms to that list and may annually rank these firms. For purposes of annual adjustment to the ranking of firms already on the prequalified list developed pursuant to paragraph (3), the department shall rely on that firm's most recent annual qualification statement, if the statement is not more than three years old.

(5) During the term of the prequalified list developed pursuant to paragraph (3), as specific projects are identified by the department as being eligible for contracting under the procedures adopted pursuant to subdivision (d), the department shall contact the highest ranked firm on the appropriate prequalified list to determine if that firm has sufficient staff and is available for performance of the project. If the highest ranked firm is not available, the department shall continue to contact firms on the prequalified list in order of rank until a firm that is available is identified.

(6) The department may enter into a contract for the services with a firm identified pursuant to paragraph (5), if the contract is for a total price that the department determines is fair and reasonable to the department and otherwise conforms to all matters and terms previously identified and established upon participation in the prequalified list.

(7) If the department is unable to negotiate a satisfactory contract with a firm identified pursuant to paragraph (6), the department shall terminate the negotiations with that firm and the department shall

undertake negotiations with the next ranked firm that is available for performance. If a satisfactory contract cannot be negotiated with the second identified firm, the department shall terminate these negotiations and the department shall continue the negotiation process with the remaining qualified firms, in order of their ranking, until the department negotiates a satisfactory contract. If the department is unable to negotiate a satisfactory contract with a firm on two separate occasions, the department may remove that firm from the prequalified list. The department may award a contract to a firm on a prequalified list that is to be executed, including amendments, for a term that extends beyond the expiration date of that firm's tenure on the prequalified list.

(8) Once a satisfactory contract is negotiated and awarded to a firm from any prequalified list for a generic project category involving a site or facility investigation or characterization, a feasibility study, or a remedial design, for a specific response action or corrective action, including, but not limited to, a corrective action carried out pursuant to Section 25200.10, the department shall not enter into a contract with that firm for purposes of construction or implementation of any part of that same response action or corrective action.

(d) The department may adopt guidelines or regulations as necessary, and consistent with this section, to define the manner of advertising, generic project categories, type, quantity and cost of services, qualification standards and evaluation criteria, content and submittal requirements for statements of qualification, procedures for ranking of firms and administration of the prequalified list, the scope of matters addressed by participation on a prequalified list, manner of notification of, negotiation with, and awarding of contracts to, prequalified firms, and procedures for protesting the award of contracts under this section, or any other matter that is appropriate for implementation of this section.

(e) Any removal or remedial action taken or contracted by the department pursuant to Section 25354 or subdivision (a) of Section 25358.3 is exempt from this section.

(f) This section does not exempt any contract from compliance with Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

SEC. 131. Section 39619.6 of the Health and Safety Code is amended to read:

39619.6. (a) By June 30, 2002, the state board and the State Department of Health Services, in consultation with the State Department of Education, the Department of General Services, and the Office of Environmental Health Hazard Assessment, shall conduct a comprehensive study and review of the environmental health conditions in portable classrooms, as defined in subdivision (k) of Section 17070.15 of the Education Code.

(b) The state board and the department shall jointly coordinate the study, oversee data analysis and quality assurance, coordinate stakeholder participation, and prepare recommendations. The state board shall develop and oversee the contract for field work, air monitoring, and data analysis, and obtain equipment for the study. The department shall oversee the assessment of ventilation systems and practices and the evaluation of microbiological contaminants, and may provide laboratory analyses as needed.

(c) By August 31, 2000, the state board shall release a request for proposals for the field portion of the study. Field work shall begin not later than July 2001. The final report shall be completed on or before June 30, 2002, and shall be provided to the appropriate policy committees of the Legislature. The study of portable classrooms shall include all of the following:

(1) Review of design and construction specifications, including those for ventilation systems.

(2) Review of school maintenance practices, including the actual operation or nonoperation of ventilation systems.

(3) Assessment of indoor air quality.

(4) Assessment of potential toxic contamination, including molds and other biological contaminants.

(d) The final report shall summarize the results of the study and review, and shall include recommendations to remedy and prevent unhealthful conditions found in portable classrooms, including the need for all of the following:

(1) Modified design and construction standards, including ventilation specifications.

(2) Emission limits for building materials and classroom furnishings.

(3) Other mitigation actions to ensure the protection of children's health.

SEC. 132. Section 104170 of the Health and Safety Code is amended to read:

104170. (a) The Human Leukocyte Antigen Testing Fund is hereby established in the State Treasury, to be administered by the State Department of Health Services. Moneys in the fund shall be subject to appropriation in the annual Budget Act, and shall be used to pay the costs of blood collection and human leukocyte antigen typing, also referred to as histocompatibility locus antigen (HLA) testing, for A, B, and DR antigens for use in bone marrow transplantation by California blood centers under contract with the federal National Marrow Donor Program provided for pursuant to Public Law 101-302.

(b) Moneys in the fund may only be expended if the individual being tested completes and signs an informed consent form authorizing the use of test results for participation in the federal program referred to in

subdivision (a). The form shall require a declaration from the donor as to whether he or she has health plan benefits that would cover the cost of HLA testing. Moneys in the fund shall not be used to pay for the testing of a health plan enrollee if the health plan covers the cost of HLA testing for the enrollee.

SEC. 133. Section 104320 of the Health and Safety Code, as added by Section 25 of Chapter 93 of the Statutes of 2000, is amended and renumbered to read:

104322. (a) The State Department of Health Services shall develop, expand, and ensure quality prostate cancer treatment to low-income and uninsured men. The department shall award one or more contracts to provide prostate cancer treatment through private or public nonprofit organizations, including, but not limited to, community-based organizations, local health care providers, and the University of California medical centers. The contracts shall not be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(b) Treatment provided under this chapter shall be provided to uninsured and underinsured men with incomes at or below 200 percent of the federal poverty level.

(c) The department shall contract for prostate cancer treatment services only at the level of funding budgeted from state and other sources during a fiscal year in which the Legislature has appropriated funds to the department for this purpose.

SEC. 134. Section 105112 of the Health and Safety Code is amended to read:

105112. (a) It is the intent of the Legislature that University of California medical students complete a definable curriculum in geriatric medicine over the course of their medical school training to meet recommended core competencies for the care of older persons. It is the intent of the Legislature that this curriculum instill the attitudes, knowledge, and skills that physicians need to provide competent and compassionate care for older persons, including both didactic and clinical experiences encompassing the spectrum of health status of older persons and community-based sites for clinical training.

(b) It is the intent of the Legislature that University of California medical residents in internal medicine, family practice, and psychiatry complete a definable curriculum in geriatric medicine over the course of their residency training. It is the intent of the Legislature that this curriculum instill the attitudes, knowledge, and skills that physicians practicing these specialties need to provide competent and compassionate care for older persons. This curriculum should encompass the spectrum of health status of older persons and include community-based sites for clinical training.

(c) It is the intent of the Legislature that the University of California be responsible for developing, implementing, maintaining, and evaluating the geriatric medicine content needed in the curriculum. The curriculum shall take into consideration the recommendations of the Institute of Medicine of the National Academy of Sciences, the American Geriatric Society, and other nationally recognized medical organizations. The expanded geriatric medicine program and curriculum should be developed and implemented at each University of California school of medicine as soon as possible, but no later than September 1, 2003.

(d) The Legislature requests that, no later than March 30, 2003, the Regents of the University of California submit a progress report on the status of the implementation of a definable curriculum in geriatric medicine at each campus in accordance with this act.

(e) The Legislature requests that, no later than March 30, 2004, the Regents of the University of California submit a report on the status of the implementation of a definable curriculum in geriatric medicine at each campus. The report should include the total number of hours of geriatric instruction to be given at each school of medicine and the number of weeks of that instruction or experience provided at each medical school. This report should be written by a committee that is specifically charged with reporting on the status of the implementation of this section. The majority of committee members should be national experts in the geriatric field who are not University of California employees.

(f) The Legislature requests that every 5 years, commencing no later than June 30, 2005, the Regents of the University of California submit a report describing progress in geriatrics training and related initiatives at each campus in accordance with the act. This report should be written by a committee that is specifically charged with evaluating this progress. The majority of committee members should be national experts in the geriatric field who are not University of California employees.

(g) Copies of the reports requested in subdivisions (d), (e), and (f) are to be submitted to the members of the Assembly Committee on Aging and Long-Term Care, the members of the Senate Health and Human Services Subcommittee on Aging and Long-Term Care, and the Chairpersons of the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review.

(h) It is the intent of the Legislature that the professors occupying the University of California endowed chairs in geriatric medicine funded in the 2000–01 Budget Act provide leadership in developing and implementing the expanded geriatric medicine programs and curriculum at the University of California, and that one-time funds provided to the Academic Geriatric Resource Program in the Budget Act of 2000 also

be used to expand geriatric medicine programs and curriculum at the university to implement subdivisions (a) and (b).

SEC. 135. Section 111656.5 of the Health and Safety Code is amended to read:

111656.5. (a) A person other than a licensed pharmacist, an intern pharmacist, an exemptee, as specified in Section 111656.4, or an authorized agent of the department or a person authorized to prescribe, may not be permitted in that area, place, or premises described in the license issued by the department wherein prescription devices are stored, possessed, prepared, manufactured, or repacked, except that a licensed pharmacist or exemptee shall be responsible for any individual who enters the medical device retail facility for the purposes of receiving, fitting, or consultation from the licensed pharmacist or exemptee or any person performing clerical, inventory control, housekeeping, delivery, maintenance, or similar functions relating to the home medical device retail facility. The licensed pharmacist or exemptee shall remain present in the home medical device retail facility any time an individual is present who is seeking a fitting or consultation. However, a licensed pharmacist or an exemptee need not be present on the premises of a home medical device retail facility at all times of its operation and need not be present in a warehouse facility owned by a home medical device retail facility unless the department establishes that requirement by regulation based upon the need to protect the public. The exemptee need not be present if the prescription devices are stored in a secure locked area under the exclusive control of the exemptee and unavailable for dispensing. This subdivision shall apply only to prescription devices.

(b) A “warehouse” as used in this section, is a facility owned by a home medical device retail facility that is used for storage only. There may not be fitting, display, or sales at that location. A licensed pharmacist or exemptee shall be designated as “in charge” of a warehouse but need not be present during its operation. The licensed pharmacist or exemptee may permit others to possess a key to the warehouse.

(c) Notwithstanding the remainder of this section, a home medical device retail facility may establish a locked facility, meeting the requirements of Section 111656.4, for furnishing prescription devices to patients having prescriptions for prescription devices in emergencies or after working hours.

(d) The department may establish reasonable security measures consistent with this section as a condition of licensing in order to prevent unauthorized persons from gaining access to the area, place, or premises, or to the prescription devices therein.

(e) The department may by regulation establish labeling requirements for prescription devices sold, fitted, or dispensed by a

home medical device retail facility as it deems necessary for the protection of the public.

SEC. 136. Section 111656.13 of the Health and Safety Code is amended to read:

111656.13. (a) Any entity that prior to July 1, 2001, held a current, valid license as a medical device retailer pursuant to Section 4130 of the Business and Professions Code, shall be deemed to be a licensed home medical device retail facility until the expiration of that license if the entity is in compliance with all applicable criteria for obtaining a license as a home medical device retail facility.

(b) Any entity that was not required to obtain a license as a medical device retailer in order to provide equipment or services prior to July 1, 2001, and that is required to obtain a license as a home medical device retail facility pursuant to Section 111656, shall apply for a license as a home medical device retail facility by July 1, 2001; however, the requirement for licensure shall only apply to those entities on and after January 1, 2002.

SEC. 137. Section 114145 of the Health and Safety Code is amended to read:

114145. (a) Each food establishment, except produce stands and swap meet prepackaged food stands, shall be fully enclosed in a building consisting of floors, walls, and an overhead structure that meet the minimum standards prescribed by this chapter. Food establishments that are not fully enclosed on all sides and that are in operation on January 1, 1985, shall not be required to meet the requirement for a fully enclosed structure pursuant to this section.

(b) This section shall not be construed to require the enclosure of any of the following:

- (1) Dining areas.
- (2) Open-air barbecue facilities.
- (3) Outdoor wood-burning ovens that meet all of the food preparation and safety requirements applicable to open-air barbecue facilities.
- (4) Outdoor beverage bars contiguous with a fully enclosed food establishment under the constant and complete control of the operator of the food establishment, provided that the following requirements are met:

(A) The food establishment is a bona fide public eating place, as defined by Sections 23038, 23038.1, and 23038.2 of the Business and Professions Code.

(B) The operator of the food establishment is a licensee, as defined by Section 23009 of the Business and Professions Code, performing under authority of a license issued pursuant to the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code) for the outdoor beverage bar.

(C) The outdoor beverage bar is, at all times, operated pursuant to the requirements of this chapter, including, without limitation, Sections 114010 and 114080, and any conditions imposed by the local health agency to ensure compliance with the requirements of this chapter.

(5) Outdoor displays that meet all of the following requirements:

(A) Only prepackaged nonpotentially hazardous food, uncut produce, or both is displayed or sold in the outdoor displays.

(B) Outdoor displays are contiguous with a fully enclosed food establishment that is in compliance with subdivision (a).

(C) Outdoor displays have overhead protection that extends over all food items.

(D) Food items from the outdoor display are stored inside a fully enclosed food establishment that is in compliance with subdivision (a) at all times other than during business hours. Any food items to be stored pursuant to this subdivision shall be stored in accordance with subdivision (a) of Section 114080.

(E) Outdoor displays comply with Section 114010 and have been approved by the enforcement agency.

(F) Outdoor displays are under the constant and complete control of the operator of the permitted food establishment.

(c) This section shall not be construed to require the enclosure during operating hours of customer self-service nonpotentially hazardous bulk beverage dispensing operations that meet the following requirements:

(1) The dispensing operations are installed contiguous with a fully enclosed food establishment that is in compliance with subdivision (a) and operated by the food establishment.

(2) The beverages are dispensed from enclosed equipment that precludes exposure of the beverages until they are dispensed at the nozzles.

(3) Ice is dispensed only from an ice maker dispenser. Ice is not scooped or manually loaded into an ice dispenser out of doors.

(4) Single-service utensils are protected from contamination and are individually wrapped or dispensed from approved sanitary dispensers.

(5) The dispensing operations have overhead protection that fully extends over all equipment associated with the facility.

(6) During nonoperating hours, the dispensing operations are fully enclosed so as to be protected from contamination by vermin and exposure to the elements.

(7) The owner or operator of the food establishment demonstrates to the enforcement agency that acceptable methods are in place to properly clean and sanitize the beverage dispensing equipment.

(8) Beverage dispensing operations are in compliance with Section 114010 and have been approved by the enforcement agency.

(9) Beverage dispensing operations are under the constant and complete control of the permitholder of the food establishment that is operating the dispensing facility.

(d) This section shall not be construed to allow outdoor displays in violation of local ordinances.

SEC. 138. Section 123111 of the Health and Safety Code is amended to read:

123111. (a) Any adult patient who inspects his or her patient records pursuant to Section 123110 shall have the right to provide to the health care provider a written addendum with respect to any item or statement in his or her records that the patient believes to be incomplete or incorrect. The addendum shall be limited to 250 words per alleged incomplete or incorrect item in the patient's record and shall clearly indicate in writing that the patient wishes the addendum to be made a part of his or her record.

(b) The health care provider shall attach the addendum to the patient's records and shall include that addendum whenever the health care provider makes a disclosure of the allegedly incomplete or incorrect portion of the patient's records to any third party.

(c) The receipt of information in a patient's addendum which contains defamatory or otherwise unlawful language, and the inclusion of this information in the patient's records, in accordance with subdivision (b), shall not, in and of itself, subject the health care provider to liability in any civil, criminal, administrative, or other proceeding.

(d) Subdivision (f) of Section 123110 and Section 123120 shall be applicable with respect to any violation of this section by a health care provider.

SEC. 139. Section 124900 of the Health and Safety Code is amended to read:

124900. (a) (1) The State Department of Health Services shall select primary care clinics that are licensed under paragraph (1) or (2) of subdivision (a) of Section 1204, or are exempt from licensure under subdivision (c) of Section 1206, to be reimbursed for delivering medical services, including preventive health care, and smoking prevention and cessation health education, to program beneficiaries.

(2) Except as provided for in paragraph (3), in order to be eligible to receive funds under this article a clinic shall meet all of the following conditions, at a minimum:

(A) Provide medical diagnosis and treatment.

(B) Provide medical support services of patients in all stages of illness.

(C) Provide communication of information about diagnosis, treatment, prevention, and prognosis.

(D) Provide maintenance of patients with chronic illness.

(E) Provide prevention of disability and disease through detection, education, persuasion, and preventive treatment.

(F) Meet one or both of the following conditions:

(i) Are located in an area federally designated as a medically underserved area or medically underserved population.

(ii) Are clinics that are able to demonstrate that at least 50 percent of the patients served are persons with incomes at or below 200 percent of the federal poverty level.

(3) Notwithstanding the requirements of paragraph (2), all clinics that received funds under this article in the 1997–98 fiscal year shall continue to be eligible to receive funds under this article.

(b) As a part of the award process for funding pursuant to this article, the department shall take into account the availability of primary care services in the various geographic areas of the state. The department shall determine which areas within the state have populations which have clear and compelling difficulty in obtaining access to primary care. The department shall consider proposals from new and existing eligible providers to extend clinic services to these populations.

(c) Each primary care clinic applying for funds pursuant to this article shall demonstrate that the funds shall be used to expand medical services, including preventive health care, and smoking prevention and cessation health education, for program beneficiaries above the level of services provided in the 1988 calendar year or in the year prior to the first year a clinic receives funds under this article if the clinic did not receive funds in the 1989 calendar year.

(d) (1) The department, in consultation with clinics funded under this article, shall develop a formula for allocation of funds available. It is the intent of the Legislature that the funds allocated pursuant to this article promote stability for those clinics participating in programs under this article as part of the state's health care safety net and at the same time be distributed in a manner that best promotes access to health care to uninsured populations.

(2) The formula shall be based on both of the following:

(A) A hold harmless for clinics funded in the 1997–98 fiscal year to continue to reimburse them for some portion of their uncompensated care.

(B) Demonstrated unmet need by both new and existing clinics, as reflected in their levels of uncompensated care reported to the department. For purposes of this article, “uncompensated care” means clinic patient visits for persons with incomes at or below 200 percent of the federal poverty level for which there is no encounter-based third-party reimbursement which includes, but is not limited to, unpaid expanded access to primary care claims and other unreimbursed visits

as verified by the department according to subparagraph (A) of paragraph (5).

(3) In the 1998–99 fiscal year, the department shall allocate funds for a three-year period as follows:

(A) If the funds available for the purposes of this article are equal to or less than the prior fiscal year, clinics that received funding in the prior fiscal year shall receive 90 percent of their prior fiscal year allocation, subject to available funds, provided that funding award is substantiated by the clinics' reported levels of uncompensated care. The remaining funds beyond 90 percent shall be awarded in the following order:

(i) First priority shall be given to clinics that participated in the program in prior fiscal years, withdrew from the program due to financial considerations, were subsequently categorized as "new applicants" when they reapplied to the program, and received a significantly reduced allocation as a result. These clinics shall be awarded 90 percent of their allocation prior to their withdrawal from the program, subject to available funds, provided that award level is substantiated by the clinics' reported levels of uncompensated care.

(ii) Second priority shall be given to those clinics that received program funds in the prior year and continue to meet the minimum requirements for funding under this article. In implementing this priority, the department shall allocate funds to all eligible previously funded clinics on a proportionate basis, based on their reported levels of uncompensated care, which may include, but is not limited to, unpaid expanded access to primary care claims and other unreimbursed patient visits, as verified by the department according to subparagraph (A) of paragraph (5).

(B) If funds available for the purposes of this article are equal to or less than the prior fiscal year, only those clinics that received program funds in the prior fiscal year may be awarded funds. Funds shall be awarded in the same priority order as specified in clauses (i) and (ii) of subparagraph (A).

(C) If funds available for purposes of this article are greater than the prior fiscal year, clinics that received funds in the prior fiscal year shall be awarded 100 percent of their prior fiscal year allocation, provided that funding award level is substantiated by the clinics' reported levels of uncompensated care. Remaining funds shall be awarded in the following priority order:

(i) First priority shall be given to clinics that participated in the program in prior fiscal years, withdrew from the program due to financial considerations, were subsequently categorized as "new applicants" when they reapplied to the program, and received a significantly reduced allocation as a result. These clinics shall be awarded 100 percent of their allocation prior to their withdrawal from

the program, provided that award level is substantiated by the clinics' reported levels of uncompensated care.

(ii) Second priority shall be given to new and existing applicants that meet the minimum requirements for funding under this article. In implementing this priority, the department shall allocate funds to all eligible previously funded clinics on a proportionate basis, based on their reported levels of uncompensated care, which may include, but is not limited to, unpaid expanded access to primary care claims and other unreimbursed patient visits, as verified by the department, according to subparagraph (A) of paragraph (5).

(4) In the 2001–02 fiscal year, and subsequent fiscal years, the department shall allocate available funds, for a three-year period, as follows:

(A) Clinics that received funding in the prior fiscal year shall receive 90 percent of their prior fiscal year allocation, subject to available funds, provided that the funding award is substantiated by the clinics' reported levels of uncompensated care.

(B) The remaining funds beyond 90 percent shall be awarded to new and existing applicants based on the clinics' reported levels of uncompensated care as verified by the department according to subparagraph (B) of paragraph (5). The department shall seek input from stakeholders to discuss any adjustments to award levels that the department deems reasonable such as including base amounts for new applicant clinics.

(C) New applicants shall be awarded funds pursuant to this subdivision if they meet the minimum requirements for funding under this article based on the clinics' reported levels of uncompensated care as verified by the department according to subparagraph (B) of paragraph (5). New applicants include applicants for any new site expansions by existing applicants.

(D) The department shall confer with clinic representatives to develop a funding formula for the program implemented pursuant to this paragraph to use for allocations for the 2004–05 fiscal year and subsequent fiscal years.

(E) This paragraph shall become inoperative on July 1, 2004.

(5) In assessing reported levels of uncompensated care, the department shall utilize the most recent data available from the Office of Statewide Health Planning and Development's (OSHPD) completed analysis of the "Annual Report of Primary Care Clinics."

(A) In the 1998–99 to 2000–01 fiscal years, inclusive, clinics shall submit updated data regarding the clinics' levels of uncompensated care to the department with their initial application, and for each of the two remaining years in the three-year application period. The department shall compare the clinics' updated uncompensated care data to the

OSHPD uncompensated care data for that clinic for the same reporting period. Discrepancies in uncompensated care data for any particular clinic shall be resolved to the satisfaction of the department prior to the award of funds to that clinic.

(B) In the 2001–02 fiscal year, and subsequent fiscal years, clinics may not submit updated data regarding the clinics' levels of uncompensated care. The department shall utilize the most recent data available from OSHPD's completed analysis of the "Annual Report of Primary Care Clinics."

(C) If the funds allocated to the program are less than the prior year, the department shall allocate available funds to existing program providers only.

(6) The department shall establish a base funding level, subject to available funds, of no less than thirty-five thousand dollars (\$35,000) for frontier clinics and Native American reservation-based clinics. For purposes of this article, "frontier clinics" means clinics located in a medical services study area with a population of fewer than 11 persons per square mile.

(7) The department shall develop, in consultation with clinics funded pursuant to this article, a formula for reallocation of unused funds to other participating clinics to reimburse for uncompensated care. The department shall allocate the unused funds to other participating clinics to reimburse for uncompensated care.

(e) In applying for funds, eligible clinics shall submit a single application per clinic corporation. Applicants with multiple sites shall apply for all eligible clinics, and shall report to the department the allocation of funds among their corporate sites in the prior year. A corporation may only claim reimbursement for services provided at a program-eligible clinic site identified in the corporate entity's application for funds, and approved for funding by the department. A corporation may increase or decrease the number of its program-eligible clinic sites on an annual basis, at the time of the annual application update for the subsequent fiscal years of any multiple-year application period.

(f) Grant allocations pursuant to this article shall be based on the formula developed by the department, notwithstanding a merger of one of more licensed primary care clinics participating in the program.

(g) A clinic that is eligible for the program in every other respect, but that provides dental services only, rather than the full range of primary care medical services, shall only be eligible to receive funds under this article on an exception basis. A dental-only provider's application shall include a Memorandum of Understanding (MOU) with a primary care clinic funded under this article. The MOU shall include medical protocols for making referrals by the primary care clinic to the dental

clinic and from the dental clinic to the primary care clinic, and ensure that case management services are provided and that the patient is being provided comprehensive primary care as defined in subdivision (a).

(h) (1) For purposes of this article, an outpatient visit shall include diagnosis and medical treatment services, including the associated pharmacy, X-ray, and laboratory services, and prevention health and case management services that are needed as a result of the outpatient visit. For a new patient, an outpatient visit shall also include a health assessment encompassing an assessment of smoking behavior and the patient's need for appropriate health education specific to related tobacco use and exposure.

(2) "Case management" includes, for this purpose, the management of all physician services, both primary and specialty, and arrangements for hospitalization, postdischarge care, and followup care.

(i) (1) Payment shall be on a per-visit basis at a rate that is determined by the department to be appropriate for an outpatient visit as defined in this section, and shall be not less than seventy-one dollars and fifty cents (\$71.50).

(2) In developing a statewide uniform rate for an outpatient visit as defined in this article, the department shall consider existing rates of payments for comparable outpatient visits. The department shall review the outpatient visit rate on an annual basis.

(j) Not later than May 1 of each year, the department shall adopt and provide each licensed primary care clinic with a schedule for programs under this article, including the date for notification of availability of funds, the deadline for the submission of a completed application, and an anticipated contract award date for successful applicants.

(k) In administering the program created pursuant to this article, the department shall utilize the Medi-Cal program statutes and regulations pertaining to program participation standards, medical and administrative recordkeeping, the ability of the department to monitor and audit clinic records pertaining to program services rendered to program beneficiaries and take recoupments or recovery actions consistent with monitoring and audit findings, and the provider's appeal rights. Each primary care clinic applying for program participation shall certify that it will abide by these statutes and regulations and other program requirements set forth in this article.

SEC. 140. Section 789.8 of the Insurance Code is amended to read:

789.8. (a) "Elder" for purposes of this section means any person residing in this state who is 65 years of age or older.

(b) If a life agent offers to sell to an elder any life insurance or annuity product, the life agent shall advise an elder or elder's agent in writing that the sale or liquidation of any stock, bond, IRA, certificate of deposit, mutual fund, annuity, or other asset to fund the purchase of this product

may have tax consequences, early withdrawal penalties, or other costs or penalties as a result of the sale or liquidation, and that the elder or elder's agent may wish to consult independent legal or financial advice before selling or liquidating any assets and prior to the purchase of any life or annuity products being solicited, offered for sale, or sold. This section does not apply to a credit life insurance product as defined in Section 779.2.

(c) A life agent who offers for sale or sells a financial product to an elder on the basis of the product's treatment under the Medi-Cal program may not negligently misrepresent the treatment of any asset under the statutes and rules and regulations of the Medi-Cal program, as it pertains to the determination of the elder's eligibility for any program of public assistance.

(d) A life agent who offers for sale or sells any financial product on the basis of its treatment under the Medi-Cal program shall provide, in writing, the following disclosure to the elder or the elder's agent:

“NOTICE REGARDING STANDARDS FOR MEDI-CAL  
ELIGIBILITY

If you or your spouse are considering purchasing a financial product based on its treatment under the Medi-Cal program, read this important message!

You or your spouse do not have to use up all of your savings before applying for Medi-Cal.

UNMARRIED RESIDENT

An unmarried resident may be eligible for Medi-Cal benefits if he or she has less than (insert amount of individual's resource allowance) in countable resources.

The Medi-Cal recipient is allowed to keep from his or her monthly income a personal allowance of (insert amount of personal needs allowance) plus the amount of any health insurance premiums paid. The remainder of the monthly income is paid to the nursing facility as a monthly share of cost.

MARRIED RESIDENT

**COMMUNITY SPOUSE RESOURCE ALLOWANCE:** If one spouse lives in a nursing facility, and the other spouse does not live in a facility, the Medi-Cal program will pay some or all of the nursing facility costs as long as the couple together does not have more than (insert amount of community countable assets).

**MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE:** If a spouse is eligible for Medi-Cal payment of nursing facility costs, the spouse living at home is allowed to keep a monthly income of at least his or her individual monthly income or (insert amount of the minimum monthly maintenance needs allowance), whichever is greater.

### FAIR HEARINGS AND COURT ORDERS

Under certain circumstances, an at-home spouse can obtain an order from an administrative law judge or court that will allow the at-home spouse to retain additional resources or income. The order may allow the couple to retain more than (insert amount of community spouse resource allowance plus individual's resource allowance) in countable resources. The order also may allow the at-home spouse to retain more than (insert amount of the monthly maintenance needs allowance) in monthly income.

### REAL AND PERSONAL PROPERTY EXEMPTIONS

Many of your assets may already be exempt. Exempt means that the assets are not counted when determining eligibility for Medi-Cal.

#### REAL PROPERTY EXEMPTIONS

**ONE PRINCIPAL RESIDENCE:** One property used as a home is exempt. The home will remain exempt in determining eligibility if the applicant intends to return home someday.

The home also continues to be exempt if the applicant's spouse or dependent relative continues to live in it.

Money received from the sale of a home can be exempt for up to six months if the money is going to be used for the purchase of another home.

**REAL PROPERTY USED IN A BUSINESS OR TRADE:** Real estate used in a trade or business is exempt regardless of its equity value and whether it produces income.

#### PERSONAL PROPERTY AND OTHER EXEMPT ASSETS

**IRAs, KEOGHs, AND OTHER WORK-RELATED PENSION PLANS:** These funds are exempt if the family member whose name it is in does not want Medi-Cal. If held in the name of a person who wants Medi-Cal and payments of principal and interest are being received, the balance is considered unavailable and is not counted. It is not necessary to annuitize, convert to an annuity, or otherwise change the form of the

assets in order for them to be unavailable.

PERSONAL PROPERTY USED IN A TRADE OR BUSINESS.

ONE MOTOR VEHICLE.

IRREVOCABLE BURIAL TRUSTS OR IRREVOCABLE PREPAID BURIAL CONTRACTS.

THERE MAY BE OTHER ASSETS THAT MAY BE EXEMPT.

This is only a brief description of the Medi-Cal eligibility rules. For more detailed information, you should call your county welfare department. Also, you are advised to contact a legal services program for seniors or an attorney who is not connected with the sale of this product.

I have read the above notice and have received a copy.

Dated: \_\_\_\_\_ Signature: \_\_\_\_\_”

The statement required in this subdivision shall be printed in at least 12-point type, shall be clearly separate from any other document or writing, and shall be signed by the prospective purchaser and that person’s spouse, and legal representative, if any.

(e) The State Department of Health Services shall update this form to ensure consistency with state and federal law and make the disclosure available to agents and brokers through its Internet Web site.

(f) Nothing in this section allows or is intended to allow the unlawful practice of law.

(g) Subdivisions (b) and (d) shall become operative on July 1, 2001.

SEC. 141. Section 1215.1 of the Insurance Code is amended to read:

1215.1. (a) Any domestic insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries subject to the limitations of this section.

(b) In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under all other sections of this chapter, a domestic insurer may also do one or more of the following:

(1) Invest in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts that do not exceed the lesser of 10 percent of the insurer’s assets or 50 percent of the insurer’s surplus as regards policyholders. However, after these investments, the insurer’s surplus as regards policyholders shall be reasonable in relation to the insurer’s outstanding liabilities and adequate to its financial needs. In calculating the amount of these investments, there shall be excluded investments in insurance

subsidiaries, and there shall be included (A) total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities, and (B) all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus of a subsidiary subsequent to its acquisition or formation.

“Insurance subsidiary” is an insurer that is organized within the United States and is controlled, directly or indirectly, by a reporting insurer subject to this article. For purposes of this paragraph, “investments in insurance subsidiaries” shall include the following:

(A) Any direct investment in an insurance subsidiary.

(B) The insurer’s proportionate share of any investment in an insurance subsidiary held by any subsidiary of the insurer. This shall be calculated by multiplying the amount of the subsidiary’s investment in the insurance subsidiary by the insurer’s percentage of ownership of the subsidiary.

(2) If the insurer’s total liabilities, as calculated for National Association of Insurance Commissioners’ annual statement purposes, are less than 10 percent of assets, invest any amount in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries. However, after this investment the insurer’s surplus as regards policyholders, considering this investment as if it were a disallowed asset, shall be reasonable in relation to the insurer’s outstanding liabilities and adequate to its financial needs.

(3) Invest any amount in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, provided that each subsidiary agrees to limit its investments in any asset so that these investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in paragraph (1) or in this chapter applicable to the insurer. For the purpose of this paragraph, “the total investment of the insurer” shall include (A) any direct investment by the insurer in an asset, and (B) the insurer’s proportionate share of any investment of an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary’s investment by the percentage of the insurer’s ownership of that subsidiary.

(4) With the approval of the commissioner, invest any amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries, provided that after this investment the insurer’s surplus as regards policyholders shall be reasonable in relation to the insurer’s outstanding liabilities and adequate to its financial needs.

(5) Invest any amount in the common stock, preferred stock, debt obligations, or other securities of any subsidiary exclusively engaged in holding title to or holding title to and managing or developing real or personal property, if after considering as a disallowed asset so much of the investment as is represented by subsidiary assets which if held directly by the insurer would be considered as a disallowed asset, the insurer's surplus as regards policyholders shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(c) Investments in common stock, preferred stock, debt obligations, or other securities of subsidiaries made pursuant to subdivision (b) shall neither limit nor be subject to any of the otherwise applicable authorizations, restrictions, or prohibitions contained in this part applicable to these investments of insurers.

(d) Whether any investment pursuant to subdivision (b) meets the applicable requirements thereof is to be determined immediately after the investment is made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the date they were made.

(e) If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within three years from the time of the cessation of control, or within any further time as the commissioner may prescribe, unless at any time after the investment has been made, the investment has met the requirements for investment under any other section of this part.

SEC. 142. Section 1871 of the Insurance Code is amended to read: 1871. The Legislature finds and declares as follows:

(a) The business of insurance involves many transactions that have the potential for abuse and illegal activities. There are numerous law enforcement agencies on the state and local levels charged with the responsibility for investigating and prosecuting fraudulent activity. This chapter is intended to permit the full utilization of the expertise of the commissioner and the department so that they may more effectively investigate and discover insurance frauds, halt fraudulent activities, and assist and receive assistance from federal, state, local, and administrative law enforcement agencies in the prosecution of persons who are parties in insurance frauds.

(b) Insurance fraud is a particular problem for automobile policyholders; fraudulent activities account for 15 to 20 percent of all auto insurance payments. Automobile insurance fraud is the biggest and fastest growing segment of insurance fraud and contributes substantially to the high cost of automobile insurance with particular significance in urban areas.

(c) Prevention of automobile insurance fraud will significantly reduce the incidence of severity and automobile insurance claim payments and will therefore produce a commensurate reduction in automobile insurance premiums.

(d) Workers' compensation fraud harms employers by contributing to the increasingly high cost of workers' compensation insurance and self-insurance and harms employees by undermining the perceived legitimacy of all workers' compensation claims.

(e) Prevention of workers' compensation insurance fraud may reduce the number of workers' compensation claims and claim payments thereby producing a commensurate reduction in workers' compensation costs. Prevention of workers' compensation insurance fraud will assist in restoring confidence and faith in the workers' compensation system, and will facilitate expedient and full compensation for employees injured at the workplace.

(f) The actions of employers who fraudulently underreport payroll or fail to report payroll for all employees to their insurance company in order to pay a lower workers' compensation premium result in significant additional premium costs and an unfair burden to honest employers and their employees.

(g) Health insurance fraud is a particular problem for health insurance policyholders. Although there are no precise figures, it is believed that fraudulent activities account for billions of dollars annually in added health care costs nationally. Health care fraud causes losses in premium dollars and increases health care costs unnecessarily.

SEC. 143. Section 1872.83 of the Insurance Code is amended to read:

1872.83. (a) The commissioner shall ensure that the Bureau of Fraudulent Claims aggressively pursues all reported incidents of probable workers' compensation fraud, as defined in Sections 11760 and 11880, in subdivision (a) of Section 1871.4, and in Section 549 of the Penal Code, and forwards to the appropriate disciplinary body the names, along with all supporting evidence, of any individuals licensed under the Business and Professions Code who are suspected of actively engaging in fraudulent activity. The Bureau of Fraudulent Claims shall forward to the Insurance Commissioner or the Director of Industrial Relations, as appropriate, the name, along with all supporting evidence, of any insurer, as defined in subdivision (c) of Section 1877.1, suspected of actively engaging in the fraudulent denial of claims.

(b) To fund increased investigation and prosecution of workers' compensation fraud, there shall be an annual assessment as follows:

(1) The aggregate amount of the assessment shall be determined by the Fraud Assessment Commission, which is hereby established. The commission shall be composed of five members consisting of two

representatives of self-insured employers, one representative of insured employers, one representative of workers' compensation insurers, and the President of the State Compensation Insurance Fund, or his or her designee.

The Governor shall appoint members representing self-insured employers, insured employers, and insurers. The term of office of members of the commission shall be four years, and a member shall hold office until the appointment of a successor. However, the initial terms of three of the members appointed by the Governor shall expire, respectively, on December 31, 1992, December 31, 1993, and December 31, 1994. The President of the State Compensation Insurance Fund shall be an ex officio, voting member of the commission. Members of the commission shall receive one hundred dollars (\$100) for each day of actual attendance at commission meetings and other official commission business, and shall also receive their actual and necessary traveling expenses incurred in the performance of commission duties. Payment of per diem and travel expenses shall be made from the Workers' Compensation Fraud Account in the Insurance Fund, established in paragraph (4), upon appropriation by the Legislature.

(2) In determining the aggregate amount of the assessment, the Fraud Assessment Commission shall consider the advice and recommendations of the Bureau of Fraudulent Claims and the commissioner.

(3) The aggregate amount of the assessment shall be collected by the Director of Industrial Relations pursuant to Section 62.6 of the Labor Code. The Fraud Assessment Commission shall annually advise the Director of Industrial Relations, not later than March 15, of the aggregate amount to be assessed for the next fiscal year.

(4) The amount collected, together with the fines collected for violations of the unlawful acts specified in Sections 1871.4, 11760, and 11880, and Section 549 of the Penal Code, shall be deposited in the Workers' Compensation Fraud Account in the Insurance Fund, which is hereby created, and may be used, upon appropriation by the Legislature, only for enhanced workers' compensation fraud investigation and prosecution as provided in this section.

(c) For each fiscal year, the total amount of revenues derived from the assessment pursuant to subdivision (b) shall, together with amounts collected pursuant to fines imposed for unlawful acts described in Sections 1871.4, 11760, and 11880, and Section 549 of the Penal Code, not be less than three million dollars (\$3,000,000). Any funds appropriated by the Legislature pursuant to subdivision (b) that are not expended in the fiscal year for which they have been appropriated, and that have not been allocated under subdivision (f), shall be applied to satisfy for the immediately following fiscal year the minimum total

amount required by this subdivision. In no case may that money be transferred to the General Fund.

(d) After incidental expenses, at least 40 percent of the funds to be used for the purposes of this section shall be provided to the Bureau of Fraudulent Claims of the Department of Insurance for enhanced investigative efforts, and at least 40 percent of the funds shall be distributed to district attorneys, pursuant to a determination by the commissioner with the advice and consent of the bureau and the Fraud Assessment Commission, as to the most effective distribution of moneys for purposes of the investigation and prosecution of workers' compensation insurance fraud cases. Each district attorney seeking a portion of the funds shall submit to the commissioner an application setting forth in detail the proposed use of any funds provided. A district attorney receiving funds pursuant to this subdivision shall submit an annual report to the commissioner with respect to the success of his or her efforts. Upon receipt, the commissioner shall provide copies to the bureau and the Fraud Assessment Commission of any application, annual report, or other documents with respect to the allocation of money pursuant to this subdivision. Both the application for moneys and the distribution of moneys shall be public documents. Information submitted to the commissioner pursuant to this section concerning criminal investigations, whether active or inactive, shall be confidential.

(e) If a district attorney is determined by the commissioner to be unable or unwilling to investigate and prosecute workers' compensation fraud claims, the commissioner shall discontinue distribution of funds allocated for that county and may redistribute those funds according to this subdivision.

(1) The commissioner shall promptly determine whether any other county could assert jurisdiction to prosecute the fraud claims that would have been brought in the nonparticipating county, and if so, the commissioner may award funds to conduct the prosecutions redirected pursuant to this subdivision. These funds may be in addition to any other fraud prosecution funds otherwise awarded under this section. Any district attorney receiving funds pursuant to this subdivision shall first agree that the funds shall be used solely for investigating and prosecuting those cases of workers' compensation fraud redirected pursuant to this subdivision and submit an annual report to the commissioner with respect to the success of the district attorney's efforts. The commissioner shall keep the Fraud Assessment Commission fully informed of all reallocations of funds under this paragraph.

(2) If the commissioner determines that no district attorney is willing or able to investigate and prosecute the workers' compensation fraud claims arising in the nonparticipating county, the commissioner, with the advice and consent of the Fraud Assessment Commission, may award

to the Attorney General some or all of the funds previously awarded to the nonparticipating county. Before the commissioner may award any funds, the Attorney General shall submit to the commissioner an application setting forth in detail his or her proposed use of any funds provided and agreeing that any funds awarded shall be used solely for investigating and prosecuting those cases of workers' compensation fraud redirected pursuant to this subdivision. The Attorney General shall submit an annual report to the commissioner with respect to the success of the fraud prosecution efforts of his or her office.

(3) Neither the Attorney General nor any district attorney shall be required to relinquish control of any investigation or prosecution undertaken pursuant to this subdivision unless the commissioner determines that satisfactory progress is no longer being made on the case or the case has been abandoned.

(4) A county that has become a nonparticipating county due to the inability or unwillingness of its district attorney to investigate and prosecute workers' compensation fraud may not become eligible to receive funding under this section until it has submitted a new application that meets the requirements of subdivision (d) and the applicable regulations.

(f) If in any fiscal year the Bureau of Fraudulent Claims does not use all of the funds made available to it under subdivision (d), any remaining funds may be distributed to district attorneys pursuant to a determination by the commissioner in accordance with the same procedures set forth in subdivision (d).

(g) The commissioner shall adopt rules and regulations to implement this section 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). Included in the rules and regulations shall be the criteria for redistributing funds to district attorneys and the Attorney General. The adoption of the rules and regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

(h) The department shall report on an annual basis to the Legislature and the Fraud Assessment Commission on the activities of the Bureau of Fraudulent Claims and district attorneys supported by the funds provided by this section.

The annual report shall include, but is not limited to, all of the following information for the department and each district attorney's office:

- (1) All allocations, distributions, and expenditures of funds.
- (2) The number of search warrants issued.
- (3) The number of arrests and prosecutions, and the aggregate number of parties involved in each.

(4) The number of convictions and the names of all convicted fraud perpetrators.

(5) The estimated value of all assets frozen, penalties assessed, and restitutions made for each conviction.

(6) Any additional items necessary to fully inform the Fraud Assessment Commission and the Legislature of the fraud-fighting efforts financed through this section.

(i) In order to meet the requirements of subdivision (g), the department shall submit a biannual information request to those district attorneys who have applied for and received funding through the annual assessment process under this section.

(j) Assessments levied or collected to fight workers' compensation fraud and insurance fraud are not taxes. Those funds are entrusted to the state to fight fraud by funding state and local investigation and prosecution efforts. Accordingly, any funds resulting from assessments, fees, penalties, fines, restitution, or recovery of costs of investigation and prosecution deposited in the Insurance Fund shall not be deemed "unexpended" funds for any purpose and, if remaining in that account at the end of any fiscal year, shall be applied as provided in subdivision (f) and to offset or augment subsequent years' program funding.

SEC. 144. Section 10123.135 of the Insurance Code is amended to read:

10123.135. (a) Every disability insurer, or an entity with which it contracts for services that include utilization review or utilization management functions, that covers hospital, medical, or surgical expenses and 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 insureds, or that delegates these functions to medical groups or independent practice associations or to other contracting providers, shall comply with this section.

(b) A disability insurer that is subject to this section, or any entity with which an insurer contracts for services that include utilization review or utilization management functions, shall have written policies and procedures establishing the process by which the insurer 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 insureds. 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 subdivision (f). These policies and procedures, and a description of the

process by which an insurer, or an entity with which an insurer contracts for services that include utilization review or utilization management functions, reviews and approves, modifies, delays, or denies requests by providers prior to, retrospectively, or concurrent with the provision of health care services to insureds, shall be filed with the commissioner, and shall be disclosed by the insurer to insureds and providers upon request, and by the insurer to the public upon request.

(c) If the number of insureds covered under health benefit plans in this state that are issued by an insurer subject to this section constitute at least 50 percent of the number of insureds covered under health benefit plans issued nationwide by that insurer, the insurer 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 the Osteopathic Initiative Act, or the insurer may employ a clinical director licensed in California whose scope of practice under California law includes the right to independently perform all those services covered by the insurer. The medical director or clinical director shall ensure that the process by which the insurer 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 insureds, complies with the requirements of this section. Nothing in this subdivision shall be construed as restricting the existing authority of the Medical Board of California.

(d) If an insurer subject to this section, or individuals under contract to the insurer 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) An 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 not deny or modify requests for authorization of health care services for an insured for reasons of medical necessity. The decision of the physician or other health care provider shall be communicated to the provider and the insured pursuant to subdivision (h).

(f) (1) An insurer shall disclose, or provide for the disclosure, to the commissioner and to network providers, the process the insurer, its contracting provider groups, or any entity with which it contracts for services that include utilization review or utilization management functions, uses to authorize, delay, modify, or deny health care services under the benefits provided by the insurance contract, including coverage for subacute care, transitional inpatient care, or care provided in skilled nursing facilities. An insurer shall also disclose those

processes to policyholders or persons designated by a policyholder, or to any other person or organization, upon request.

(2) The criteria or guidelines used by an insurer, or an entity with which an insurer contracts for utilization review or utilization management functions, to determine whether to authorize, modify, delay, or deny health care services, shall comply with all of the following:

(A) Be developed with involvement from actively practicing health care providers.

(B) Be consistent with sound clinical principles and processes.

(C) Be evaluated, and updated if necessary, at least annually.

(D) If used as the basis of a decision to modify, delay, or deny services in a specified case under review, be disclosed to the provider and the policyholder in that specified case.

(E) Be available to the public upon request. An insurer shall only be required to disclose the criteria or guidelines for the specific procedures or conditions requested. An insurer may charge reasonable fees to cover administrative expenses related to disclosing criteria or guidelines pursuant to this paragraph that are limited to copying and postage costs. The insurer may also make the criteria or guidelines available through electronic communication means.

(3) The disclosure required by subparagraph (E) of paragraph (2) shall be accompanied by the following notice: "The materials provided to you are guidelines used by this insurer to authorize, modify, or deny health care benefits for persons with similar illnesses or conditions. Specific care and treatment may vary depending on individual need and the benefits covered under your insurance contract."

(g) If an insurer subject to this section requests medical information from providers in order to determine whether to approve, modify, or deny requests for authorization, the insurer 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 insureds, based in whole or in part on medical necessity, every insurer 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 insureds 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 insured's condition, not to exceed five business days from the insurer's receipt of the information reasonably necessary and requested by the insurer 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 insured's condition is such that the insured 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 insured's life or health or could jeopardize the insured'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 insureds shall be made in a timely fashion, appropriate for the nature of the insured's condition, but not to exceed 72 hours after the insurer's receipt of the information reasonably necessary and requested by the insurer to make the determination.

(3) Decisions to approve, modify, or deny requests by providers for authorization prior to, or concurrent with, the provision of health care services to insureds 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 insured'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 insured in writing within two business days of the decision. In the case of concurrent review, care shall not be discontinued until the insured's treating provider has been notified of the insurer'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 insureds 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 insureds shall be communicated to insureds 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 insurer'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 or 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 provider or the insured may file an appeal with the insurer or seek department review under the unfair practices provisions of Article 6.5 (commencing with Section 790) of Chapter 1 of Part 2 of Division 1 and the regulations adopted thereunder.

(5) If the insurer cannot make a decision to approve, modify, or deny the request for authorization within the timeframes specified in paragraph (1) or (2) because the insurer is not in receipt of all of the information reasonably necessary and requested, or because the insurer requires consultation by an expert reviewer, or because the insurer has asked that an additional examination or test be performed upon the insured, provided that the examination or test is reasonable and consistent with good medical practice, the insurer shall, immediately upon the expiration of the timeframe specified in paragraph (1) or (2), or as soon as the insurer becomes aware that it will not meet the timeframe, whichever occurs first, notify the provider and the insured, in writing, that the insurer 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 insurer 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 insurer, the insurer shall approve, modify, or deny the request for authorization within the timeframes specified in paragraph (1) or (2), whichever applies.

(6) If the commissioner determines that an insurer has failed to meet any of the timeframes in this section, or has failed to meet any other requirement of this section, the commissioner 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. The administrative penalties shall not be deemed an exclusive remedy for the commissioner. These penalties shall be paid to the Insurance Fund.

(i) Every insurer subject to this section shall maintain telephone access for providers to request authorization for health care services.

(j) Nothing in this section shall cause a disability insurer 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. 145. Section 10178.3 of the Insurance Code is amended to read:

10178.3. (a) In order to prevent the improper selling, leasing, or transferring of a health care provider's contract, it is the intent of the Legislature that every arrangement that results in a payor paying a health care provider a reduced rate for health care services based on the health care provider's participation in a network or panel shall be disclosed to the provider in advance and that the payor shall actively encourage beneficiaries to use the network, unless the health care provider agrees to provide discounts without that active encouragement.

(b) Beginning July 1, 2000, every contracting agent that sells, leases, assigns, transfers, or conveys its list of contracted health care providers and their contracted reimbursement rates to a payor, as defined in subparagraph (A) of paragraph (3) of subdivision (d), or another contracting agent shall, upon entering or renewing a provider contract, do all of the following:

(1) Disclose whether the list of contracted providers may be sold, leased, transferred, or conveyed to other payors or other contracting agents, and specify whether those payors or contracting agents include workers' compensation insurers or automobile insurers.

(2) Disclose what specific practices, if any, payors utilize to actively encourage a payor's beneficiaries to use the list of contracted providers when obtaining medical care that entitles a payor to claim a contracted rate. For purposes of this paragraph, a payor is deemed to have actively encouraged its beneficiaries to use the list of contracted providers if one of the following occurs:

(A) The payor's contract with subscribers or insureds offers beneficiaries direct financial incentives to use the list of contracted providers when obtaining medical care. "Financial incentives" means reduced copayments, reduced deductibles, premium discounts directly attributable to the use of a provider panel, or financial penalties directly attributable to the nonuse of a provider panel.

(B) The payor provides information to its beneficiaries, who are parties to the contract, or, in the case of workers' compensation insurance, the employer, advising them of the existence of the list of contracted providers through the use of a variety of advertising or marketing approaches that supply the names, addresses, and telephone numbers of contracted providers to beneficiaries in advance of their selection of a health care provider, which approaches may include, but are not limited to, the use of provider directories, or the use of toll-free telephone numbers or Internet Web site addresses supplied directly to every beneficiary. However, Internet Web site addresses alone shall not

be deemed to satisfy the requirements of this subparagraph. Nothing in this subparagraph shall prevent contracting agents or payors from providing only listings of providers located within a reasonable geographic range of a beneficiary.

(3) Disclose whether payors to which the list of contracted providers may be sold, leased, transferred, or conveyed may be permitted to pay a provider's contracted rate without actively encouraging the payors' beneficiaries to use the list of contracted providers when obtaining medical care. Nothing in this subdivision shall be construed to require a payor to actively encourage the payor's beneficiaries to use the list of contracted providers when obtaining medical care in the case of an emergency.

(4) Disclose, upon the initial signing of a contract, and within 30 calendar days of receipt of a written request from a provider or provider panel, a payor summary of all payors currently eligible to claim a provider's contracted rate due to the provider's and payor's respective written agreements with any contracting agent.

(5) Allow providers, upon the initial signing, renewal, or amendment of a provider contract, to decline to be included in any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care as described in paragraph (2). Each provider's election under this paragraph shall be binding on the contracting agent with which the provider has a contract and any other contracting agent that buys, leases, or otherwise obtains the list of contracted providers. A provider shall not be excluded from any list of contracted providers that is sold, leased, transferred, or conveyed to payors that actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care, based upon the provider's refusal to be included on any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the payors' beneficiaries to use the list of contracted providers when obtaining medical care.

(6) Nothing in this subdivision shall be construed to impose requirements or regulations upon payors, as defined in subparagraph (A) of paragraph (3) of subdivision (d).

(c) Beginning July 1, 2000, a payor, as defined in subparagraph (B) of paragraph (3) of subdivision (d), shall do all of the following:

(1) Provide an explanation of benefits or explanation of review that identifies the name of the network that has a written agreement signed by the provider whereby the payor is entitled, directly or indirectly, to pay a preferred rate for the services rendered.

(2) Demonstrate that it is entitled to pay a contracted rate within 30 business days of receipt of a written request from a provider who has

received a claim payment from the payor. The failure of a payor to make the demonstration within 30 business days shall render the payor responsible for the amount that the payor would have been required to pay pursuant to the beneficiary's policy with the payor, which amount shall be due and payable within 10 business days of receipt of written notice from the provider, and shall bar the payor from taking any future discounts from that provider without the provider's express written consent until the payor can demonstrate to the provider that it is entitled to pay a contracted rate as provided in this subdivision. A payor shall be deemed to have demonstrated that it is entitled to pay a contracted rate if it complies with either of the following:

(A) Discloses the name of the network that has a written agreement with the provider whereby the provider agrees to accept discounted rates, and describes the specific practices the payor utilizes to comply with paragraph (2) of subdivision (b).

(B) Identifies the provider's written agreement with a contracting agent whereby the provider agrees to be included on lists of contracted providers sold, leased, transferred, or conveyed to payors that do not actively encourage beneficiaries to use the list of contracted providers pursuant to paragraph (5) of subdivision (b).

(d) For the purposes of this section, the following terms have the following meanings:

(1) "Beneficiary" means:

(A) For automobile insurance, those persons covered under the medical payments portion of the insurance contract.

(B) For group or individual health services covered through a health care service plan contract, including a specialized health care service plan contract, or a policy of disability insurance that covers hospital, medical, or surgical benefits, a subscriber, an enrollee, a policyholder, or an insured.

(C) For workers' compensation insurance, an employee seeking health care services for a work-related injury.

(2) "Contracting agent" means an insurer licensed under this code to provide disability insurance that covers hospital, medical, or surgical benefits, automobile insurance, or workers' compensation insurance, while engaged, for monetary or other consideration, in the act of selling, leasing, transferring, assigning, or conveying a provider or provider panel to provide health care services to beneficiaries.

(3) (A) For the purposes of subdivision (b), "payor" means a health care service plan, including a specialized health care service plan, an insurer licensed under this code to provide disability insurance that covers hospital, medical, or surgical benefits, automobile insurance, or workers' compensation insurance, or a self-insured employer that is responsible to pay for health care services provided to beneficiaries.

(B) For the purposes of subdivision (c), “payor” means only an insurer licensed under this code to provide disability insurance that covers hospital, medical, or surgical benefits, or automobile insurance, if that insurer is responsible to pay for health care services provided to beneficiaries.

(4) “Payor summary” means a written summary that includes the payor’s name and the type of plan, including, but not limited to, a group health plan, an automobile insurance plan, and a workers’ compensation insurance plan.

(5) “Provider” means any of the following:

(A) Any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code.

(B) Any person licensed pursuant to the Chiropractic Initiative Act or the Osteopathic Initiative Act.

(C) Any person licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code.

(D) A clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(E) Any entity exempt from licensure pursuant to Section 1206 of the Health and Safety Code.

(e) This section shall become operative on July 1, 2000.

SEC. 146. Section 10192.11 of the Insurance Code is amended to read:

10192.11. (a) An issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this state, nor discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six-month period beginning with the first day of the first month in which an individual is both 65 years of age or older and is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an issuer shall be made available to all applicants who qualify under this subdivision and are 65 years of age or older. Medicare supplement contracts A, B, C, F, and at least one letter-designated plan (H, I, or J, at the discretion of the issuer) that includes coverage for prescription medications, if currently available from an issuer, shall be made available to any applicant who qualifies under this subdivision who is 64 years of age or younger and who does not have End-Stage Renal Disease. This section does not prohibit an issuer in determining premium rates from treating applicants who are under 65 years of age and are eligible for Medicare Part B as a separate risk classification. This section shall not be construed as preventing the

exclusion of benefits for preexisting conditions as defined in paragraph (1) of subdivision (a) of Section 10192.8.

(b) (1) If an applicant qualifies under subdivision (a) and submits an application during the time period referenced in subdivision (a) and, as of the date of application, has had a continuous period of creditable coverage of at least six months, the issuer shall not exclude benefits based on a preexisting condition.

(2) If the applicant qualifies under subdivision (a) and submits an application during the time period referenced in subdivision (a) and, as of the date of application, has had a continuous period of creditable coverage that is less than six months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The manner of the reduction under this subdivision shall be as specified by the commissioner.

(c) Except as provided in subdivision (b) and Section 10192.23, subdivision (a) shall not be construed as preventing the exclusion of benefits under a policy, during the first six months, based on a preexisting condition for which the policyholder or certificate holder received treatment or was otherwise diagnosed during the six months before the coverage became effective.

(d) An individual enrolled in Medicare Part B by reason of disability will be entitled to open enrollment described in this section for six months after he or she first becomes eligible for Medicare Part B. Every issuer shall make available to every applicant qualified for open enrollment all policies and certificates offered by that issuer at the time of application. Issuers shall not discourage sales during the open enrollment period by any means, including the altering of the commission structure.

There shall be a one-time open enrollment period of 120 days commencing on January 1, 2001, for all individuals eligible for Medicare by reason of disability who do not have End-Stage Renal Disease.

(e) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section for six months following:

(1) Receipt of a notice of termination or, if no notice is received, the effective date of termination, from any employer-sponsored health plan including an employer-sponsored retiree health plan. For purposes of this section, "employer-sponsored retiree health plan" includes any coverage for medical expenses that is directly or indirectly sponsored or established by an employer for employees or retirees, their spouses, dependents, or other included insureds.

(2) Termination of health care services for a military retiree or the retiree's Medicare eligible spouse or dependent as a result of a military base closure.

(f) An individual who is 65 years of age or older and enrolled in Medicare Part B is entitled to open enrollment described in this section if the individual was covered under a policy, certificate, or contract providing Medicare supplement coverage but that coverage terminated because the individual established residence at a location not served by the plan.

(g) (1) An individual who was previously enrolled but whose coverage was terminated between September 1, 1998, and December 31, 1998, by a Medicare managed care plan shall be entitled to a new 60-day open enrollment period in addition to any open enrollment authorized by federal law or regulation, for any Medicare supplement coverage provided by Medicare supplement insurers and available on a guaranteed basis under state and federal law or regulation for persons terminated by their Medicare managed care plan.

(2) The new open enrollment period specified in paragraph (1) shall commence 90 days after January 1, 2000.

(3) An individual who was previously enrolled but whose coverage was terminated after January 1, 1999, by a Medicare managed care plan shall be entitled to an additional 60-day open enrollment period to be added on to and run consecutively after any open enrollment period authorized by federal law or regulation, for any Medicare supplement coverage provided by Medicare supplement insurers and available on a guaranteed basis under state and federal law or regulation for persons terminated by their Medicare managed care plan. An individual shall be entitled to an annual open enrollment period lasting 30 days or more, commencing with the individual's birthday, during which time that person may purchase any Medicare supplement policy, with the exception of a Medicare Select policy, that offers benefits equal to or lesser than those provided by the previous coverage. During this open enrollment period, no issuer that falls under this provision shall deny or condition the issuance or effectiveness of Medicare supplement coverage, nor discriminate in the pricing of coverage, because of health status, claims experience, receipt of health care, or medical condition of the individual if, at the time of the open enrollment period, the individual is covered under another Medicare supplement policy or contract. An issuer shall notify a policyholder of his or her rights under this subdivision at least 30 and no more than 60 days before the beginning of the open enrollment period.

SEC. 147. Section 10231.2 of the Insurance Code is amended to read:

10231.2. “Long-term care insurance” includes any insurance policy, certificate, or rider advertised, marketed, offered, solicited, or designed to provide coverage for diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services that are provided in a setting other than an acute care unit of a hospital. Long-term care insurance includes all products containing any of the following benefit types: coverage for institutional care including care in a nursing home, convalescent facility, extended care facility, custodial care facility, skilled nursing facility, or personal care home; home care coverage including home health care, personal care, homemaker services, hospice, or respite care; or community-based coverage including adult day care, hospice, or respite care. Long-term care insurance includes disability based long-term care policies but does not include insurance designed primarily to provide Medicare supplement or major medical expense coverage.

Long-term care policies, certificates, and riders shall be regulated under this chapter. The commissioner shall review and approve individual and group policies, certificates, riders, and outlines of coverage. Other applicable laws and regulations shall also apply to long-term care insurance insofar as they do not conflict with the provisions in this chapter. Long-term care benefits designed to provide coverage of 12 months or more that are contained in or amended to Medicare supplement or other disability policies and certificates shall be regulated under this chapter.

SEC. 148. Section 10236 of the Insurance Code is amended to read:

10236. Every individual and group long-term care policy and certificate under a group long-term care policy shall be either guaranteed renewable or noncancelable.

(a) “Guaranteed renewable” means that the insured has the right to continue coverage in force if premiums are timely paid during which period the insurer may not unilaterally change the terms of coverage or decline to renew, except that the insurer may, in accordance with provisions in the policy, and in accordance with Section 10236.1, change the premium rates to all insureds in the same class. The “class” is determined by the insurer for the purpose of setting rates at the time the policy is issued.

(b) “Noncancelable” means the insured has the right to continue the coverage in force if premiums are timely paid during which period the insurer may not unilaterally change the terms of coverage, decline to renew, or change the premium rate.

(c) Every long-term care policy and certificate shall contain an appropriately captioned renewability provision on page one, which shall clearly describe the initial term of coverage, the conditions for renewal,

and, if guaranteed renewable, a description of the class and of each circumstance under which the insurer may change the premium amount.

SEC. 149. Section 10506.5 of the Insurance Code is amended to read:

10506.5. (a) For the purposes of this section, “guaranteed living benefit” means a benefit in a variable annuity or a variable life insurance contract providing that one or more benefit amounts available to a living contractholder, under specified conditions, will be enhanced should it fall below a given level, in the absence of the guaranteed living benefit.

(b) An insurer may deliver or issue for delivery contracts containing, or riders to variable contracts providing, guaranteed living benefits if all the following requirements are met:

(1) The insurer is authorized to deliver, or issue for delivery, variable insurance products in this state.

(2) The insurer meets the requirements of paragraph (1) of subdivision (d) of Section 10506.4.

(3) The commissioner has issued a bulletin setting forth the terms and conditions under which variable contracts containing, or riders to variable contracts providing, guaranteed living benefits may be issued or delivered in this state.

(4) The variable contract or rider meets the terms and conditions for guaranteed living benefits established by the commissioner and set forth in the bulletin described in paragraph (3) and the insurer desiring to issue the variable contract or rider has satisfied the requirements set forth in Section 2529 of Title 10 of the California Code of Regulations.

(c) The bulletin described in paragraph (3) of subdivision (b) may include provisions covering requirements similar to those included in subdivision (f) of Section 10506.4. The bulletin shall have the same force and effect, and may be enforced by the commissioner to the same extent and degree as regulations issued by the commissioner until the time that the commissioner issues additional or amended regulations pertaining to guaranteed living benefits.

(d) An insurer may not deliver or issue for delivery variable contracts containing, or riders to variable contracts providing, guaranteed living benefits except pursuant to this section. No policy, contract, rider, or agreement that constitutes investment return assurance pursuant to Section 10203.10 or 10507, or guarantee pursuant to Section 10506.4, may be issued pursuant to this section.

SEC. 150. Section 11621.2 of the Insurance Code is amended to read:

11621.2. (a) An insurer that is no longer licensed to write automobile liability insurance in this state shall have its plan business treated in the same manner as its voluntary business and shall not receive new assignments.

(b) The runoff of existing plan business shall be conducted in an orderly manner with policies nonrenewed upon the next anniversary date.

(c) An insurer that elects to surrender its license or has its license to do business in this state revoked shall comply with the following requirements:

(1) If an insurer elects to leave this state by surrendering its license to write automobile insurance, it shall submit to the plan's advisory committee as a condition precedent to the surrender of its license, a plan that disposes of the insurer's quota of plan assignments established by its voluntary writings, and provides for the handling of its outstanding assigned risk policies, including payment of claims, by appropriate financial arrangements or reinsurance agreements. The plan's advisory committee shall evaluate the plan that is submitted and shall advise the commissioner as to whether or not it recommends acceptance or rejection by the commissioner of the plan.

(2) In the event an insurer's license to do business in this state is revoked by the commissioner, the insurer shall submit to the plan's advisory committee a plan that disposes of the insurer's quota of plan assignments established by its voluntary writings, and provides for the handling of its outstanding assigned risk policies, including payment of claims, by appropriate financial arrangements or reinsurance agreements. The plan's advisory committee shall evaluate the plan that is submitted and shall advise the commissioner as to whether or not it recommends acceptance or rejection by the commissioner of the plan.

(d) If all insurers in a group are under the same ownership and management, or a group elects to be treated as a single insurer and an insurer in the same group is no longer licensed, that insurer shall comply with the provisions of this section.

SEC. 151. Section 11784 of the Insurance Code is amended to read: 11784. In conducting the business and affairs of the fund, the manager of the fund may do any of the following:

- (a) Enter into contracts of workers' compensation insurance.
- (b) Sell annuities covering compensation benefits.
- (c) Decline to insure any risk in which the minimum requirements of the industrial accident prevention authorities with regard to construction, equipment, and operation are not complied with, or which is beyond the safe carrying of the fund. Otherwise, he or she shall not refuse to insure any workers' compensation risk under state law, tendered with the premium therefor.
- (d) Reinsure any risk or any part thereof.
- (e) Cause to be inspected and audited the payrolls of employers applying to the fund for insurance.

(f) Make rules for the settlement of claims against the fund and determine to whom and through whom the payments of compensation are to be made.

(g) Contract with physicians and surgeons, and hospitals, for medical and surgical treatment and the care and nursing of injured persons entitled to benefits from the fund.

SEC. 152. Section 11786 of the Insurance Code is amended to read:

11786. Before entering on the duties of his or her office, the manager shall qualify by giving an official bond approved by the board of directors in the sum of fifty thousand dollars (\$50,000) and by taking and subscribing to an official oath. The approval of the board shall be by written endorsement on the bond. The bond shall be filed in the office of the Secretary of State.

SEC. 153. Section 11787 of the Insurance Code is amended to read:

11787. The board of directors may delegate to the manager of the fund, under any rules and regulations and subject to any conditions as it from time to time prescribes, any power, function, or duty conferred by law on the board of directors in connection with the fund or in connection with the administration, management, and conduct of the business and affairs of the fund. The manager may exercise those powers and functions and perform those duties with the same force and effect as the board of directors, but subject to its approval.

SEC. 154. Section 12698 of the Insurance Code is amended to read:

12698. To be eligible to participate in the program, a person shall meet all of the following requirements:

(a) Be a resident of the state for at least six continuous months prior to application. A person who is a member of a federally recognized California Indian tribe is a resident of the state for these purposes.

(b) (1) Until the first day of the second month following the effective date of the amendment made to this subdivision in 1994, have a household income that does not exceed 250 percent of the official federal poverty level unless the board determines that the program funds are adequate to serve households above that level.

(2) Upon the first day of the second month following the effective date of the amendment made to this subdivision in 1994, have a household income that is above 200 percent of the official federal poverty level but does not exceed 250 percent of the official federal poverty level unless the board determines that the program funds are adequate to serve households above the 250 percent of the official federal poverty level.

(c) Pay an initial subscriber contribution of not more than fifty dollars (\$50), and agree to the payment of the complete subscriber contribution. A federally recognized California Indian tribal government may make the initial and complete subscriber contributions on behalf of a member

of the tribe only if a contribution on behalf of members of federally recognized California Indian tribes does not limit or preclude federal financial participation under Title XXI of the Social Security Act. If a federally recognized California Indian tribal government makes a contribution on behalf of a member of the tribe, the tribal government shall ensure that the subscriber is made aware of all the health plan options available in the county where the member resides.

SEC. 155. Section 90.5 of the Labor Code is amended to read:

90.5. (a) It is the policy of this state to vigorously enforce minimum labor standards in order to ensure that employees are not required or permitted to work under substandard unlawful conditions, and to protect employers who comply with the law from those who attempt to gain competitive advantage at the expense of their workers by failing to comply with minimum labor standards.

(b) In order to ensure that minimum labor standards are adequately enforced, the Labor Commissioner shall establish and maintain a field enforcement unit, which shall be administratively and physically separate from offices of the division that accept and determine individual employee complaints. The unit shall have offices in Los Angeles, San Francisco, San Jose, San Diego, Sacramento, and any other locations that the Labor Commissioner deems appropriate. The unit shall have primary responsibility for administering and enforcing those statutes and regulations most effectively enforced through field investigations, including Sections 226, 1021, 1021.5, 1193.5, 1193.6, 1194.5, 1197, 1198, 1771, 1776, 1777.5, 2651, 2673, 2675, and 3700, in accordance with the plan adopted by the Labor Commissioner pursuant to subdivision (c). Nothing in this section shall be construed to limit the authority of this unit in enforcing any statute or regulation in the course of its investigations.

(c) The Labor Commissioner shall adopt an enforcement plan for the field enforcement unit. The plan shall identify priorities for investigations to be undertaken by the unit that ensure the available resources will be concentrated in industries, occupations, and areas in which employees are relatively low paid and unskilled, and those in which there has been a history of violations of the statutes cited in subdivision (b).

(d) The Labor Commissioner shall annually report to the Legislature, not later than March 1, concerning the effectiveness of the field enforcement unit. The report shall include, but not be limited to, all of the following:

(1) The enforcement plan adopted by the Labor Commissioner pursuant to subdivision (c), and the rationale for the priorities identified in the plan.

(2) The number of establishments investigated by the unit, and the number of types of violations found.

(3) The amount of wages found to be unlawfully withheld from workers, and the amount of unpaid wages recovered for workers.

(4) The amount of penalties and unpaid wages transferred to the General Fund as a result of the efforts of the unit.

SEC. 156. Section 129 of the Labor Code is amended to read:

129. (a) To make certain that injured workers, and their dependents in the event of their death, receive promptly and accurately the full measure of compensation to which they are entitled, the administrative director shall audit insurers, self-insured employers, and third-party administrators to determine if they have met their obligations under this code. At least half of the audit subjects shall be selected at random, and the remaining subjects shall be selected pursuant to subdivision (b). The results of audits of insurers shall be provided to the Insurance Commissioner, and the results of audits of self-insured employers and third-party administrators shall be provided to the Director of Industrial Relations. Nothing in this section shall restrict the authority of the Director of Industrial Relations or the Insurance Commissioner to audit their licensees.

(b) The administrative director shall establish priorities for audits based on information obtained from the Benefit Notice program established under Section 138.4, through information and assistance services and other factual information that indicates an insurer, self-insured employer, or third-party administrator is failing to meet its obligations under this division or Division 4 (commencing with Section 3200) or the regulations of the administrative director.

(c) If, as a result of an audit, the administrative director determines that any compensation, interest, or penalty is due and unpaid to an employee or dependent, the administrative director shall issue and cause to be served upon the insurer, self-insured employer, or third-party administrator a notice of assessment detailing the amounts due and unpaid in each case, and shall order the amounts paid to the person entitled thereto. The notice of assessment shall be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. A copy of the notice of assessment shall also be sent to the affected employee or dependent.

If the amounts are not paid within 30 days after service of a notice of assessment, the employer shall also be liable for reasonable attorney's fees necessarily incurred by the employee or dependent to obtain amounts due. The administrative director shall advise each employee or dependent still owed compensation after this 30-day period of his or her rights with respect to the commencement of proceedings to collect the compensation owed. Amounts unpaid because the person entitled

thereto cannot be located shall be paid to the Workplace Health and Safety Revolving Fund. The Director of Industrial Relations shall promulgate rules and regulations establishing standards and procedures for the payment of compensation from moneys deposited into the Workplace Health and Safety Revolving Fund whenever the person entitled thereto applies for compensation.

(d) A determination by the administrative director that an amount is or is not due to an employee or dependent shall not in any manner limit the jurisdiction or authority of the appeals board to determine the issue.

(e) Annually, commencing on April 1, 1991, the administrative director shall publish a report detailing the results of audits conducted pursuant to this section during the preceding calendar year. The report shall include the name of each insurer, self-insured employer, and third-party administrator audited during that period. For each insurer, self-insured employer, and third-party administrator audited, the report shall specify the total number of files audited, the number of violations found by type and amount of compensation, interest and penalties payable, and the amount collected for each violation.

These reports shall not identify the particular claim file which resulted in a particular violation or penalty. Except as required by this subdivision or other provisions of law, the contents of individual claim files and auditor's working papers shall be confidential. Disclosure of claim information to the administrative director pursuant to an audit shall not waive provisions of the Evidence Code relating to privilege.

SEC. 157. Section 230.1 of the Labor Code is amended to read:

230.1. (a) In addition to the requirements and prohibitions imposed on employees pursuant to Section 230, an employer with 25 or more employees may not discharge or in any manner discriminate or retaliate against an employee who is a victim of domestic violence as defined in Section 6211 of the Family Code for taking time off from work to attend to any of the following:

(1) To seek medical attention for injuries caused by domestic violence.

(2) To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence.

(3) To obtain psychological counseling related to an experience of domestic violence.

(4) To participate in safety planning and take other actions to increase safety from future domestic violence, including temporary or permanent relocation.

(b) (1) As a condition of taking time off for a purpose set forth in subdivision (a), the employee shall give the employer reasonable advance notice of the employee's intention to take time off, unless the advance notice is not feasible.

(2) When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification to the employer. Certification shall be sufficient in the form of any of the following:

(A) A police report indicating that the employee was a victim of domestic violence.

(B) A court order protecting or separating the employee from the perpetrator of an act of domestic violence, or other evidence from the court or prosecuting attorney that the employee appeared in court.

(C) Documentation from a medical professional, domestic violence advocate, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence.

(3) To the extent allowed by law, employers shall maintain the confidentiality of any employee requesting leave under subdivision (a).

(c) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has taken time off for a purpose set forth in subdivision (a) shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure or hearing authorized by law is guilty of a misdemeanor.

(d) (1) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and conditions of employment by his or her employer because the employee has exercised his or her rights as set forth in subdivision (a) may file a complaint with the Division of Labor Standards Enforcement of the Department of Industrial Relations pursuant to Section 98.7.

(2) Notwithstanding any time limitation in Section 98.7, an employee filing a complaint with the division based upon a violation of subdivision (a) shall have one year from the date of occurrence of the violation to file his or her complaint.

(e) An employee may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment, unless otherwise provided by a collective bargaining agreement, for time taken off for a purpose specified in subdivision (a). The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition.

(f) This section does not create a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. Sec. 2601 et seq.).

SEC. 158. Section 4455 of the Labor Code is amended to read:

4455. If the injured employee is under 18 years of age, and his or her incapacity is permanent, his or her average weekly earnings shall be deemed, within the limits fixed in Section 4453, to be the weekly sum that under ordinary circumstances he or she would probably be able to earn at the age of 18 years, in the occupation in which he or she was employed at the time of the injury or in any occupation to which he or she would reasonably have been promoted if he or she had not been injured. If these probable earnings at the age of 18 years cannot reasonably be determined, his or her average weekly earnings shall be taken at one hundred five dollars (\$105).

SEC. 159. Section 4609 of the Labor Code is amended to read:

4609. (a) In order to prevent the improper selling, leasing, or transferring of a health care provider's contract, it is the intent of the Legislature that every arrangement that results in any payor paying a health care provider a reduced rate for health care services based on the health care provider's participation in a network or panel shall be disclosed by the contracting agent to the provider in advance and shall actively encourage employees to use the network, unless the health care provider agrees to provide discounts without that active encouragement.

(b) Beginning July 1, 2000, every contracting agent that sells, leases, assigns, transfers, or conveys its list of contracted health care providers and their contracted reimbursement rates to a payor, as defined in subparagraph (A) of paragraph (3) of subdivision (d), or another contracting agent shall, upon entering or renewing a provider contract, do all of the following:

(1) Disclose whether the list of contracted providers may be sold, leased, transferred, or conveyed to other payors or other contracting agents, and specify whether those payors or contracting agents include workers' compensation insurers or automobile insurers.

(2) Disclose what specific practices, if any, payors utilize to actively encourage employees to use the list of contracted providers when obtaining medical care that entitles a payor to claim a contracted rate. For purposes of this paragraph, a payor is deemed to have actively encouraged employees to use the list of contracted providers if the employer provides information directly to employees during the period the employer has medical control advising them of the existence of the list of contracted providers through the use of a variety of advertising or marketing approaches that supply the names, addresses, and telephone numbers of contracted providers to employees; or in advance of a

workplace injury, or upon notice of an injury or claim by an employee, the approaches may include, but are not limited to, the use of provider directories, the use of a list of all contracted providers in an area geographically accessible to the posting site, the use of wall cards that direct employees to a readily accessible listing of those providers at the same location as the wall cards, the use of wall cards that direct employees to a toll-free telephone number or Internet Web site address, or the use of toll-free telephone numbers or Internet Web site addresses supplied directly during the period the employer has medical control. However, Internet Web site addresses alone shall not be deemed to satisfy the requirements of this paragraph. Nothing in this paragraph shall prevent contracting agents or payors from providing only listings of providers located within a reasonable geographic range of an employee. A payor who otherwise meets the requirements of this paragraph is deemed to have met the requirements of this paragraph regardless of the employer's ability to control medical treatment pursuant to Sections 4600 and 4600.3.

(3) Disclose whether payors to which the list of contracted providers may be sold, leased, transferred, or conveyed may be permitted to pay a provider's contracted rate without actively encouraging the employees to use the list of contracted providers when obtaining medical care. Nothing in this subdivision shall be construed to require a payor to actively encourage the employees to use the list of contracted providers when obtaining medical care in the case of an emergency.

(4) Disclose, upon the initial signing of a contract, and within 15 business days of receipt of a written request from a provider or provider panel, a payor summary of all payors currently eligible to claim a provider's contracted rate due to the provider's and payor's respective written agreements with any contracting agent.

(5) Allow providers, upon the initial signing, renewal, or amendment of a provider contract, to decline to be included in any list of contracted providers that is sold, leased, transferred, or conveyed to payors that do not actively encourage the employees to use the list of contracted providers when obtaining medical care as described in paragraph (2). Each provider's election under this paragraph shall be binding on the contracting agent with which the provider has the contract and any other contracting agent that buys, leases, or otherwise obtains the list of contracted providers.

A provider shall not be excluded from any list of contracted providers that is sold, leased, transferred, or conveyed to payors that actively encourage the employees to use the list of contracted providers when obtaining medical care, based upon the provider's refusal to be included on any list of contracted providers that is sold, leased, transferred, or

conveyed to payors that do not actively encourage the employees to use the list of contracted providers when obtaining medical care.

(6) If the payor's explanation of benefits or explanation of review does not identify the name of the network that has a written agreement signed by the provider whereby the payor is entitled, directly or indirectly, to pay a preferred rate for the services rendered, the contracting agent shall do the following:

(A) Maintain a Web site that is accessible to all contracted providers and updated at least quarterly and maintain a toll-free telephone number accessible to all contracted providers whereby providers may access payor summary information.

(B) Disclose through the use of an Internet Web site, a toll-free telephone number, or through a delivery or mail service to its contracted providers, within 30 days, any sale, lease assignment, transfer or conveyance of the contracted reimbursement rates to another contracting agent or payor.

(7) Nothing in this subdivision shall be construed to impose requirements or regulations upon payors, as defined in subparagraph (A) of paragraph (3) of subdivision (d).

(c) Beginning July 1, 2000, a payor, as defined in subparagraph (B) of paragraph (3) of subdivision (d), shall do all of the following:

(1) Provide an explanation of benefits or explanation of review that identifies the name of the network with which the payor has an agreement that entitles them to pay a preferred rate for the services rendered.

(2) Demonstrate that it is entitled to pay a contracted rate within 30 business days of receipt of a written request from a provider who has received a claim payment from the payor. The provider shall include in the request a statement explaining why the payment is not at the correct contracted rate for the services provided. The failure of the provider to include a statement shall relieve the payor from the responsibility of demonstrating that it is entitled to pay the disputed contracted rate. The failure of a payor to make the demonstration to a properly documented request of the provider within 30 business days shall render the payor responsible for the lesser of the provider's actual fee or, as applicable, any fee schedule pursuant to this division, which amount shall be due and payable within 10 days of receipt of written notice from the provider, and shall bar the payor from taking any future discounts from that provider without the provider's express written consent until the payor can demonstrate to the provider that it is entitled to pay a contracted rate as provided in this subdivision. A payor shall be deemed to have demonstrated that it is entitled to pay a contracted rate if it complies with either of the following:

(A) Describes the specific practices the payor utilizes to comply with paragraph (2) of subdivision (b), and demonstrates compliance with paragraph (1).

(B) Identifies the contracting agent with whom the payor has a written agreement whereby the payor is not required to actively encourage employees to use the list of contracted providers pursuant to paragraph (5) of subdivision (b).

(d) For the purposes of this section, the following terms have the following meanings:

(1) “Contracting agent” means an insurer licensed under the Insurance Code to provide workers’ compensation insurance, a health care service plan, including a specialized health care service plan, a preferred provider organization, or a self-insured employer, while engaged, for monetary or other consideration, in the act of selling, leasing, transferring, assigning, or conveying a provider or provider panel to provide health care services to employees for work-related injuries.

(2) “Employee” means a person entitled to seek health care services for a work-related injury.

(3) (A) For the purposes of subdivision (b), “payor” means a health care service plan, including a specialized health care service plan, an insurer licensed under the Insurance Code to provide disability insurance that covers hospital, medical, or surgical benefits, automobile insurance, or workers’ compensation insurance, or a self-insured employer that is responsible to pay for health care services provided to beneficiaries.

(B) For the purposes of subdivision (c), “payor” means an insurer licensed under the Insurance Code to provide workers’ compensation insurance, a self-insured employer, a third-party administrator or trust, or any other third party that is responsible to pay health care services provided to employees for work-related injuries, or an agent of an entity included in this definition.

(4) “Payor summary” means a written summary that includes the payor’s name and the type of plan, including, but not limited to, a group health plan, an automobile insurance plan, and a workers’ compensation insurance plan.

(5) “Provider” means any of the following:

(A) Any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code.

(B) Any person licensed pursuant to the Chiropractic Initiative Act or the Osteopathic Initiative Act.

(C) Any person licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code.

(D) A clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(E) Any entity exempt from licensure pursuant to Section 1206 of the Health and Safety Code.

(e) This section shall become operative on July 1, 2000.

SEC. 160. Section 1048 of the Military and Veterans Code is amended to read:

1048. (a) The Morale, Welfare, and Recreation Fund shall include proceeds from operations of the Veterans' Home Exchange, revenue derived from the issuance of prisoner-of-war special license plates pursuant to Section 5101.5 of the Vehicle Code, all funds derived from golf course green fees and range ball fees, all donations to the fund, interest earned on invested funds, funds derived from the estates of deceased members, and any other moneys or property described in this chapter, including, but not limited to, moneys and properties received by the home from estate assets located outside the home, regardless of amount.

(b) The administrator shall prepare an itemized report that is organized by category and accounts for all funds deposited into the Morale, Welfare, and Recreation Fund and transmitted to the Controller under Section 1047 during the previous fiscal year and shall submit the report on or before August 20 of each year to all of the following:

- (1) The secretary.
- (2) The fiscal committees of the Assembly and the Senate.
- (3) The committees of the Assembly and the Senate that have subject matter jurisdiction over veterans' affairs.
- (4) The Veterans' Home Allied Council.

SEC. 161. Section 272 of the Penal Code is amended to read:

272. (a) (1) Every person who commits any act or omits the performance of any duty, which act or omission causes or tends to cause or encourage any person under the age of 18 years to come within the provisions of Section 300, 601, or 602 of the Welfare and Institutions Code or which act or omission contributes thereto, or any person who, by any act or omission, or by threats, commands, or persuasion, induces or endeavors to induce any person under the age of 18 years or any ward or dependent child of the juvenile court to fail or refuse to conform to a lawful order of the juvenile court, or to do or to perform any act or to follow any course of conduct or to so live as would cause or manifestly tend to cause that person to become or to remain a person within the provisions of Section 300, 601, or 602 of the Welfare and Institutions Code, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding two thousand five hundred dollars (\$2,500), or by imprisonment in the county jail for not more than one

year, or by both fine and imprisonment in a county jail, or may be released on probation for a period not exceeding five years.

(2) For purposes of this subdivision, a parent or legal guardian to any person under the age of 18 years shall have the duty to exercise reasonable care, supervision, protection, and control over their minor child.

(b) (1) An adult stranger who is 21 years of age or older, who knowingly contacts or communicates with a minor who is 12 years of age or younger, who knew or reasonably should have known that the minor is 12 years of age or younger, for the purpose of persuading and luring, or transporting, or attempting to persuade and lure, or transport, that minor away from the minor's home or from any location known by the minor's parent, legal guardian, or custodian, to be a place where the minor is located, for any purpose, without the express consent of the minor's parent or legal guardian, and with the intent to avoid the consent of the minor's parent or legal guardian, is guilty of an infraction or a misdemeanor.

(2) This subdivision shall not apply in an emergency situation.

(3) As used in this subdivision, the following terms are defined to mean:

(A) "Emergency situation" means a situation where the minor is threatened with imminent bodily harm, emotional harm, or psychological harm.

(B) "Contact" or "communication" includes, but is not limited to, the use of a telephone or the Internet, as defined in Section 17538 of the Business and Professions Code.

(C) "Stranger" means a person of casual acquaintance with whom no substantial relationship exists, or an individual with whom a relationship has been established or promoted for the primary purpose of victimization, as defined in subdivision (e) of Section 6600 of the Welfare and Institutions Code.

(D) "Express consent" means oral or written permission that is positive, direct, and unequivocal, requiring no inference or implication to supply its meaning.

(4) This section shall not be interpreted to criminalize acts of persons contacting minors within the scope and course of their employment, or status as a volunteer of a recognized civic or charitable organization.

(5) This section is intended to protect minors and to help parents and legal guardians exercise reasonable care, supervision, protection, and control over minor children.

SEC. 162. Section 417.2 of the Penal Code is amended to read:

417.2. (a) Any person who, for commercial purposes, purchases, sells, manufactures, ships, transports, distributes, or receives, by mail order or in any other manner, an imitation firearm except as permitted

by this section shall be liable for a civil fine in an action brought by the city attorney of the city or the district attorney of the county of not more than ten thousand dollars (\$10,000) for each violation.

(b) The manufacture, purchase, sale, shipping, transport, distribution, or receipt, by mail or in any other manner, of imitation firearms is permitted if the device is manufactured, purchased, sold, shipped, transported, distributed, or received for any of the following purposes:

(1) Solely for export in interstate or foreign commerce.

(2) Solely for lawful use in theatrical productions, including motion picture, television, and stage productions.

(3) For use in a certified or regulated athletic event or competition.

(4) For use in military or civil defense activities.

(5) For public displays authorized by public or private schools.

(c) 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.

(d) As used in this section, "imitation firearm" does not include any of the following:

(1) A nonfiring collector's replica of an antique firearm that was designed prior to 1898, is historically significant, and is offered for sale in conjunction with a wall plaque or presentation case.

(2) A nonfiring collector's replica of a firearm that was designed after 1898, is historically significant, was issued as a commemorative by a nonprofit organization, and is offered for sale in conjunction with a wall plaque or presentation case.

(3) A device, as defined in subdivision (g) of Section 12001.

(4) An imitation firearm where the coloration of the entire exterior surface of the device is bright orange or bright green, either singly or in combination.

(5) An instrument that expels a metallic projectile, such as a BB or pellet, through the force of air pressure, CO<sub>2</sub> pressure, or spring action, or a spot marker gun.

SEC. 163. Section 646.94 of the Penal Code is amended to read:

646.94. (a) Contingent upon a Budget Act appropriation, the Department of Corrections shall ensure that any parolee convicted of violating Section 646.9 on or after January 1, 2002, who is deemed to pose a high risk of committing a repeat stalking offense be placed on an intensive and specialized parole supervision program for a period not to exceed the period of parole.

(b) (1) The program shall include referral to specialized services, for example substance abuse treatment, for offenders needing those specialized services.

(2) Parolees participating in this program shall be required to participate in relapse prevention classes as a condition of parole.

(3) Parole agents may conduct group counseling sessions as part of the program.

(4) The department may include other appropriate offenders in the treatment program if doing so facilitates the effectiveness of the treatment program.

(c) The program shall be established with the assistance and supervision of the staff of the department primarily by obtaining the services of mental health providers specializing in the treatment of stalking patients. Each parolee placed into this program shall be required to participate in clinical counseling programs aimed at reducing the likelihood that the parolee will commit or attempt to commit acts of violence or stalk their victim.

(d) The department may require persons subject to this section to pay some or all of the costs associated with this treatment, subject to the person's ability to pay. "Ability to pay" means the overall capability of the person to reimburse the costs, or a portion of the costs, of providing mental health treatment, and shall include, but shall not be limited to, consideration of all of the following factors:

(1) Present financial position.

(2) Reasonably discernible future financial position.

(3) Likelihood that the person shall be able to obtain employment after the date of parole.

(4) Any other factor or factors that may bear upon the person's financial capability to reimburse the department for the costs.

(e) For purposes of this section, a mental health provider specializing in the treatment of stalking patients shall meet all of the following requirements:

(1) Be a licensed clinical social worker, as defined in Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of the Business and Professions Code, a clinical psychologist, as defined in Section 1316.5 of the Health and Safety Code, or a physician and surgeon engaged in the practice of psychiatry.

(2) Have clinical experience in the area of assessment and treatment of stalking patients.

(3) Have two letters of reference from professionals who can attest to applicant's experience in counseling stalking patients.

(f) The program shall target parolees convicted of violating Section 646.9 who meet the following conditions:

(1) The offender has been subject to a clinical assessment.

(2) A review of the offender's criminal history indicates that the offender poses a high risk of committing further acts of stalking or acts

of violence against his or her victim or other persons upon his or her release on parole.

(3) The parolee, based on his or her clinical assessment, may be amenable to treatment.

(g) On or before January 1, 2006, the Department of Corrections shall evaluate the intensive and specialized parole supervision program and make a report to the Legislature regarding the results of the program, including, but not limited to, the recidivism rate for repeat stalking related offenses committed by persons placed into the program and a cost-benefit analysis of the program.

(h) This section shall become operative upon the appropriation of sufficient funds in the Budget Act to implement this section.

SEC. 164. Section 3058.65 of the Penal Code is amended to read:

3058.65. (a) (1) Whenever any person confined in the state prison is serving a term for the conviction of child abuse, pursuant to Section 273a, 273ab, 273d, or any sex offense specified as being perpetrated against a minor, or as ordered by a court, the Board of Prison Terms, with respect to inmates sentenced pursuant to subdivision (b) of Section 1168, or the Department of Corrections, with respect to inmates sentenced pursuant to Section 1170, shall notify the immediate family of the parolee who requests that notification and who provides the department with a current address that the person is scheduled to be released on parole, or rereleased following a period of confinement pursuant to a parole revocation without a new commitment, as specified in subdivision (b).

(2) For the purposes of this subdivision, “immediate family of the parolee” means the parents, siblings, and spouse of the parolee.

(b) (1) The notification shall be made by mail at least 45 days prior to the scheduled release date, except as provided in paragraph (2). The notification shall include the name of the person who is scheduled to be released, the terms of that person’s parole, whether or not that person is required to register with local law enforcement, and the community in which that person will reside. The notification shall specify the office within the Department of Corrections that has the authority to make the final determination and adjustments regarding parole location decisions.

(2) When notification cannot be provided within the 45 days due to the unanticipated release date change of an inmate as a result of an order from the court, an action by the Board of Prison Terms, the granting of an administrative appeal, or a finding of not guilty or dismissal of a disciplinary action, that affects the sentence of the inmate, or due to a modification of the department’s decision regarding the community into which the person is scheduled to be released pursuant to paragraph (3), the department shall provide notification to the parties specified in subdivision (a) as soon as practicable, but in no case less than 24 hours

after the final decision is made regarding the location where the parolee will be released.

(c) In no case shall the notice required by this section be later than the day the person is released on parole.

SEC. 165. Section 1813 of the Probate Code is amended to read:

1813. (a) The spouse of a proposed conservatee may not petition for the appointment of a conservator for a spouse or be appointed as conservator of the person or estate of the proposed conservatee unless the petitioner alleges in the petition for appointment as conservator, and the court finds, that the spouse is not a party to any action or proceeding against the proposed conservatee for legal separation of the parties, dissolution of marriage, or adjudication of nullity of their marriage. However, if the court finds by clear and convincing evidence that the appointment of the spouse, who is a party to an action or proceeding against the proposed conservatee for legal separation of the parties, dissolution of marriage, or adjudication of nullity of their marriage, or has obtained a judgment in any of these proceedings, is in the best interests of the proposed conservatee, the court may appoint the spouse.

Prior to making this appointment, the court shall appoint counsel to consult with and advise the conservatee, and to report to the court his or her findings concerning the suitability of appointing the spouse as conservator.

(b) The spouse of a conservatee shall disclose to the conservator, or if the spouse is the conservator, shall disclose to the court, the filing of any action or proceeding against the conservatee for legal separation of the parties, dissolution of marriage, or adjudication of nullity of the marriage, within 10 days of the filing of the action or proceeding by filing a notice with the court and serving the notice according to the notice procedures under this title. The court may, upon receipt of the notice, set the matter for hearing on an order to show cause why the appointment of the spouse as conservator, if the spouse is the conservator, should not be terminated and a new conservator appointed by the court.

SEC. 165.5. Section 16062 of the Probate Code is amended to read:

16062. (a) Except as otherwise provided in this section and in Section 16064, the trustee shall account at least annually, at the termination of the trust, and upon a change of trustee, to each beneficiary to whom income or principal is required or authorized in the trustee's discretion to be currently distributed.

(b) A trustee of a living trust created by an instrument executed before July 1, 1987, is not subject to the duty to account provided by subdivision (a).

(c) A trustee of a trust created by a will executed before July 1, 1987, is not subject to the duty to account provided by subdivision (a), except

that if the trust is removed from continuing court jurisdiction pursuant to Article 2 (commencing with Section 17350) of Chapter 4 of Part 5, the duty to account provided by subdivision (a) applies to the trustee.

(d) Except as provided in Section 16064, the duty of a trustee to account pursuant to former Section 1120.1a of the Probate Code (as repealed by Chapter 820 of the Statutes of 1986), under a trust created by a will executed before July 1, 1977, which has been removed from continuing court jurisdiction pursuant to former Section 1120.1a, continues to apply after July 1, 1987. The duty to account under former Section 1120.1a may be satisfied by furnishing an account that satisfies the requirements of Section 16063.

(e) Any limitation or waiver in a trust instrument of the obligation to account is against public policy and shall be void as to any sole trustee who is a disqualified person as defined in Section 21350.5.

SEC. 166. Section 10129 of the Public Contract Code is amended to read:

10129. (a) Notwithstanding Section 3400, an agency of the state charged with the letting of contracts for the construction, alteration, or repair of public works may not draft or cause to be drafted specifications for bids in connection with the construction, alteration, or repair of public works (1) in a manner as to limit the bidding, directly or indirectly, to any one specific concern, or (2) calling for a designated material, product, thing, or service by specific brand or trade name unless the specification lists at least two brands or trade names of comparable quality or utility and is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service. In applying this section, the awarding authority shall, if aware of an equal product manufactured in this state, name that product in the specification. In those cases involving a unique or novel product application required to be used in the public interest, or where only one brand or trade name is known to the awarding authority, it may list only one. Specifications shall provide a period of time prior to or after the award of the contract for submission of data substantiating a request for a substitution of "an equal" item. If no time period is specified, data may be submitted any time within 35 days after the award of the contract.

(b) Subdivision (a) is not applicable if the awarding authority makes a finding that is described in the specifications that a particular material, product, thing, or service is designated by specific brand or trade name for either of the following purposes:

(1) In order that a field test or experiment may be made to determine the product's suitability for future use.

(2) In order to match other products in use on a particular public improvement either completed or in the course of completion.

SEC. 167. Section 20209.7 of the Public Contract Code is amended to read:

20209.7. Design-build projects shall progress in a three-step process, as follows:

(a) The transit operator shall prepare a set of documents setting forth the scope of the project. The documents may include, but are not limited to, the size, type, and desired design character of the buildings, transit facilities, and site, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans or building layouts, or any other information deemed necessary to describe adequately the transit operator's needs. The performance specifications and any plans shall be prepared by a design professional duly licensed or registered in California.

(b) Any architectural or engineering firm or individual retained by the transit operator to assist in the development criteria or preparation of the request for proposal shall not be eligible to participate in the competition with the design-build entity.

(c) The transit operator shall establish and enforce a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code or shall contract with a third party to operate a labor compliance program containing the requirements outlined in Section 1771.5 of the Labor Code. This requirement shall not apply to projects where the transit operator or the design-build entity has entered into a collective bargaining agreement that binds all of the contractors performing work on the project.

(d) (1) Each RFP shall identify the basic scope and needs of the project or contract, the expected cost range, and other information deemed necessary by the contracting agency to inform interested parties of the contracting opportunity.

(2) Each RFP shall invite interested parties to submit competitive sealed proposals in the manner prescribed by the contracting agency.

(3) Each RFP shall include a section identifying and describing:

(A) All significant factors that the agency reasonably expects to consider in evaluating proposals, including cost or price and all nonprice related factors.

(B) The methodology and rating or weighting scheme that will be used by the agency in evaluating competitive proposals and specifically whether proposals will be rated according to numeric or qualitative values.

(C) The relative importance or weight assigned to each of the factors identified in the RFP. If a nonweighted system is used, the agency shall specifically disclose whether all evaluation factors other than cost or price, when combined, are any of the following:

(i) Significantly more important than cost or price.

(ii) Approximately equal in importance to cost or price.

(iii) Significantly less important than cost or price.

(D) If the contracting agency wishes to reserve the right to hold discussions or negotiations with offerors, it shall specify the same in the RFP and shall publish separately or incorporate into the RFP applicable rules and procedures to be observed by the agency to ensure that any discussions or negotiations are conducted in a fair and impartial manner.

(e) (1) The transit operator shall establish a procedure to prequalify design-build entities using a standard questionnaire developed by the Director of Industrial Relations. The standardized questionnaire may not require prospective bidders to disclose any violations of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code committed prior to January 1, 1998, if the violation was based on a subcontractor's failure to comply with these provisions and the bidder had no knowledge of the subcontractor's violations and the bidder complied with the conditions set forth in subdivision (b) of Section 1775 of the Labor Code. In preparing the questionnaire, the director shall consult with the construction industry, transit operators, and other affected parties. This questionnaire shall require information including, but not limited to, all of the following:

(A) A listing of all the contractors that are part of the design-build entity.

(B) Evidence that the members of the design-build entity have completed, or demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project.

(C) The licenses, registrations, and credentials required to design and construct the project, including information on the revocation or suspension of any license, credential, or registration.

(D) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance, as well as a financial statement that assures the transit operator that the design-build entity has the capacity to complete the project.

(E) Any prior serious or willful violation of the California Occupational Safety and Health Act of 1973, contained in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596), settled against any member of the design-build entity, and information concerning a contractor member's workers' compensation experience history and worker safety program.

(F) Information concerning any debarment, disqualification, or removal from a federal, state, or local government public works project. Any instance where an entity, its owners, officers, or managing employees submitted a bid on a public works project and were found by an awarding body not to be a responsible bidder.

(G) Any instance where the entity, its owner, officers, or managing employees defaulted on a construction contract.

(H) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding alleged violations of federal or state law, including the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or of Federal Insurance Contribution Act (FICA) withholding requirements settled against any member of the design-build entity.

(I) Information concerning the bankruptcy or receivership of any member of the entity, and information concerning all legal claims, disputes, or lawsuits arising from any construction project of any member of the entity during the past three years, including information concerning any work completed by a surety.

(J) If the design-build entity is a partnership, limited partnership, or other association, a listing of all of the partners, general partners, or association members who will participate as subcontractors in the design-build contract.

(K) Evidence that the members of the design-build entity have completed, or demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project.

(L) Information concerning all settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity during the five-year period immediately preceding submission of a bid pursuant to this section, in which the claim, settlement, or judgment exceeds fifty thousand dollars (\$50,000). Information shall also be provided concerning any work completed by a surety during this period.

(M) In the case of a partnership or other association that is not a legal entity, a copy of the agreement creating the partnership or association and specifying that all partners or association members agree to be liable for full performance under the design-build contract.

(2) The information required pursuant to this subdivision shall be verified under oath by the entity and its members in the manner in which civil pleadings in civil actions are verified. Information that is not a public record pursuant to the California Public Records Act (Chapter 3.5

(commencing with Section 6250) of Division 7 of Title 1 of the Government Code) shall not be open to public inspection.

(f) The transit operator shall establish a procedure for final selection of the design-build entity. Selection shall be based on either of the two following procedures, except that in no case may the transit operator award a contract to a design-build entity pursuant to this article for a rail project unless that project exceeds fifty million dollars (\$50,000,000) in cost:

(1) For projects with costs from ten million dollars (\$10,000,000) to twenty million dollars (\$20,000,000), inclusive, the contract shall be awarded to the lowest responsible bidder.

(2) For projects costing over twenty million dollars (\$20,000,000), the transit operator may award the projects using either the lowest responsible bidder or by best value.

SEC. 168. Section 5090.51 of the Public Resources Code is amended to read:

5090.51. (a) Except as provided in subdivision (b), to be eligible for a grant, the applicant shall agree to provide, and provide, matching funds, or the equivalent value of services, material, or property used, in an amount of not less than 25 percent of the total expense of the off-highway motor vehicle facility.

(b) Notwithstanding subdivision (a), there shall be no matching fund requirement imposed with respect to any grant, or portion of any grant, that consists of funding for the planning, acquisition, development, or construction of a regional off-highway motor vehicle facility. The commission shall adopt criteria for the determination of which facilities are regional and which are less than regional. The criteria shall take into account, at a minimum, all of the following:

(1) That the facility for which a grant is requested is or will be primarily for casual usage.

(2) The size of each facility.

(3) The diversity of vehicle-related recreational activities to be provided by the facility.

(4) The size of the population of potential users of the facility and the extent of the geographic area to be served by the facility.

(5) The potential for each facility for which a grant is requested to become financially self-sustaining.

SEC. 169. 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 money set aside in the fund, pursuant to subdivision (c) of Section 14580 for the purposes of this section:

(1) Twenty-three million five hundred thousand dollars (\$23,500,000) shall be expended annually for the payment of handling fees required pursuant to Section 14585.

(2) Fifteen million dollars (\$15,000,000) shall be expended annually for payments for curbside programs and neighborhood dropoff programs pursuant to Section 14549.6.

(3) (A) Fifteen million dollars (\$15,000,000), plus the proportional share of the cost-of-living adjustment, as provided in subdivision (b), shall be expended annually in the form of grants for beverage container litter reduction programs and recycling programs issued to either of the following:

(i) Certified community conservation corps that were in existence on September 30, 1999, or that are formed subsequent to that date, that are designated by a city or a city and county to perform litter abatement, recycling, and related activities, if the city or the city and county has a population, as determined by the most recent census, of more than 250,000 persons.

(ii) Community conservation corps that are designated by a county to perform litter abatement, recycling, and related activities, and are certified by the California Conservation Corps as having operated for a minimum of two years and as meeting all other criteria of Section 14507.5.

(B) Any grants provided pursuant to this paragraph shall not comprise more than 75 percent of the annual budget of a community conservation corps.

(4) (A) Ten million five hundred thousand dollars (\$10,500,000) may be expended annually for payments of five thousand dollars (\$5,000) to cities and ten thousand dollars (\$10,000) for payments to counties for beverage container recycling and litter cleanup activities, or the department may calculate the payments to counties and cities on a per capita basis, and may pay whichever amount is greater, for those activities.

(B) Eligible activities for the use of these funds may include, but are not necessarily limited to, support for new or existing curbside recycling programs, neighborhood dropoff recycling programs, public education promoting beverage container recycling, litter prevention, and cleanup, cooperative regional efforts among two or more cities or counties, or both, or other beverage container recycling programs.

(C) These funds may not be used for activities unrelated to beverage container recycling or litter reduction.

(D) To receive these funds, a city, county, or city and county shall fill out and return a funding request form to the Department of Conservation. The form shall specify the beverage container recycling or litter reduction activities for which the funds will be used.

(E) The Department of Conservation shall annually prepare and distribute a funding request form to each city, county, or city and county. The form shall specify the amount of beverage container recycling and litter cleanup funds for which the jurisdiction is eligible. The form shall not exceed one double-sided page in length, and may be submitted electronically. If a city, county, or city and county does not return the funding request form within 90 days of receipt of the form from the department, the city, county, or city and county is not eligible to receive the funds for that funding cycle.

(F) For the purposes of this paragraph, per capita population shall be based on the population of the incorporated area of a city or city and county and the unincorporated area of a county. The department may withhold payment to any city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction.

(5) (A) Five hundred thousand dollars (\$500,000) may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

(B) Up to a total of six million eight hundred forty thousand dollars (\$6,840,000) shall be paid to the City of San Diego, between January 1, 2000, and January 1, 2004, for a curbside recycling program conducted pursuant to Section 14549.7.

(6) (A) The department shall expend the amount necessary to pay the processing payment established pursuant to subdivision (b) of 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 is calculated pursuant to Section 14575, into which account shall be deposited both of the following:

(i) All amounts paid as processing fees for each beverage container material type pursuant to subdivision (g) of Section 14575.

(ii) Funds equal to pay 75 percent of the processing payments established in subdivision (b) of Section 14575, in order to reduce the processing fee to the level provided in subdivision (f) of Section 14575.

(B) Notwithstanding Section 13340 of the Government Code, the money in each processing fee account is hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments, and reducing processing fees, pursuant to Section 14575.

(7) (A) Up to ten million dollars (\$10,000,000) shall be expended by the department between January 1, 2000, and January 1, 2002, for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers.

(B) On or before July 1, 2002, the department shall provide a report to the Legislature on the impact of the statewide public education and information campaign and make recommendations for any future campaigns.

(8) Up to three million dollars (\$3,000,000) shall be expended annually for the payment of quality glass incentive payments pursuant to Section 14549.1.

(9) (A) Three hundred thousand dollars (\$300,000) shall be expended annually by the department, until January 1, 2003, pursuant to a cooperative agreement entered into between the department and Keep California Beautiful, a nonprofit 501(c)(3) organization chartered by the State of California in 1990, for the purpose of conducting statewide public education campaigns aimed at preventing and cleaning up beverage containers and related litter. The campaigns shall include, but not be limited to, coordination of Keep California Beautiful month.

(B) Prior to making an expenditure pursuant to this paragraph, the department shall enter into a cooperative agreement with Keep California Beautiful.

(C) As part of the cooperative agreement, Keep California Beautiful shall provide the department with an annual campaign plan and budget, and a report of previous year campaign activities.

(D) On or before July 1, 2002, the department shall make a recommendation to the Legislature on future funding for beverage container litter prevention and cleanup activities by Keep California Beautiful.

(b) The fifteen million dollars (\$15,000,000) that is set aside pursuant to paragraph (3) of subdivision (a) is a base amount that the department shall adjust annually to reflect any increases or decreases in the cost of living, as measured by the Department of Labor, or a successor agency, of the federal government.

(c) (1) The department shall review all funds on a quarterly basis to ensure that there are adequate funds to make the payments specified in this section and the processing fee reductions required pursuant to Section 14575.

(2) If the department determines, pursuant to a review made pursuant to paragraph (1), that there may be inadequate funds to pay the payments required by this section and the processing fee reductions required pursuant to Section 14575, the department shall immediately notify the appropriate policy and fiscal committees of the Legislature regarding the inadequacy.

(3) On or before 180 days after the notice is sent pursuant to paragraph (2), the department may reduce or eliminate expenditures, or both, from the funds as necessary, according to the procedure set forth in subdivision (d).

(d) If the department determines that there are insufficient funds to make the payments specified pursuant to this section and Section 14575, the department shall reduce all payments proportionally.

(e) Prior to making an expenditure pursuant to paragraph (7) of subdivision (a), the department shall convene an advisory committee consisting of representatives of the beverage industry, beverage container manufacturers, environmental organizations, the recycling industry, nonprofit organizations, and retailers, to advise the department on the most cost-effective and efficient method of the expenditure of the funds for that education and information campaign.

SEC. 170. Section 36710 of the Public Resources Code is amended to read:

36710. The following classifications may not be inconsistent with United States military activities deemed mission critical by the United States military:

(a) In a state marine (estuarine) reserve, it is unlawful to injure, damage, take, or possess any living geological, or cultural marine resource, except under a permit or specific authorization from the managing agency for research, restoration, or monitoring purposes. While, to the extent feasible, the area shall be open to the public for managed enjoyment and study, the area shall be maintained to the extent practicable in an undisturbed and unpolluted state. Access and use for activities such as walking, swimming, boating, and diving may be restricted to protect marine resources. Research, restoration, and monitoring may be permitted by the managing agency. Educational activities and other forms of nonconsumptive human use may be permitted by the designating entity or managing agency in a manner consistent with the protection of all marine resources.

(b) In a state marine (estuarine) park, it is unlawful to injure, damage, take, or possess any living or nonliving marine resource for commercial exploitation purposes. Any human use that would compromise protection of the species of interest, natural community or habitat, or geological, cultural, or recreational features, may be restricted by the designating entity or managing agency. All other uses are allowed, including scientific collection with a permit, research, monitoring, and public recreation, including recreational harvest, unless otherwise restricted. Public use, enjoyment, and education are encouraged, in a manner consistent with protecting resource values.

(c) In a state marine (estuarine) conservation area, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource for commercial or recreational purposes, or a combination of commercial and recreational purposes, that the designating entity or managing agency determines would compromise protection of the species of interest, natural community, habitat, or

geological features. The designating entity or managing agency may permit research, education, and recreational activities, and certain commercial and recreational harvest of marine resources.

(d) In a state marine (estuarine) cultural preservation area, it is unlawful to damage, take, or possess any cultural marine resource. Complete integrity of the cultural resources shall be sought, and no structure or improvements that conflict with that integrity shall be permitted. No other use is restricted.

(e) In a state marine (estuarine) recreational management area, it is unlawful to perform any activity that, as determined by the designating entity or managing agency, would compromise the recreational values for which the area may be designated. Recreational opportunities may be protected, enhanced, or restricted, while preserving basic resource values of the area. No other use is restricted.

(f) In a state water quality protection area, point source waste and thermal discharges shall be prohibited or limited by special conditions. Nonpoint source pollution shall be controlled to the extent practicable. No other use is restricted.

SEC. 171. Section 42923 of the Public Resources Code is amended to read:

42923. (a) The board may grant one or more single or multiyear time extensions from the requirements of subdivision (a) of Section 42921 to any state agency or large state facility if all of the following conditions are met:

(1) Any multiyear extension that is granted does not exceed three years, and a state agency or a large state facility is not granted extensions that exceed a total of five years.

(2) An extension is not granted for any period after January 1, 2006, and an extension is not effective after January 1, 2006.

(3) The board considers the extent to which a state agency or a large state facility complied with its plan of correction before considering another extension.

(4) The board adopts written findings, based upon substantial evidence in the record, as follows:

(A) The state agency or the large state facility is making a good faith effort to implement the source reduction, recycling, and composting programs identified in its integrated waste management plan.

(B) The state agency or the large state facility submits a plan of correction that demonstrates that the state agency or the large state facility will meet the requirements of Section 42921 before the time extension expires, including the source reduction, recycling, or composting steps the state agency or the large state facility will implement, a date prior to the expiration of the time extension when the requirements of Section 42921 will be met, existing programs that it will

modify, any new programs that will be implemented to meet those requirements, and the means by which these programs will be funded.

(b) (1) When considering a request for an extension, the board may make specific recommendations for the implementation of the alternative plans.

(2) Nothing in this section shall preclude the board from disapproving any request for an extension.

(3) If the board disapproves a request for an extension, the board shall specify its reasons for the disapproval.

(c) (1) In determining whether to grant the request by a state agency or a large state facility for the time extension authorized by subdivision (a), the board shall consider information provided by the state agency or the large state facility that describes relevant circumstances that contributed to the request for extension, such as a lack of markets for recycled materials, local efforts to implement source reduction, recycling, and composting programs, facilities built or planned, waste disposal patterns, and the type of waste disposed by the agency or facility.

(2) The state agency or the large state facility may provide the board with any additional information that the state agency or the large state facility determines to be necessary to demonstrate to the board the need for the extension.

(d) If the board grants a time extension pursuant to subdivision (a), the state agency may request technical assistance from the board to assist it in meeting the diversion requirements of subdivision (a) of Section 42921 during the extension period. If requested by the state agency or the large state facility, the board shall assist the state agency or the large state facility with identifying model policies and plans implemented by other agencies.

(e) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 172. Section 383.5 of the Public Utilities Code is amended to read:

383.5. (a) As used in this section, the following terms have the following meaning:

(1) "In-state renewable electricity generation technology" means biomass, solar thermal, photovoltaic, wind, geothermal, small hydropower of 30 megawatts or less, waste tire, digester gas, landfill gas, and municipal solid waste generation technologies, as described in the report, defined in paragraph (2), including any additions or enhancements thereto, that are produced in facilities located in this state and placed in operation after September 26, 1996, or that were operational prior to that date, and that are also certified under Section

292.2904 of Title 18 of the Code of Federal Regulations as a qualifying small power production facility either located in California, or that began selling electricity to a California electrical corporation prior to September 26, 1996, under a Standard Offer Power Purchase Agreement authorized by the commission.

(2) "Report" means the Policy Report on AB 1890 Renewables Funding (March 1997, Publication Number P500-97-002) submitted to the Legislature by the State Energy Resources Conservation and Development Commission.

(b) (1) Forty-five percent of the money collected pursuant to paragraph (3) of subdivision (c) of Section 381, up to two hundred forty-three million dollars (\$243,000,000), shall be used for programs that are designed to improve the competitiveness of existing in-state renewable electricity generation technology facilities, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide.

(2) Any funds used to support in-state renewable electricity generation technology facilities pursuant to this subdivision shall be expended in accordance with the provisions of the report, subject to all of the following requirements:

(A) Funding for existing renewable electricity generation technologies shall be grouped into three technology tiers, as follows:

(i) Twenty-five percent of the money, up to one hundred thirty-five million dollars (\$135,000,000), shall be used to fund first tier technologies, including biomass, solar thermal, and whole waste tire technologies.

(ii) Thirteen percent of the money, up to seventy million two hundred thousand dollars (\$70,200,000), shall be used to fund second tier wind technologies.

(iii) Seven percent of the money, up to thirty-seven million eight hundred thousand dollars (\$37,800,000), shall be used to fund third tier technologies, including geothermal, small hydropower, digester gas, landfill gas, and municipal solid waste technologies.

(B) The State Energy Resources Conservation and Development Commission shall establish a cents per kilowatthour production incentive, not to exceed the payment caps per kilowatthour established in the report representing the difference between target prices and the market clearing price for electricity, if sufficient funds are available. If there are insufficient funds in any payment period to pay either the difference between the target and market price or the payment caps, production incentives shall be based on the amount determined by dividing available funds by eligible generation. The target price for Tier 1 technologies shall not be based on less than four cents (\$.04) per

kilowatthour. The market clearing price for electricity shall be the energy prices paid to nonutility power generators as provided in Section 390.

(C) Funding for each type of existing in-state renewable electricity generation technology shall be reduced each year during the period from January 1, 1998, to January 1, 2002, to encourage the development of increasingly competitive technologies.

(D) Facilities that are eligible to receive funding pursuant to this section shall be certified in accordance with the requirements set forth in the report and may not receive payments for any electricity produced that has any of the following characteristics:

(i) Is sold under a fixed energy price payment under a long-term contract with an existing in-state electrical corporation.

(ii) Derives from a utility-owned facility that is receiving, or is eligible to receive, recovery of above-market facility costs through a competitive transition charge.

(iii) Is used onsite, sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.

(c) (1) Thirty percent of the money, up to one hundred sixty-two million dollars (\$162,000,000), collected pursuant to paragraph (3) of subdivision (c) of Section 381, shall be used for programs designed to foster the development of new in-state renewable electricity generation technology facilities, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide. Funds to further the purposes of this subdivision may be committed for multiple years.

(2) Any funds used for new in-state renewable electricity generation technology facilities pursuant to this subdivision shall be expended in accordance with the report, subject to all of the following requirements:

(A) Funds shall be allocated for proposed projects based on a competitive solicitation process whereby production incentives, not to exceed one and one-half cents (\$0.015) per kilowatthour, are awarded to the lowest bidders, provided that not more than 25 percent of the funds allocated pursuant to paragraph (1) may be awarded to a single project.

(B) Funds expended for production incentives shall be paid over a five-year period commencing on the date that a project begins electricity production, provided that the project shall be operational prior to January 1, 2002, unless the State Energy Resources Conservation and Development Commission finds that the project will not be operational prior to January 1, 2002, due to circumstances beyond the control of the developer. Upon making this finding, the State Energy Resources Conservation and Development Commission shall pay production incentives over a five-year period, commencing on the date of operation,

provided that the date that a project begins electricity production may not extend beyond January 1, 2007.

(C) The amount of funds expended shall be increased for each successive year during the period from January 1, 1998, to January 1, 2002, as fewer projects are expected to be funded during the first few years after funding becomes available.

(D) Facilities that are eligible to receive payments from the New Renewable Resources Account created pursuant to paragraph (2) of subdivision (a) of Section 445 shall be certified as specified in the report and may not receive payments for any electricity produced that has any of the following characteristics:

(i) Is sold under an existing long-term contract with an existing in-state electrical corporation if the contract includes fixed energy or capacity payments.

(ii) Is used onsite and is sold to customers in a manner that excludes competitive transition charge payments, or is otherwise excluded from competitive transition charge payments.

(iii) Is produced by a facility that is owned by customer-owned electricity generating systems.

(E) Eligibility to compete for funds or to receive funds shall not be contingent upon the location or nature of the power purchaser.

(3) Repowered wind projects shall be eligible for funding under this subdivision if the new investment is at least 80 percent of the value of the repowered facility.

(d) (1) Ten percent of the money collected pursuant to paragraph (3) of subdivision (c) of Section 381, up to fifty-four million dollars (\$54,000,000), shall be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications. Funds to further the purposes of this subdivision may be committed for multiple years.

(2) Any funds used for emerging technologies pursuant to this subdivision shall be expended in accordance with all of the following requirements:

(A) Funding for emerging technologies shall be provided through a competitive, market-based process that shall be in place for a period of not less than four years, and shall be structured so as to allow eligible emerging technology manufacturers and suppliers to anticipate and plan for increased sale and installation volumes over the life of the program.

(B) The program shall provide monetary rebates, buydowns, or equivalent incentives, subject to subparagraph (C) of paragraph (2) of subdivision (d), to purchasers, lessees, lessors, or sellers of eligible electricity generating systems. Incentives shall benefit the end-use consumer of renewable generation by directly and exclusively reducing the cost of the eligible system, or the cost of electricity produced by the

eligible system. Incentives shall be issued on the basis of the rated electrical capacity of the system measured in watts. The amount of the per-watt incentive shall decline over the term of the program, with a corresponding increase in the amount of total electrical capacity eligible for the incentive, thereby encouraging the manufacturers and suppliers of eligible systems to reduce system costs. Incentives shall be limited to a maximum percentage of the system price, as defined by the State Energy Resources Conservation and Development Commission, and the maximum incentive percentage shall decline over the term of the program, as shall the per-watt incentive, in amounts to be determined by the State Energy Resources Conservation and Development Commission.

(C) Eligible distributed emerging technologies are photovoltaic, solar thermal electric, fuel cell technologies that utilize renewable fuels, and wind turbines of not more than ten kilowatts rated electrical capacity per customer site, provided that the technologies meet the emerging technology eligibility criteria contained in the report prepared by State Energy Resources Conservation and Development Commission. Eligible electricity generating systems are intended primarily to offset part or all of the consumer's own electrical energy demand, and shall not be owned by electrical corporations or publicly owned utilities, be located at a customer site that is not receiving distribution service from existing in-state electrical corporations. Not less than 60 percent of the available incentive funds shall be reserved for systems of 10 kilowatts rated electrical capacity or smaller, and not less than 15 percent of the funds shall be reserved for systems of 100 kilowatts rated electrical capacity or smaller. All eligible electricity generating system components shall be new and unused, and shall not have been previously placed in service in any other location or for any other application. Systems and their fuel resource shall be located on the premises of the end-use consumer of the electricity produced, and all eligible electricity generating systems shall be connected to the utility grid in California.

(D) The State Energy Resources Conservation and Development Commission shall also determine, in collaboration with industry and consumer interests, if a program provision limiting the amount of funds available for any single project is warranted, and determine how federal, state, or other funds or incentives not related to this section that are already available, or that may become available for eligible electricity generating systems, may impact the availability of funds allocated under this section, if at all. The emerging renewable technologies program shall be implemented not later than March 31, 1998, and incentives shall be available for eligible electricity generating systems that are placed in service after January 1, 1998, in accordance with the program provisions developed by the State Energy Resources Conservation and

Development Commission. However, projects placed in service after January 1, 1998, and prior to September 1, 1998, shall not be subject to limits, if any, that may be determined by the commission, pursuant to this subparagraph.

(e) Fifteen percent of the money collected pursuant to paragraph (3) of subdivision (c) of Section 381, up to eighty-one million dollars (\$81,000,000), shall be used for programs designed to provide customer credits for purchases of renewable energy produced by certified energy providers, to disseminate information regarding renewable energy technologies, to promote purchases of renewable energy, to help develop a consumer market for renewable energy, and to help develop a consumer market for renewable energy technologies, as provided in the report, subject to the following requirements:

(1) (A) Fourteen percent of the money, up to seventy-five million six hundred thousand dollars (\$75,600,000), shall be expended to provide customer credits for purchases of renewable energy produced by certified energy providers. Customer credits shall be awarded to California retail customers located in the service territory of an investor-owned utility that is subject to Section 381 who purchase qualifying renewable electric power through transactions traceable to specific generation sources by any auditable contract trail or equivalent that provides commercial verification that the electricity source claimed has been sold not more than once to a retail customer. Credits may be given without regard to whether the power supplier is also receiving funds under any other subdivision of this section.

(B) Credits awarded pursuant to this paragraph may be paid directly to energy marketers, aggregators, or generators if those persons or entities account for the credits on the recipient customer's utility bills. Credits shall not exceed one and one-half cents (\$0.015) per kilowatthour. Credits awarded to members of the combined class of customers, other than residential and small commercial customers, shall not exceed one thousand dollars (\$1,000) per customer in 1998 and 1999. Thereafter, the State Energy Resources Conservation and Development Commission shall determine by January 10 of each year the average customer incentive rebate level paid over the preceding calendar year. In the event that the payments have remained at the one and one-half cents (\$0.015) per kilowatthour cap over the preceding calendar year, the one thousand dollars (\$1,000) per customer cap shall be removed for that calendar year, except that in no event shall more than fifteen million dollars (\$15,000,000) of the total customer incentive funds be awarded to members of the combined class of customers other than residential and small commercial customers.

(C) Funding for credits pursuant to this paragraph shall be increased for each successive year during the period from January 1, 1998, to January 1, 2002, to encourage the increasing use of those credits.

(D) The State Energy Resources Conservation and Development Commission shall develop interim criteria and procedures for the certification of energy providers and for the identification of energy purchasers who are eligible to receive funds pursuant to this paragraph through a process consistent with this paragraph. The criteria and procedures shall apply only to funding eligibility and shall not extend to other renewable marketing claims.

(E) The commission shall notify the State Energy Resources Conservation and Development Commission in writing within 10 days of revoking or suspending the registration of any electric service provider pursuant to paragraph (4) of subdivision (b) of Section 394.25.

(2) One percent of the money, up to five million four hundred thousand dollars (\$5,400,000), shall be expended to promote renewable energy and to disseminate information on renewable energy technologies, including emerging renewable technologies, and to help develop a consumer market for renewable energy and for small-scale emerging renewable energy technologies.

(f) (1) The State Energy Resources Conservation and Development Commission shall adopt guidelines governing the funding programs authorized under this section, at a publicly noticed meeting offering all interested parties an opportunity to comment. Substantive changes to the guidelines shall not be adopted without at least 10 days' written notice to the public. The public notice of meetings required by this paragraph shall not be less than 30 days. Notwithstanding any other provision of law, any guidelines adopted pursuant to this section shall be deemed to satisfy the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

(2) The State Energy Resources Conservation and Development Commission shall, in collaboration with eligible emerging technology industry stakeholders and consumer interests, complete the emerging technology program design, as outlined in subdivision (d), and implement its provisions.

(3) Awards made pursuant to this section are grants, subject to appeal to the State Energy Resources Conservation and Development Commission upon a showing that factors other than those described in the guidelines adopted by the State Energy Resources Conservation and Development Commission were applied in making the awards and payments. Any actions taken by an applicant to apply for, or become or remain eligible and certified to receive, payments or awards, including satisfying conditions specified by the State Energy Resources Conservation and Development Commission, shall not constitute the

rendering of goods, services, or a direct benefit to the State Energy Resources Conservation and Development Commission.

(g) The State Energy Resources Conservation and Development Commission shall report to the Legislature on or before May 31, 2000, and on or before May 31 of every second year thereafter, regarding the results of the mechanisms funded pursuant to this section. Reports prepared pursuant to this section shall include a description of the allocation of funds among existing, new and emerging technologies; the allocation of funds among programs, including consumer-side incentives; and the need for the reallocation of money among those technologies. The reports shall also address the allocation of funds from interest on the accounts described in this section, money in the accounts described in subdivision (e) of Section 381, and money included in the accounts pursuant to Section 385. Notwithstanding paragraph (4) of subdivision (b) of Section 383 or subdivisions (b), (c), (d), and (e) of this section, money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a manner consistent with the report.

SEC. 173. Section 399.15 of the Public Utilities Code is amended and renumbered to read:

379.5. Notwithstanding any other provision of law, on or before March 7, 2001, the commission, in consultation with the Independent System Operator, shall take all of the following actions, and shall include the reasonable costs involved in taking those actions in the distribution revenue requirements of utilities regulated by the commission, as appropriate:

(a) (1) Identify and undertake those actions necessary to reduce or remove constraints on the state's existing electrical transmission and distribution system, including, but not limited to, reconductoring of transmission lines, the addition of capacitors to increase voltage, the reinforcement of existing transmission capacity, and the installation of new transformer banks. The commission shall, in consultation with the Independent System Operator, give first priority to those geographical regions where congestion reduces or impedes electrical transmission and supply.

(2) Consistent with the existing statutory authority of the commission, afford electrical corporations a reasonable opportunity to fully recover costs it determines are reasonable and prudent to plan, finance, construct, operate, and maintain any facilities under its jurisdiction required by this section.

(b) In consultation with the State Energy Resources Conservation and Development Commission, adopt energy conservation demand-side management and other initiatives in order to reduce demand for

electricity and reduce load during peak demand periods. Those initiatives shall include, but not be limited to, all of the following:

(1) Expansion and acceleration of residential and commercial weatherization programs.

(2) Expansion and acceleration of programs to inspect and improve the operating efficiency of heating, ventilation, and air-conditioning equipment in new and existing buildings, to ensure that these systems achieve the maximum feasible cost-effective energy efficiency.

(3) Expansion and acceleration of programs to improve energy efficiency in new buildings, in order to achieve the maximum feasible reductions in uneconomic energy and peak electricity consumption.

(4) Incentives to equip commercial buildings with the capacity to automatically shut down or dim nonessential lighting and incrementally raise thermostats during a peak electricity demand period.

(5) Evaluation of installing local infrastructure to link temperature setback thermostats to real-time price signals.

(6) Incentives for load control and distributed generation to be paid for enhancing reliability.

(7) Differential incentives for renewable or super clean distributed generation resources.

(8) Reevaluation of all efficiency cost-effectiveness tests in light of increases in wholesale electricity costs and of natural gas costs to explicitly include the system value of reduced load on reducing market clearing prices and volatility.

(c) In consultation with the Energy Resources Conservation and Development Commission, adopt and implement a residential, commercial, and industrial peak reduction program that encourages electric customers to reduce electricity consumption during peak power periods.

SEC. 174. Section 2881.2 of the Public Utilities Code is amended to read:

2881.2. (a) In addition to the requirements of Section 2881, the commission shall design and implement a program that shall provide for publicly available telecommunications devices capable of servicing the needs of the deaf or hearing impaired in existing buildings, structures, facilities, and public accommodations of the type specified in Section 4450 of the Government Code and Sections 19955.5 and 19956 of the Health and Safety Code, making available reasonable access of all phases of public telephone service to individuals who are deaf or hearing impaired. The commission shall direct the appropriate committee under its control to determine and specify locations within existing buildings, structures, facilities, and public accommodations in need of a telecommunications device and to contract for the procurement, installation, and maintenance of these devices. In the letting of the

contract, the commission shall direct the committee to ensure consideration of for-profit and nonprofit corporations, including nonprofit corporations with demonstrated service to individuals who are deaf or hearing impaired and whose boards of directors and staff are made up of a majority of those individuals. The commission shall also direct the committee to seek the cooperation of the owners, managers, and tenants of the existing buildings, structures, facilities, and public accommodations that have been determined to be in need of a telecommunications device with regard to its installation and maintenance. The commission shall phase in this program over a reasonable period of time, beginning no later than January 1, 1998, giving priority to those existing buildings, structures, facilities, and public accommodations determined by the commission, with the advice and counsel of statewide nonprofit consumer organizations for the deaf, to be of most importance and usefulness to the deaf or hearing impaired.

(b) The commission shall ensure that costs are recovered as they are incurred under this section, including any costs incurred by the owners, managers, or tenants of existing buildings, structures, facilities, and public accommodations, and shall utilize for this purpose the rate recovery mechanism established pursuant to subdivision (d) of Section 2881. The commission shall also establish a fund and require separate accounting for the program implemented under this section and, in addition, shall require that the surcharge utilized to fund the program not exceed two-hundredths of 1 percent, that it be combined with the surcharge required by subdivision (d) of Section 2881, and that it count toward the limits set by that subdivision. This surcharge shall be in effect until January 1, 2001.

(c) "Existing buildings, structures, facilities, and public accommodations," for the purposes of this section, means those buildings, structures, facilities, and public accommodations or parts thereof that were constructed or altered prior to January 26, 1993, or are otherwise not required by Section 303 of the Americans with Disabilities Act of 1990 (P.L. 101-336; 42 U.S.C. Sec. 12183) or any other section of that act and its implementing regulations and guidelines, to have a publicly available telecommunications device capable of serving the needs of the deaf or hearing impaired.

SEC. 175. Section 7943 of the Public Utilities Code is amended to read:

7943. (a) It is the intent of the Legislature that when the commission has no reasonable alternative other than to create a new area code, that the commission do so in a way that creates the least inconvenience for customers.

(b) On or before March 31, 2001, the commission shall request that the Federal Communications Commission grant authority for the

commission to order telephone corporations to assign telephone numbers dedicated to wireless and data usage to a separate area code and to permit seven digit dialing within that technology-specific area code and the underlying preexisting area code or codes.

(c) Before approving any new area code, the commission shall first perform a telephone utilization study and implement all reasonable telephone number conservation measures.

(d) If the commission receives the grant of authority set forth in subdivision (b) and determines that further area code relief is needed, the commission shall exercise the authority granted to it in subdivision (b) unless it finds at least one of the following:

(1) Exercising the authority granted by subdivision (b) would be more disruptive to the customers where area code relief has been determined to be necessary.

(2) Exercising the authority granted by subdivision (b) will not adequately extend the life of the area code where relief has been determined to be necessary.

(e) The commission may not implement any authority granted by the Federal Communications Commission pursuant to subdivision (b), in a manner that impairs the ability of a customer to have number portability.

SEC. 176. Section 9608 of the Public Utilities Code is amended to read:

9608. Sections 454.1 and 9607 of this code and Section 56133 of the Government Code do not apply to an irrigation district with respect to an area to be served by the irrigation district, if all of the following occur:

(a) The irrigation district acquires substantially all the electric distribution facilities and related subtransmission facilities of any electrical corporation that has an obligation to provide electric distribution service within the area to be served by the irrigation district.

(b) The commission approves a service area agreement between the irrigation district and the electrical corporation pursuant to Sections 8101 to 8108, inclusive, which service area agreement provides that the electrical corporation may not provide electric distribution service in the area to be served by the irrigation district and that the irrigation district may not provide electric distribution service in the remainder of the electrical corporation's service territory.

(c) The commission relieves the electrical corporation of its obligation to serve within the area to be served by the irrigation district.

SEC. 177. Section 9610 of the Public Utilities Code is amended to read:

9610. Commencing on January 1, 2001, and continuing through December 31, 2025, inclusive, all of the following shall apply:

(a) An electrical corporation may not provide electric transmission or distribution service to retail customers in either of the following areas:

(1) The Modesto Irrigation District electric service area as defined in the August 15, 1940, Purchase of Properties agreement between Modesto Irrigation District and Pacific Gas and Electric Company.

(2) The Mountain House Community Services District as defined in the master specific plan adopted by the Board of Supervisors of the County of San Joaquin on November 10, 1994.

(b) (1) Within the purchase zone as described in Exhibit "B" of The Asset Sale Agreement By and Between Pacific Gas and Electric Company and Modesto Irrigation District Dated July 23, 1997, contained in Public Utilities Commission Application Number 97-07-030, Pacific Gas and Electric Company and Modesto Irrigation District may each provide electric transmission and distribution service to retail customers. The area described in this subdivision shall be considered to be within both Pacific Gas and Electric Company's and Modesto Irrigation District's electric service area.

(2) The Legislature recognizes that electrical corporations and irrigation districts may each construct infrastructure, and that the infrastructure may, in some cases, be duplicative. In those cases, the Legislature encourages irrigation districts and electrical corporations to enter into agreements pursuant to Sections 8101 to 8108, inclusive, where those agreements further the interests of the state as set forth in Section 8101.

(c) Modesto Irrigation District may provide up to 8 megawatts of peak sales to Contra Costa Water District for delivery to its Old River Intake Facility and Rock Slough Pumping Plant.

(d) Except as provided in subdivisions (a), (b), and (c), Modesto Irrigation District may not provide electric transmission or distribution service to retail customers in the territory of Pacific Gas and Electric Company.

SEC. 178. Section 12702.5 of the Public Utilities Code is amended to read:

12702.5. (a) Except as specified in subdivision (b), any judicial action or proceeding against a district that provides electric utility service, to attack, review, set aside, void, or annul an ordinance, resolution, or motion fixing or changing a rate or charge for an electric commodity or an electric service furnished by a district and adopted on or after July 1, 2000, shall be commenced within 120 days of the effective date of that ordinance, resolution, or motion.

(b) The statute of limitations specified in subdivision (a) does not apply to any judicial action or proceeding filed pursuant to Chapter 13.7 (commencing with Section 54999) of Part 1 of Division 2 of Title 5 of the Government Code to protest or challenge a rate or charge or to seek the refund of a capital facilities fee if the notice and disclosure

requirements of Section 54999.35 of the Government Code have not been followed.

SEC. 179. Section 75.11 of the Revenue and Taxation Code is amended to read:

75.11. (a) If the change in ownership occurs or the new construction is completed on or after January 1 but on or before May 31, then there shall be two supplemental assessments placed on the supplemental roll. The first supplemental assessment shall be the difference between the new base year value and the taxable value on the current roll. In the case of a change in ownership of the full interest in the real property, the second supplemental assessment shall be the difference between the new base year value and the taxable value to be enrolled on the roll being prepared. If the change in ownership is of only a partial interest in the real property, the second supplemental assessment shall be the difference between the sum of the new base year value of the portion transferred plus the taxable value on the roll being prepared of the remainder of the property and the taxable value on the roll being prepared of the whole property. For new construction, the second supplemental assessment shall be the value change due to the new construction.

(b) If the change in ownership occurs or the new construction is completed on or after June 1 but before the succeeding January 1, then the supplemental assessment placed on the supplemental roll shall be the difference between the new base year value and the taxable value on the current roll.

(c) If there are multiple changes in ownership or multiple completions of new construction, or both, with respect to the same real property during the same assessment year, then there shall be a net supplemental assessment placed on the supplemental roll, in addition to the assessment pursuant to subdivision (a) or (b). The net supplemental assessment shall be the most recent new base year value less the sum of (1) the previous entry or entries placed on the supplemental roll computed pursuant to subdivision (a) or (b), and (2) the corresponding taxable value on the current roll or the taxable value to be entered on the roll being prepared, or both, depending on the date or dates the change of ownership occurs or new construction is completed as specified in subdivisions (a) and (b).

(d) A supplemental assessment authorized by this section is not valid and does not have any force or effect unless it is placed on the supplemental roll on or before the applicable date specified in paragraph (1), (2), or (3), as follows:

(1) The fourth July 1 following the July 1 of the assessment year in which either a statement reporting the change in ownership was filed pursuant to Section 480, 480.1, or 480.2, a preliminary change in

ownership report was filed pursuant to Section 480.3, or the new construction was completed.

(2) The sixth July 1 following the July 1 of the assessment year in which either a statement reporting the change in ownership was filed pursuant to Section 480, 480.1, or 480.2, a preliminary change in ownership report was filed pursuant to Section 480.3, or the new construction was completed, if the penalty provided for in Section 504 is added to the assessment.

(3) The eighth July 1 following the July 1 of the assessment year in which the event giving rise to the supplemental assessment occurred, if the change in ownership or change in control was unrecorded and a change in ownership statement required by Section 480 or preliminary change in ownership report, as required by Section 480.3, was not timely filed.

(4) Notwithstanding paragraphs (1), (2), and (3), there is no limitations period on making a supplemental assessment, if the penalty provided for in Section 503 is added to the assessment.

For the purposes of this subdivision, "assessment year" means the period beginning annually as of 12:01 a.m. on the first day of January and ending immediately prior to the succeeding first day of January.

(e) If, before the expiration of the applicable period specified in subdivision (d) for making a supplemental assessment, the taxpayer and the assessor agree in writing to extend the period for making a supplemental assessment, correction, or claim for refund, a supplemental assessment may be made at any time prior to the expiration of that extended period. The extended period may be further extended by successive written agreements entered into prior to the expiration of the most recent extension.

SEC. 180. Section 75.21 of the Revenue and Taxation Code is amended to read:

75.21. (a) Exemptions shall be applied to the amount of the supplemental assessment, provided that the property is not receiving any other exemption on either the current roll or the roll being prepared except as provided for in subdivision (b), that the assessee is eligible for the exemption, and that, in those instances in which the provisions of this division require the filing of a claim for the exemption, the assessee makes a claim for the exemption.

(b) If the property received an exemption on the current roll or the roll being prepared and the assessee on the supplemental roll is eligible for an exemption and, in those instances in which the provisions of this division require the filing of a claim for the exemption, the assessee makes a claim for an exemption of a greater amount, then the difference in the amount between the two exemptions shall be applied to the supplemental assessment.

(c) In those instances in which the provisions of this division require the filing of a claim for the exemption, except as provided in subdivision (d), (e), or (f), any person claiming to be eligible for an exemption to be applied against the amount of the supplemental assessment shall file a claim or an amendment to a current claim, in that form as prescribed by the board, on or before the 30th day following the date of notice of the supplemental assessment, in order to receive a 100-percent exemption.

(1) With respect to property as to which the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, or welfare exemption was available, but for which a timely application for exemption was not filed, the following amounts shall be canceled or refunded:

(A) Ninety percent of any tax or penalty or interest thereon, or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars (\$250) in total amount, whichever is greater, for each supplemental assessment, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(B) Eighty-five percent of any tax or penalty or interest thereon, or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars (\$250) in total amount, whichever is greater, for each supplemental assessment, if an appropriate application for exemption is thereafter filed.

(2) With respect to property as to which the welfare exemption or veterans' organization exemption was available, all provisions of Section 254.5, other than the specified dates for the filing of affidavits and other acts, are applicable to this section.

(3) With respect to property as to which the veterans', homeowners', or disabled veterans' exemption was available, but for which a timely application for exemption was not filed, that portion of tax attributable to 80 percent of the amount of exemption available shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(4) With respect to property as to which any other exemption was available, but for which a timely application for exemption was not filed, the following amounts shall be canceled or refunded:

(A) Ninety percent of any tax or penalty or interest thereon, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(B) Eighty-five percent of any tax or penalty or interest thereon, or any amount of tax or penalty or interest thereon exceeding two hundred

fifty dollars (\$250) in total amount, whichever is greater, for each supplemental assessment, if an appropriate application for exemption is thereafter filed.

Other provisions of this division pertaining to the late filing of claims for exemption do not apply to assessments made pursuant to this chapter.

(d) For purposes of this section, any claim for the homeowners' exemption, veterans' exemption, or disabled veterans' exemption previously filed by the owner of a dwelling, granted and in effect, constitutes the claim or claims for that exemption required in this section. In the event that a claim for the homeowners' exemption, veterans' exemption, or disabled veterans' exemption is not in effect, a claim for any of those exemptions for a single supplemental assessment for a change in ownership or new construction occurring on or after June 1, up to and including December 31, shall apply to that assessment; a claim for any of those exemptions for the two supplemental assessments for a change in ownership or new construction occurring on or after January 1, up to and including May 31, one for the current fiscal year and one for the following fiscal year, shall apply to those assessments. In either case, if granted, the claim shall remain in effect until title to the property changes, the owner does not occupy the home as his or her principal place of residence on the lien date, or the property is otherwise ineligible pursuant to Section 205, 205.5, or 218.

(e) Notwithstanding subdivision (c), an additional exemption claim may not be required to be filed until the next succeeding lien date in the case in which a supplemental assessment results from the completion of new construction on property that has previously been granted exemption on either the current roll or the roll being prepared.

(f) (1) Notwithstanding subdivision (c), an additional exemption claim may not be required to be filed until the next succeeding lien date in the instance where a supplemental assessment results from a change in ownership of property where the purchaser of the property owns and uses or uses, as the case may be, other property that has been granted the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, or welfare exemption on either the current roll or the roll being prepared and the property purchased is put to the same use. If a timely application for exemption is not filed on the next succeeding lien date, then the provisions of paragraph (1) of subdivision (c) shall apply.

(2) In all other instances where a supplemental assessment results from a change in ownership of property, an application for exemption shall be filed pursuant to the provisions of subdivision (c).

SEC. 181. Section 97.3 of the Revenue and Taxation Code is amended to read:

97.3. Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section, as modified by Section 97.2 or its predecessor section for the 1992–93 fiscal year, shall be modified for the 1993–94 fiscal year pursuant to subdivisions (a) to (c), inclusive, as follows:

(a) The amount of property tax revenue deemed allocated in the prior fiscal year to each county and city and county shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions for counties and cities and counties determined pursuant to this section shall be one billion nine hundred ninety-eight million dollars (\$1,998,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of the reduction for each county or city and county as follows:

(A) The proportionate share of the property tax revenue reduction for each county or city and county that would have been imposed on all counties under the proposal specified in the “May Revision of the 1993–94 Governor’s Budget” shall be determined by reference to the document entitled “Estimated County Property Tax Transfers Under Governor’s May Revision Proposal,” published by the Legislative Analyst’s Office on June 1, 1993.

(B) Each county’s or city and county’s proportionate share of total taxable sales in all counties in the 1991–92 fiscal year shall be determined.

(C) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to subparagraph (A) to the one billion nine hundred ninety-eight million dollar (\$1,998,000,000) statewide reduction for counties and cities and counties.

(D) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to subparagraph (B) to the one billion nine hundred ninety-eight million dollar (\$1,998,000,000) statewide reduction for counties and cities and counties.

(E) The Director of Finance shall add the amounts determined pursuant to subparagraphs (C) and (D) for each county and city and county, and divide the resulting figure by two. The amount so determined for each county and city and county shall be divided by a factor of 1.038. The resulting figure shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior fiscal year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee its determination of the amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify the auditor of each county and city and county of the amount of property tax revenue reduction determined for each county and city and county.

(5) Notwithstanding any other provision of this subdivision, the amount of the reduction specified in paragraph (2) for any county or city and county that has first implemented, for the 1993–94 fiscal year, the alternative procedure for the distribution of property tax levies authorized by Chapter 3 (commencing with Section 4701) of Part 8 shall be reduced, for the 1993–94 fiscal year only, in the amount of any increased revenue allocated to each qualifying school entity that would not have been allocated for the 1993–94 fiscal year but for the implementation of that alternative procedure. For purposes of this paragraph, “qualifying school entity” means any school district, county office of education, or community college district that is not an excess tax school entity as defined in Section 95, and a county’s Educational Revenue Augmentation Fund as described in subdivision (d) of this section and subdivision (d) of Section 97.2. Notwithstanding any other provision of this paragraph, the amount of any reduction calculated pursuant to this paragraph for any county or city and county shall not exceed the reduction calculated for that county or city and county pursuant to paragraph (2).

(6) Notwithstanding the provisions of paragraph (5), the amount of the reduction specified in paragraph (2) for a county of the 16th class that has first implemented, for the 1993–94 fiscal year, the alternative procedure for the distribution of property tax levies authorized by Chapter 2 (commencing with Section 4701) of Part 8 shall be reduced, for the 1993–94 fiscal year only, in the amount of any increased revenue distributed to each qualifying school entity that would not have been distributed for the 1993–94 fiscal year, pursuant to the historical accounting method of that county of the 16th class, but for the implementation of that alternative procedure. For purposes of this paragraph, “qualifying school entity” means any school district, county office of education, or community college district that is not an excess tax school entity as defined in Section 95, and a county’s Educational Revenue Augmentation Fund as described in subdivision (a) of this section and subdivision (d) of Section 97.2. Notwithstanding any other provision of this paragraph, the amount of any reduction calculated pursuant to this paragraph for any county shall not exceed the reduction calculated for that county pursuant to paragraph (2).

(b) The amount of property tax revenue deemed allocated in the prior fiscal year to each city shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions determined for cities pursuant to this section shall be two hundred eighty-eight million dollars (\$288,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of reduction for each city as follows:

(A) The amount of property tax revenue that is estimated to be attributable in the 1993–94 fiscal year to the amount of each city's state assistance payment received by that city pursuant to Chapter 282 of the Statutes of 1979 shall be determined.

(B) A factor for each city equal to the amount determined pursuant to subparagraph (A) for that city, divided by the total of the amounts determined pursuant to subparagraph (A) for all cities, shall be determined.

(C) An amount for each city equal to the factor determined pursuant to subparagraph (B), multiplied by three hundred eighty-two million five hundred thousand dollars (\$382,500,000), shall be determined.

(D) In no event shall the amount for any city determined pursuant to subparagraph (C) exceed a per capita amount of nineteen dollars and thirty-one cents (\$19.31), as determined in accordance with that city's population on January 1, 1993, as estimated by the Department of Finance.

(E) The amount determined for each city pursuant to subparagraphs (C) and (D) shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee those amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify each county auditor of the amount of property tax revenue reduction determined for each city located within that county.

(c) (1) The amount of property tax revenue deemed allocated in the prior fiscal year to each special district, as defined pursuant to subdivision (m) of Section 95, shall be reduced by the amount determined for the district pursuant to paragraph (3) and increased by the amount determined for the district pursuant to paragraph (4). The total net amount of these changes is intended to equal two hundred forty-four million dollars (\$244,000,000) in the 1993–94 fiscal year.

(2) (A) Notwithstanding any other provision of this subdivision, no reduction shall be made pursuant to this subdivision with respect to any of the following special districts:

(i) A local hospital district as described in Division 23 (commencing with Section 32000) of the Health and Safety Code.

(ii) A water agency that does not sell water at retail, but not including an agency the primary function of which, as determined on the basis of total revenues, is flood control.

(iii) A transit district.

(iv) A police protection district formed pursuant to Part 1 (commencing with Section 20000) of Division 14 of the Health and Safety Code.

(v) A special district that was a multicounty special district as of July 1, 1979.

(B) Notwithstanding any other provision of this subdivision, the first one hundred four thousand dollars (\$104,000) of the amount of any reduction that otherwise would be made under this subdivision with respect to a qualifying community services district shall be excluded. For purposes of this subparagraph, a "qualifying community services district" means a community services district that meets all of the following requirements:

(i) Was formed pursuant to Division 3 (commencing with Section 61000) of Title 6 of the Government Code.

(ii) Succeeded to the duties and properties of a police protection district upon the dissolution of that district.

(iii) Currently provides police protection services to substantially the same territory as did that district.

(iv) Is located within a county in which the board of supervisors has requested the Department of Finance that this subparagraph be operative in the county.

(3) (A) On or before September 15, 1993, the county auditor shall determine an amount for each special district equal to the amount of its allocation determined pursuant to Section 96 or 96.1, and Section 96.5 or their predecessor sections for the 1993–94 fiscal year multiplied by the ratio determined pursuant to paragraph (1) of subdivision (a) of former Section 98.6 as that section read on June 15, 1993. In those counties that were subject to former Sections 98.66, 98.67, and 98.68, as those sections read on that same date, the county auditor shall determine an amount for each special district that represents the current amount of its allocation determined pursuant to Section 96 or 96.1, and Section 96.5 or their predecessor sections for the 1993–94 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979. In that county subject to Section 100.4, the county auditor shall determine an amount for each special district that represents the current amount of its allocations determined pursuant to Section 96, 96.1, 96.5, or 100.4 or their predecessor sections for the 1993–94 fiscal year that is attributable to the property tax shift from

schools required by Chapter 282 of the Statutes of 1979. In determining these amounts, the county auditor shall adjust for the influence of increased assessed valuation within each district, including the effect of jurisdictional changes, and the reductions in property tax allocations required in the 1992–93 fiscal year by Chapters 699 and 1369 of the Statutes of 1992. In the case of a special district that has been consolidated or reorganized, the auditor shall determine the amount of its current property tax allocation that is attributable to the prior district's or districts' receipt of state assistance payments pursuant to Chapter 282 of the Statutes of 1979. Notwithstanding any other provision of this paragraph, for a special district that is governed by a city council or whose governing board has the same membership as a city council and that is a subsidiary district as defined in subdivision (e) of Section 16271 of the Government Code, the county auditor shall multiply the amount that otherwise would be calculated pursuant to this paragraph by 0.38 and the result shall be used in the calculations required by paragraph (5). In no event shall the amount determined by this paragraph be less than zero.

(B) Notwithstanding subparagraph (A), commencing with the 1994–95 fiscal year, in the County of Sacramento, the auditor shall determine the amount for each special district that represents the current amount of its allocations determined pursuant to Section 96, 96.1, 96.5, or 100.6 for the 1994–95 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979.

(4) (A) (i) On or before September 15, 1993, the county auditor shall determine an amount for each special district that is engaged in fire protection activities, as reported to the Controller for inclusion in the 1989–90 edition of the Financial Transactions Report Concerning Special Districts under the heading of "Fire Protection," that is equal to the amount of revenue allocated to that special district from the Special District Augmentation Fund for fire protection activities in the 1992–93 fiscal year. For purposes of the preceding sentence for counties of the second class, the phrase "amount of revenue allocated to that special district" means an amount of revenue that was identified for transfer to that special district, rather than the amount of revenue that was actually received by that special district pursuant to that transfer.

(ii) In the case of a special district, other than a special district governed by the county board of supervisors or whose governing body is the same as the county board of supervisors, that is engaged in fire protection activities as reported to the Controller, the county auditor shall also determine the amount by which the district's amount determined pursuant to paragraph (3) exceeds the amount by which its allocation was reduced by operation of former Section 98.6 in the 1992–93 fiscal year. This amount shall be added to the amount otherwise

determined for the district under this paragraph. In any county subject to former Section 98.65, 98.66, 98.67, or 98.68 in that same fiscal year, the county auditor shall determine for each special district that is engaged in fire protection activities an amount that is equal to the amount determined for that district pursuant to paragraph (3).

(B) For purposes of this paragraph, a special district includes any special district that is allocated property tax revenue pursuant to this chapter and does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, but is engaged in fire protection activities and appears in the State Controller's Report on Financial Transactions Concerning Counties.

(5) The total amount of property taxes allocated to special districts by the county auditor as a result of paragraph (4) shall be subtracted from the amount of property tax revenues not allocated to special districts by the county auditor as a result of paragraph (3) to determine the amount to be deposited in the Education Revenue Augmentation Fund as specified in subdivision (d).

(6) On or before September 30, 1993, the county auditor shall notify the Director of Finance of the net amount determined for special districts pursuant to paragraph (5).

(d) (1) The amount of property tax revenues not allocated to the county, city and county, cities within the county, and special districts as a result of the reductions required by subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund established in each county or city and county pursuant to Section 97.2. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1992-93 fiscal year.

(2) The county auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to school districts and county offices of education only to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The county superintendent of schools shall determine the amount to be allocated to each school district in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district. For each county office of education, the allocation shall be made based on the historical split of base property tax revenue between the county office of education and

school districts within the county. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a school district or county office of education upon that district or county office of education becoming an excess tax school entity. If, after determining the amount to be allocated to each school district and county office of education, the county superintendent of schools determines there are still additional funds to be allocated, the county superintendent of schools shall determine the remainder to be allocated in inverse proportion to the amounts of property tax revenue, excluding Educational Revenue Augmentation Fund moneys, per average daily attendance in each remaining school district, and on the basis of the historical split described above for each county office of education that is not an excess tax school entity, until all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated. The county superintendent of schools may determine the amounts to be allocated between each school district and county office of education to ensure that all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated.

(3) The county auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to community college districts only to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a community college district upon that district becoming an excess tax school entity.

(4) (A) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2). If, after determining the amount to be allocated to each community college district, the Chancellor of the California Community Colleges determines that there are still additional funds to be allocated, the Chancellor of the California Community Colleges shall determine the remainder to be allocated to each community college district in inverse proportion to the amounts of property tax revenue, excluding

Educational Revenue Augmentation Fund moneys, per funded full-time equivalent student in each remaining community college district that is not an excess tax school entity until all funds that would not result in a community college district becoming an excess tax school entity are allocated.

(B) (i) For the 1995–96 fiscal year and each fiscal year thereafter, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall, subject to clauses (ii) and (iii), allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this clause shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code. If, for the 2000–01 fiscal year or any fiscal year thereafter, any additional revenues remain after the implementation of this clause, the auditor shall allocate those remaining revenues among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year.

(ii) For the 1995–96 fiscal year only, clause (i) shall have no application to the County of Mono and the amount allocated pursuant to clause (i) in the County of Marin shall not exceed five million dollars (\$5,000,000).

(iii) For the 1996–97 fiscal year only, the total amount of funds allocated by the auditor pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 shall not exceed that portion of two million five hundred thousand dollars (\$2,500,000) that corresponds to the county's proportionate share of all moneys allocated pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 for the 1995–96 fiscal year. Upon the request of the auditor, the Department of Finance shall provide to the auditor all information in the department's possession that is necessary for the auditor to comply with this clause.

(iv) Notwithstanding clause (i) of this subparagraph, for the 1999–2000 fiscal year only, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate the funds to the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue

Augmentation Fund for the relevant fiscal year. The amount allocated pursuant to this clause shall not exceed eight million two hundred thirty-nine thousand dollars (\$8,239,000), as appropriated in Item 6110-250-0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999).

(C) For purposes of allocating the Educational Revenue Augmentation Fund for the 1996–97 fiscal year, the auditor shall, after making the allocations for special education programs, if any, required by subparagraph (B), allocate all remaining funds among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county’s Educational Revenue Augmentation Fund for the relevant fiscal year. For purposes of ad valorem property tax revenue allocations for the 1997–98 fiscal year and each fiscal year thereafter, no amount of ad valorem property tax revenue allocated to the county, a city, or a special district pursuant to this subparagraph shall be deemed to be an amount of ad valorem property tax revenue allocated to that local agency in the prior fiscal year.

(5) For purposes of allocations made pursuant to Section 96.1 for the 1994–95 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than those amounts deposited in the Educational Revenue Augmentation Fund pursuant to any provision of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

SEC. 182. Section 214 of the Revenue and Taxation Code is amended to read:

214. (a) Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation, including ad valorem taxes to pay the interest and redemption charges on any indebtedness approved by the voters prior to July 1, 1978, or any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition, if:

(1) The owner is not organized or operated for profit. However, in the case of hospitals, the organization shall not be deemed to be organized or operated for profit if, during the immediately preceding fiscal year, operating revenues, exclusive of gifts, endowments and grants-in-aid, did not exceed operating expenses by an amount equivalent to 10 percent of those operating expenses. As used herein, operating expenses include depreciation based on cost of replacement and amortization of, and interest on, indebtedness.

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual.

(3) The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(A) For the purposes of determining whether the property is used for the actual operation of the exempt activity, consideration shall not be given to use of the property for either or both of the following described activities if that use is occasional:

(i) The owner conducts fundraising activities on the property and the proceeds derived from those activities are not unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, of the owner and are used to further the exempt activity of the owner.

(ii) The owner permits any other organization that meets all of the requirements of this subdivision, other than ownership of the property, to conduct fundraising activities on the property and the proceeds derived from those activities are not unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, of the organization, are not subject to the tax on unrelated business taxable income that is imposed by Section 511 of the Internal Revenue Code, and are used to further the exempt activity of the organization.

(B) For purposes of subparagraph (A):

(i) "Occasional use" means use of the property on an irregular or intermittent basis by the qualifying owner or any other qualifying organization described in clause (ii) of subparagraph (A) that is incidental to the primary activities of the owner or the other organization.

(ii) "Fundraising activities" means both activities involving the direct solicitation of money or other property and the anticipated exchange of goods or services for money between the soliciting organization and the organization or person solicited.

(C) Subparagraph (A) shall have no application in determining whether paragraph (3) has been satisfied unless the owner of the property and any other organization using the property as provided in subparagraph (A) have filed with the assessor duplicate copies of valid unrevoked letters or rulings from the Internal Revenue Service that state that the owner and the other organization qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code. The owner of the property and any other organization using the property as provided in subparagraph (A) also shall file duplicate copies of their most recently filed federal income tax returns.

(D) For the purposes of determining whether the property is used for the actual operation of the exempt activity, consideration shall not be given to the use of the property for meetings conducted by any other organization if the meetings are incidental to the other organization's

primary activities, are not fundraising meetings or activities as defined in subparagraph (B), are held no more than once per week, and the other organization and its use of the property meet all other requirements of paragraphs (1) to (5), inclusive, of subdivision (a). The owner of the other organization also shall file with the assessor duplicate copies of valid, unrevoked letters or rulings from the Internal Revenue Service or the Franchise Tax Board stating that the other organization, or the national organization of which it is a local chapter or affiliate, qualifies as an exempt organization under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code or Section 23701d, 23701f, or 23701w, together with duplicate copies of that organization's most recently filed federal income tax return, if the organization is required by federal law to file a return.

Nothing in subparagraph (A), (B), (C), or (D) shall be construed to either enlarge or restrict the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(4) The property is not used or operated by the owner or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor, or bondholder of the owner or operator, or any other person, through the distribution of profits, payment of excessive charges or compensations, or the more advantageous pursuit of their business or profession.

(5) The property is not used by the owner or members thereof for fraternal or lodge purposes, or for social club purposes except where that use is clearly incidental to a primary religious, hospital, scientific, or charitable purpose.

(6) The property is irrevocably dedicated to religious, charitable, scientific, or hospital purposes and upon the liquidation, dissolution or abandonment of the owner will not inure to the benefit of any private person except a fund, foundation, or corporation organized and operated for religious, hospital, scientific, or charitable purposes.

(7) The property, if used exclusively for scientific purposes, is used by a foundation or institution that, in addition to complying with the foregoing requirements for the exemption of charitable organizations in general, has been chartered by the Congress of the United States (except that this requirement shall not apply when the scientific purposes are medical research), and whose objects are the encouragement or conduct of scientific investigation, research, and discovery for the benefit of the community at large.

The exemption provided for herein shall be known as the "welfare exemption." This exemption shall be in addition to any other exemption now provided by law, and the existence of the exemption provision in paragraph (2) of subdivision (a) of Section 202 shall not preclude the

exemption under this section for museum or library property. Except as provided in subdivision (e), this section shall not be construed to enlarge the college exemption.

(b) Property used exclusively for school purposes of less than collegiate grade and owned and operated by religious, hospital, or charitable funds, foundations, or corporations, which property and funds, foundations, or corporations meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(c) Property used exclusively for nursery school purposes and owned and operated by religious, hospital, or charitable funds, foundations, or corporations, which property and funds, foundations, or corporations meet all the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(d) Property used exclusively for a noncommercial educational FM broadcast station or an educational television station, and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(e) Property used exclusively for religious, charitable, scientific, or hospital purposes and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations or educational institutions of collegiate grade, as defined in Section 203, which property and funds, foundations, corporations, or educational institutions meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section. As to educational institutions of collegiate grade, as defined in Section 203, the requirements of paragraph (6) of subdivision (a) shall be deemed to be met if both of the following are met:

(1) The property of the educational institution is irrevocably dedicated in its articles of incorporation to charitable and educational purposes, to religious and educational purposes, or to educational purposes.

(2) The articles of incorporation of the educational institution provide for distribution of its property upon its liquidation, dissolution, or abandonment to a fund, foundation, or corporation organized and operated for religious, hospital, scientific, charitable, or educational purposes meeting the requirements for exemption provided by Section 203 or this section.

(f) Property used exclusively for housing and related facilities for elderly or handicapped families and financed by, including, but not limited to, the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

The amendment of this paragraph made by Chapter 1102 of the Statutes of 1984 does not constitute a change in, but is declaratory of, the existing law. However, no refund of property taxes shall be required as a result of this amendment for any fiscal year prior to the fiscal year in which the amendment takes effect.

Property used exclusively for housing and related facilities for elderly or handicapped families at which supplemental care or services designed to meet the special needs of elderly or handicapped residents are not provided, or that is not financed by the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), shall not be entitled to exemption pursuant to this subdivision unless the property is used for housing and related facilities for low- and moderate-income elderly or handicapped families. Property that would otherwise be exempt pursuant to this subdivision, except that it includes some housing and related facilities for other than low- or moderate-income elderly or handicapped families, shall be entitled to a partial exemption. The partial exemption shall be equal to that percentage of the value of the property that is equal to the percentage that the number of low- and moderate-income elderly and handicapped families occupying the property represents of the total number of families occupying the property.

As used in this subdivision, "low and moderate income" has the same meaning as the term "persons and families of low or moderate income" as defined by Section 50093 of the Health and Safety Code.

(g) (1) Property used exclusively for rental housing and related facilities and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations, including limited partnerships in which the managing general partner is an eligible nonprofit corporation, meeting all of the requirements of this section, or by veterans' organizations, as described in Section 215.1, meeting all the requirements of paragraphs (1) to (7), inclusive, of subdivision (a), shall

be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section and shall be entitled to a partial exemption equal to that percentage of the value of the property that the portion of the property serving lower income households represents of the total property in any year in which either of the following criteria applies:

(A) The acquisition, rehabilitation, development, or operation of the property, or any combination of these factors, is financed with tax-exempt mortgage revenue bonds or general obligation bonds, or is financed by local, state, or federal loans or grants and the rents of the occupants who are lower income households do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

(B) The owner of the property is eligible for and receives low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code of 1986, as added by Public Law 99-514.

(C) In the case of a claim, other than a claim with respect to property owned by a limited partnership in which the managing general partner is an eligible nonprofit corporation, that is filed for the 2000–01 fiscal year or any fiscal year thereafter, 90 percent or more of the occupants of the property are lower income households whose rent does not exceed the rent prescribed by Section 50053 of the Health and Safety Code. The total exemption amount allowed under this subdivision to a taxpayer, with respect to a single property or multiple properties for any fiscal year on the sole basis of the application of this subparagraph, may not exceed twenty thousand dollars (\$20,000) of tax.

(2) In order to be eligible for the exemption provided by this subdivision, the owner of the property shall do both of the following:

(A) (i) For any claim filed for the 2000–01 fiscal year or any fiscal year thereafter, certify and ensure, subject to the limitation in clause (ii), that there is an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document that restricts the project's usage and that provides that the units designated for use by lower income households are continuously available to or occupied by lower income households at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or, to the extent that the terms of federal, state, or local financing or financial assistance conflicts with Section 50053, rents that do not exceed those prescribed by the terms of the financing or financial assistance.

(ii) In the case of a limited partnership in which the managing general partner is an eligible nonprofit corporation, the restriction and provision specified in clause (i) shall be contained in an enforceable and verifiable agreement with a public agency, or in a recorded deed restriction to which the limited partnership certifies.

(B) Certify that the funds that would have been necessary to pay property taxes are used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by lower income households.

(3) As used in this subdivision, "lower income households" has the same meaning as the term "lower income households" as defined by Section 50079.5 of the Health and Safety Code.

(h) Property used exclusively for an emergency or temporary shelter and related facilities for homeless persons and families and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section. Property that otherwise would be exempt pursuant to this subdivision, except that it includes housing and related facilities for other than an emergency or temporary shelter, shall be entitled to a partial exemption.

As used in this subdivision, "emergency or temporary shelter" means a facility that would be eligible for funding pursuant to Chapter 11 (commencing with Section 50800) of Part 2 of Division 31 of the Health and Safety Code.

(i) Property used exclusively for housing and related facilities for employees of religious, charitable, scientific, or hospital organizations that meet all the requirements of subdivision (a) and owned and operated by funds, foundations, or corporations that meet all the requirements of subdivision (a) shall be deemed to be within the exemption provided for in subdivision (b) of Sections 4 and 5 of Article XIII of the California Constitution and this section to the extent the residential use of the property is institutionally necessary for the operation of the organization.

(j) For purposes of this section, charitable purposes include educational purposes. For purposes of this subdivision, "educational purposes" means those educational purposes and activities for the benefit of the community as a whole or an unascertainable and indefinite portion thereof, and shall not include those educational purposes and activities that are primarily for the benefit of an organization's shareholders. Educational activities include the study of relevant information, the dissemination of that information to interested members of the general public, and the participation of interested members of the general public.

SEC. 183. Section 23622.8 of the Revenue and Taxation Code is amended to read:

23622.8. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "tax" (as defined in Section 23036) to a qualified taxpayer for hiring a qualified

disadvantaged individual during the taxable year for employment in the Manufacturing Enhancement Area. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified disadvantaged individuals that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars (\$2,000,000) per taxable year.

(C) Wages received during the 60-month period beginning with the first day the qualified disadvantaged individual commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the Manufacturing Enhancement Area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the Manufacturing Enhancement Area within the 60-month period prior to the Manufacturing Enhancement Area expiration date shall continue to qualify for the credit under this section after the Manufacturing Enhancement Area expiration date, in accordance with all provisions of this section applied as if the Manufacturing Enhancement Area designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Manufacturing Enhancement Area" means an area designated pursuant to Section 7073.8 of the Government Code according to the procedures of Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(4) “Manufacturing Enhancement Area expiration date” means the date the Manufacturing Enhancement Area designation expires, is no longer binding, or becomes inoperative.

(5) “Qualified disadvantaged individual” means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer’s trade or business located in a Manufacturing Enhancement Area.

(ii) Who performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in the Manufacturing Enhancement Area.

(B) Who is hired by the qualified taxpayer after the designation of the area as a Manufacturing Enhancement Area in which the individual’s services were primarily performed.

(C) Who is any of the following immediately preceding the individual’s commencement of employment with the qualified taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (former 29 U.S.C. Sec. 1501 et seq.), or its successor.

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985, or its successor, as provided pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any individual who has been certified eligible by the Employment Development Department under the federal Targeted Jobs Tax Credit Program, or its successor, whether or not this program is in effect.

(6) “Qualified taxpayer” means any corporation engaged in a trade or business within a Manufacturing Enhancement Area designated pursuant to Section 7073.8 of the Government Code and that meets all of the following requirements:

(A) Is engaged in those lines of business described in Codes 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) At least 50 percent of the qualified taxpayer’s workforce hired after the designation of the Manufacturing Enhancement Area is composed of individuals who, at the time of hire, are residents of the county in which the Manufacturing Enhancement Area is located.

(C) Of this percentage of local hires, at least 30 percent shall be qualified disadvantaged individuals.

(7) “Seasonal employment” means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) (1) For purposes of this section, all of the following apply:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single qualified taxpayer.

(B) The credit (if any) allowable by this section with respect to each member shall be determined by reference to its proportionate share of the expenses of the qualified wages giving rise to the credit and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If a qualified taxpayer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between a qualified disadvantaged individual and a qualified taxpayer shall not be treated as terminated if the qualified disadvantaged individual continues to be employed in that trade or business.

(d) (1) (A) If the employment, other than seasonal employment, of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (b) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that qualified disadvantaged individual completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be

increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) does not apply to any of the following:

(i) A termination of employment of a qualified disadvantaged individual who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of a qualified disadvantaged individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of a qualified disadvantaged individual due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of a qualified disadvantaged individual, if that individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified disadvantaged individual.

(iii) A failure to continue the seasonal employment of a qualified disadvantaged individual, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified disadvantaged individual.

(iv) A failure to continue seasonal employment of a qualified disadvantaged individual due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified disadvantaged individual, if that qualified disadvantaged individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified disadvantaged individual shall not be treated as terminated by either of the following:

(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the qualified disadvantaged individual continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified disadvantaged individual continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(e) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the qualified taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (f) or (g).

(f) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(g) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce the "tax" for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributed to a Manufacturing Enhancement Area determined as if that attributed income represented all of the net income of the qualified taxpayer subject to tax under this part.

(2) Attributable income is that portion of the taxpayer's California source business income that is apportioned to the Manufacturing Enhancement Area. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance

with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the Manufacturing Enhancement Area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a Manufacturing Enhancement Area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For the purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the Manufacturing Enhancement Area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the Manufacturing Enhancement Area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in this subdivision.

(h) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

SEC. 184. Section 23646 of the Revenue and Taxation Code is amended to read:

23646. (a) For each taxable year beginning on or after January 1, 1995, there shall be allowed as a credit against the "tax" (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual or a qualified displaced employee during the taxable year for employment in the LAMBRA. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the employer during the taxable year to qualified disadvantaged individuals or qualified displaced employees that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars (\$2,000,000) per taxable year.

(C) Wages received during the 60-month period beginning with the first day the individual commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operation of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the LAMBRA expiration date. However, wages paid or incurred with respect to qualified disadvantaged individuals or qualified displaced employees who are employed by the qualified taxpayer within the LAMBRA within the 60-month period prior to the LAMBRA expiration date shall continue to qualify for the credit under this section after the LAMBRA expiration date, in accordance with all provisions of this section applied as if the LAMBRA designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "LAMBRA" means a local agency military base recovery area designated in accordance with the provisions of Section 7114 of the Government Code.

(4) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in the LAMBRA.

(B) Who is hired by the employer after the designation of the area as a LAMBRA in which the individual's services were primarily performed.

(C) Who is any of the following immediately preceding the individual's commencement of employment with the taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (former 29 U.S.C. Sec. 1501 et seq.).

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) An economically disadvantaged individual age 16 years or older.

(iv) A dislocated worker who meets any of the following conditions:

(I) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(II) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of such a closure or layoff.

(III) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(IV) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(V) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(VI) Was an active member of the Armed Forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(VII) Experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(VIII) Has been terminated or laid off or has received a notice of termination or layoff as a consequence of compliance with the Clean Air Act.

(v) An individual who is enrolled in or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(vi) An ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

(vii) A recipient of:

(I) Federal Supplemental Security Income benefits.

(II) Aid to Families with Dependent Children.

(III) Food stamps.

(IV) State and local general assistance.

(viii) Is a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(5) "Qualified taxpayer" means a corporation that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees as determined below in the LAMBRA.

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a qualified taxpayer that first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors "2,000" and "12" shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(6) "Qualified displaced employee" means an individual who satisfies all of the following requirements:

(A) Any civilian or military employee of a base or former base that has been displaced as a result of a federal base closure act.

(B) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in a LAMBRA.

(C) Who is hired by the employer after the designation of the area in which services were performed as a LAMBRA.

(7) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(8) "LAMBRA expiration date" means the date the LAMBRA designation expires, is no longer binding, or becomes inoperative.

(c) For qualified disadvantaged individuals or qualified displaced employees hired on or after January 1, 2001, the taxpayer shall do both of the following:

(1) Obtain from either the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office, or social services agency, as appropriate, a certification that provides that a qualified disadvantaged individual or qualified displaced employee meets the eligibility requirements specified in subparagraph (C) of paragraph (4) of subdivision (b) or subparagraph (A) of paragraph (6) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section, both of the following apply:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single employer.

(B) The credit (if any) allowable by this section to each member shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

(2) For purposes of this subdivision, "controlled group of corporations" has the meaning given to that term by Section 1563(a) of the Internal Revenue Code, except that both of the following apply:

(A) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(B) The determination shall be made without regard to Section 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue Code.

(3) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment of any employee, other than seasonal employment, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of an individual, if it is determined that the termination was due to the misconduct (as defined in Sections

1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified disadvantaged individual.

(iii) A failure to continue the seasonal employment of a qualified disadvantaged individual, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A failure to continue seasonal employment of a qualified disadvantaged individual due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified disadvantaged individual, if that individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated by either of the following:

(i) A transaction to which Section 381(a) of the Internal Revenue Code applies, if the employee continues to be employed by the acquiring corporation.

(ii) A mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(4) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (5) of subdivision (b), then the amount of the credit previously claimed shall be added to the taxpayer's tax for the taxpayer's second taxable year.

(f) In the case of an organization to which Section 593 of the Internal Revenue Code applies, and a regulated investment company or a real estate investment trust subject to taxation under this part, rules similar to the rules provided in Section 46(e) and Section 46(h) of the Internal Revenue Code shall apply.

(g) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (h) or (i).

(h) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(i) (1) The amount of credit otherwise allowed under this section and Section 23645, including any prior year carryovers, that may reduce the "tax" for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer's business income attributed to a LAMBRA determined as if that attributed income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer's business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a LAMBRA by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value of all the taxpayer's real

and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (h).

(j) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

SEC. 185. Section 44006 of the Revenue and Taxation Code is amended to read:

44006. In order to facilitate the administration of this part and in lieu of issuing an assessment for the fee, the board may authorize the feepayer to file a return for a monthly, quarterly, or other period set by the board. The return shall identify each vessel voyage and each port of call in California for which a ballast water report is required to be filed with the State Lands Commission, pursuant to Section 71205 of the Public Resources Code, during the period covered by the return. If the board authorizes the filing of a return, the fees must be paid to the board by the end of the calendar month following the end of the return reporting period.

SEC. 186. Section 45153 of the Revenue and Taxation Code is amended to read:

45153. (a) Any person who fails to pay any fee to the state or any amount of fee required to be paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 45201), within the time required shall pay a penalty of 10 percent of the fee or amount of the fee in addition to the fee or amount of the fee, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the fee or the amount of the fee required to be paid became due and payable to the state until the date of payment.

(b) Any person who fails to file a return in accordance with the due date set forth in Section 45151, shall pay a penalty of 10 percent of the amount of the surcharge with respect to the period for which the return is required.

(c) The penalties imposed by this section shall be limited to a maximum of 10 percent of the surcharge for which the return is required for any one return.

SEC. 187. Section 1110 of the Unemployment Insurance Code is amended to read:

1110. (a) Employer contributions required under Sections 976 and 976.6, the amount of benefits received by any individual pursuant to this part that is deducted from an award or settlement made by the employer under the provisions of Section 1382, and, except as provided by subdivision (b) of this section, worker contributions required under Section 984 are due and payable on the first day of the calendar month following the close of each calendar quarter and shall become delinquent if not paid on or before the last day of that month.

(b) Worker contributions required under Section 984 are due and payable at the same time and by the same method as amounts required to be withheld under Section 13020 are paid to the department pursuant to Section 13021, regardless of the amount of accumulated unpaid liability for worker contributions.

(c) Employer contributions submitted pursuant to Section 976.5 shall be paid on or before the last working day of March of the calendar year to which the reduced contribution rate would be applicable. Any employer whose eligibility for an unemployment insurance contribution rate determination is redetermined to make that employer eligible to submit voluntary unemployment insurance contributions in accordance with Section 976.5, may submit a voluntary unemployment insurance contribution within 30 days of the date of notification of the redetermination.

(d) Except as provided in subdivision (e), any employer described in Sections 682 and 684 may elect to report and pay employer contributions required under Sections 976 and 976.6, and worker contributions required under Section 984, annually. All contributions are due and payable on the first day of January following the close of the prior calendar year and shall become delinquent if not paid on or before the last day of that month. An election under this subdivision shall be effective the first day of the calendar year in which it is approved by the department. An election under this subdivision may not be approved if the employer has an outstanding return or report delinquency on the records of the department, or an unpaid amount owed to the department, that is not the subject of a timely petition for reassessment pending before the appeals board at the time the election is filed.

(e) Any employer described in Sections 682 and 684 who pays more than twenty thousand dollars (\$20,000) in wages annually, shall not be entitled to the election allowed in subdivision (d). If at any time during the year the total wages paid by an employer electing to file under subdivision (d) exceeds twenty thousand dollars (\$20,000), the election shall be terminated at the close of that calendar quarter. In addition to the report of wages due for that quarter, the employer shall file a return and

pay any contributions due for that portion of the year during which the election was in effect, and shall pay contributions in accordance with subdivisions (a), (b), and (c) for the remainder of that year.

(f) Contributions due pursuant to this section may be submitted by electronic funds transfer, as defined in Section 13021.5. Contributions submitted by electronic funds transfer shall be deemed complete in accordance with paragraph (4) of subdivision (e) of Section 13021.

SEC. 188. Section 4000.37 of the Vehicle Code is amended to read:

4000.37. (a) Upon application for renewal of registration of a motor vehicle, the department shall require that the applicant submit either a form approved by the department, but issued by the insurer, as specified in paragraph (1), (2), or (3), or any of the items specified in paragraph (4), as evidence that the applicant is in compliance with the financial responsibility laws of this state.

(1) For vehicles covered by private passenger automobile liability policies and having coverage as described in subdivisions (a) and (b) of Section 660 of the Insurance Code, or policies and coverages for private passenger automobile policies as described in subdivisions (a) and (b) of that section and issued by an automobile assigned risk plan, the form shall include all of the following:

(A) The primary name of the insured covered by the policy or the vehicle owner, or both.

(B) The year, make, and vehicle identification number of the vehicle.

(C) The name, the National Association of Insurance Commissioners (NAIC) number, and the address of the insurance company or surety company providing a policy or bond for the vehicle.

(D) The policy or bond number, and the effective date and expiration date of that policy or bond.

(E) A statement from the insurance company or surety company that the policy or bond meets the requirements of Section 16056 or 16500.5. For the purposes of this section, policies described in Sections 11629.71 and 11629.91 of the Insurance Code are deemed to meet the requirements of Section 16056.

(2) For vehicles covered by commercial or fleet policies, and not private passenger automobile liability policies, as described in paragraph (1), the form shall include all of the following:

(A) The name and address of the vehicle owner or fleet operator.

(B) The name, the NAIC number, and the address of the insurance company or surety company providing a policy or bond for the vehicle.

(C) The policy or bond number, and the effective date and expiration date of the policy or bond.

(D) A statement from the insurance company or surety company that the policy or bond meets the requirements of Section 16056 or 16500.5 and is a commercial or fleet policy. For vehicles registered pursuant to

Article 9.5 (commencing with Section 5301) or Article 4 (commencing with Section 8050) of Chapter 4, one form may be submitted per fleet as specified by the department.

(3) (A) The director may authorize an insurer to issue a form that does not conform to paragraph (1) or (2) if the director does all of the following:

(i) Determines that the entity issuing the alternate form is or will begin reporting the insurance information required under paragraph (1) or (2) to the department through electronic transmission.

(ii) Determines that use of the alternate form furthers the interests of the state by enhancing the enforcement of the state's financial responsibility laws.

(iii) Approves the contents of the alternate form as providing an adequate means for persons to prove compliance with the financial responsibility laws.

(B) The director may authorize the use of the alternate form in lieu of the forms otherwise required under paragraph (1) or (2) for a period of four years or less and may renew that authority for additional periods of four years or less.

(4) In lieu of evidence of insurance as described in paragraphs (1), (2), and (3), one of the following documents as evidence of coverage under an alternative form of financial responsibility may be provided by the applicant:

(A) An evidence form, as specified by the department, that indicates either a certificate of self-insurance or an assignment of deposit letter has been issued by the department pursuant to Sections 16053 or 16054.2.

(B) An insurance covering note or binder pursuant to Section 382 or 382.5 of the Insurance Code.

(C) An evidence form that indicates coverage is provided by a charitable risk pool operating under Section 5005.1 of the Corporations Code, if the registered owner of the vehicle is a nonprofit organization that is exempt from taxation under paragraph (3) of subsection (c) of Section 501 of the United States Internal Revenue Code. The evidence form shall include:

(i) The name and address of the vehicle owner or fleet operator.

(ii) The name and address of the charitable risk pool providing the policy for the vehicle.

(iii) The policy number, and the effective date and expiration date of the policy.

(iv) A statement from the charitable risk pool that the policy meets the requirements of subdivision (b) of Section 16054.2.

(b) This section does not apply to any of the following:

(1) A vehicle for which a certification has been filed pursuant to Section 4604, until the vehicle is registered for operation upon the highway.

(2) A vehicle that is owned or leased by, or under the direction of, the United States or any public entity that is included in Section 811.2 of the Government Code.

(3) A vehicle registration renewal application where there is a change of registered owner.

(4) A vehicle for which evidence of liability insurance information has been electronically filed with the department.

SEC. 189. Section 1789.5 of the Welfare and Institutions Code is amended to read:

1789.5. The Office of Criminal Justice Planning shall monitor and evaluate the projects established under this article, and shall report to the Legislature after the first and third year of the program's operation the results of its evaluation. In addition, each project shall be responsible for evaluating the effectiveness of its programs and services.

SEC. 190. Section 4098.1 of the Welfare and Institutions Code is amended to read:

4098.1. This chapter shall be known and may be cited as the California Suicide Prevention Act of 2000.

SEC. 191. Section 5614 of the Welfare and Institutions Code is amended to read:

5614. (a) The department, in consultation with the Compliance Advisory Committee that shall have representatives from relevant stakeholders, including, but not limited to, local mental health departments, local mental health boards and commissions, private and community-based providers, consumers and family members of consumers, and advocates, shall establish a protocol for ensuring that local mental health departments meet statutory and regulatory requirements for the provision of publicly funded community mental health services provided under this part.

(b) The protocol shall include a procedure for review and assurance of compliance for all of the following elements, and any other elements required in law or regulation:

(1) Financial maintenance of effort requirements provided for under Section 17608.05.

(2) Each local mental health board has approved procedures that ensure citizen and professional involvement in the local mental health planning process.

(3) Children's services are funded pursuant to the requirements of Sections 5704.5 and 5704.6.

(4) The local mental health department complies with reporting requirements developed by the department.

(5) To the extent resources are available, the local mental health department maintains the program principles and the array of treatment options required under Sections 5600.2 to 5600.9, inclusive.

(6) The local mental health department meets the reporting required by the performance outcome systems for adults and children.

(c) The protocol developed pursuant to subdivision (a) shall focus on law and regulations and shall include, but not be limited to, the items specified in subdivision (b). The protocol shall include data collection procedures so that state review and reporting may occur. The protocol shall also include a procedure for the provision of technical assistance, and formal decision rules and procedures for enforcement consequences when the requirements of law and regulations are not met. These standards and decision rules shall be established through the consensual stakeholder process established by the department.

SEC. 192. Section 8102 of the Welfare and Institutions Code is amended to read:

8102. (a) Whenever a person, who has been detained or apprehended for examination of his or her mental condition or who is a person described in Section 8100 or 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon.

“Deadly weapon,” as used in this section, has the meaning prescribed by Section 8100.

(b) Upon confiscation of any firearm or other deadly weapon from a person who has been detained or apprehended for examination of his or her mental condition, the peace officer or law enforcement agency shall notify the person of the procedure for the return of any firearm or other deadly weapon which has been confiscated.

Where the person is released, the professional person in charge of the facility, or his or her designee, shall notify the person of the procedure for the return of any firearm or other deadly weapon which may have been confiscated.

Health facility personnel shall notify the confiscating law enforcement agency upon release of the detained person, and shall make a notation to the effect that the facility provided the required notice to the person regarding the procedure to obtain return of any confiscated firearm.

(c) Upon the release of a person as described in subdivision (b), the confiscating law enforcement agency shall have 30 days to initiate a petition in the superior court for a hearing to determine whether the return of a firearm or other deadly weapon would be likely to result in endangering the person or others, and to send a notice advising the

person of his or her right to a hearing on this issue. The law enforcement agency may make an ex parte application stating good cause for an order extending the time to file a petition. Including any extension of time granted in response to an ex parte request, a petition must be filed within 60 days of the release of the person from a health facility.

(d) If the law enforcement agency does not initiate proceedings within the 30-day period, or the period of time authorized by the court in an ex parte order issued pursuant to subdivision (c), it shall make the weapon available for return.

(e) The law enforcement agency shall inform the person that he or she has 30 days to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond will result in a default order forfeiting the confiscated firearm or weapon. For the purpose of this subdivision, the person's last known address shall be the address provided to the law enforcement officer by the person at the time of the person's detention or apprehension.

(f) If the person responds and requests a hearing, the court clerk shall set a hearing, no later than 30 days from receipt of the request. The court clerk shall notify the person and the district attorney of the date, time, and place of the hearing.

(g) If the person does not respond within 30 days of the notice, the law enforcement agency may file a petition for order of default.

SEC. 193. 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, in accordance with Section 10083, 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 the project charter described in Section 10083 and 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 Franchise Tax Board to expedite the procurement, development, implementation, and operation of the California Child Support Automation System and shall delegate to the Franchise Tax Board, to the fullest extent possible, all functions including acquisition authority as provided in Section 12102 of the Public Contract Code, that may assist the Franchise Tax Board. All state agencies shall give review processes affecting the single statewide automation system their highest 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. 194. Section 14005.28 of the Welfare and Institutions Code is amended to read:

14005.28. (a) To the extent federal financial participation is available pursuant to an approved state plan amendment, the department shall exercise its option under Section 1902(a)(10)(A)(XV) of the federal Social Security Act (42 U.S.C. Sec. 1396a(a)(10)(A)(XV)) to extend Medi-Cal benefits to independent foster care adolescents, as defined in Section 1905(v)(1) of the federal Social Security Act (42 U.S.C. Sec. 1396d(v)(1)).

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and if the state plan amendment described in subdivision (a) is approved by the federal Health Care Financing Administration, the department may implement subdivision (a) without taking any regulatory action and 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.

(c) The department shall implement subdivision (a) on October 1, 2000, but only if, and to the extent that, the department has obtained all necessary federal approvals.

SEC. 195. Section 14005.35 of the Welfare and Institutions Code is amended to read:

14005.35. The department, in consultation with the counties and representatives of consumers, managed care plans, and Medi-Cal providers, shall study the feasibility of adopting a mechanism whereby, to the extent federal financial participation is available, a Medi-Cal managed care plan shall be notified whenever the eligibility of a Medi-Cal beneficiary enrolled in that plan is being redetermined, including notice of the date upon which any forms must be submitted to the county by the beneficiary.

SEC. 196. Section 14008.6 of the Welfare and Institutions Code is amended to read:

14008.6. (a) As a condition of eligibility for medical services provided under this chapter or Chapter 8 (commencing with Section 14200), each applicant or beneficiary shall do all of the following:

(1) Assign to the state any rights to medical support and to payments for medical care from a third party that an individual may have on his or her own behalf or on behalf of any other family member for whom that individual has the legal authority to assign those rights, and is applying for or receiving medical services. Receipt of medical services under this chapter or Chapter 8 (commencing with Section 14200) shall operate as an assignment by operation of law. If those rights are assigned pursuant to this subdivision, the assignee may become an assignee of record by the local child support agency or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

(2) Cooperate, as defined by subdivision (b) of Section 11477, with the local child support agency in establishing the paternity of a child born out of wedlock with respect to whom medical services are requested or claimed, and for whom that individual can legally assign the rights described in paragraph (1), and in obtaining any medical support, as provided in Section 17400 of the Family Code, and payments, as described in paragraph (1), due any person for whom medical services are requested or obtained.

(3) Cooperate with the state in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the Medi-Cal program.

(b) The local child support agency shall verify that the applicant or recipient refused to offer reasonable cooperation prior to determining that the applicant or recipient is ineligible. The granting of medical services shall not be delayed or denied if the applicant is otherwise eligible, if the applicant completes the necessary forms and agrees to cooperate with the district attorney in securing medical support and determining paternity, where applicable.

(c) An applicant or beneficiary shall be considered to be cooperating with the local child support agency and shall be eligible for medical services, if otherwise eligible, if the applicant or beneficiary cooperates to the best of his or her ability or has good cause for refusal to cooperate with the requirements in paragraphs (2) and (3) of subdivision (a), as defined by Section 11477.04. The county welfare department shall make the determination of whether good cause for refusal to cooperate exists.

(d) The county welfare department and the local child support agency shall ensure that all applicants for or beneficiaries of medical services under this chapter or Chapter 8 (commencing with Section 14200) are properly notified of the conditions imposed by this section.

SEC. 197. Section 14087.32 of the Welfare and Institutions Code is amended to read:

14087.32. Commencing on the date the authority first receives Medi-Cal capitated payments for the provision of health care services to Medi-Cal beneficiaries and until a commission established pursuant to Section 14087.31 is in compliance with all the requirements regarding tangible net equity applicable to a health care service plan licensed under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, all of the following shall apply:

(a) The commission may select and design its automated management information system. The department, in cooperation with the commission, prior to making capitated payments, shall test the system to ensure that the system is capable of producing detailed, accurate, and timely financial information on the financial condition of the commission, and any other information that is generally required by the department in its contracts with other health care service plans.

(b) In addition to the reports required by the Department of Managed Health Care under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, and the rules of the Director of the Department of Managed Health Care promulgated thereunder, a commission established pursuant to Section 14087.31 shall provide, on a monthly basis, to the department, the Department of Managed Health Care, and the members of the commission, a copy of the automated report described in subdivision (a) and a projection of assets and liabilities, including those that have been incurred but not reported, with an explanation of material increases or decreases in current or projected assets or liabilities. The explanation of increases and decreases in assets or liabilities shall be provided, upon request, to a hospital, independent physicians' practice association or community clinic, which has contracted with the authority to provide health care services.

(c) In addition to the reporting and notification obligations the commission has under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, the chief executive officer or director of the commission shall immediately notify the department, the Department of Managed Health Care, and the members of the commission, in writing, of any fact or facts that, in the chief executive officer's or director's reasonable and prudent judgment, is likely to result in the commission being unable to meet its financial obligations to health care providers or to other parties. The written notice shall describe

the fact or facts, the anticipated fiscal consequences, and the actions which will be taken to address the anticipated consequences.

(d) The Department of Managed Health Care shall not, in any way, waive or vary, nor shall the department request the Department of Managed Health Care to waive or vary, the tangible net equity requirements for a commission under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, after three years from the date of commencement of capitated payments to the commission. Until the commission is in compliance with all of the tangible net equity requirements under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, and the rules of the Director of the Department of Managed Health Care adopted thereunder, the commission shall develop a stop-loss program appropriate to the risks of the commission, which program shall be satisfactory to both the department and the Department of Managed Health Care.

(e) (1) If the commission votes to file a petition of bankruptcy, or the county board of supervisors notifies the department of its intent to terminate the commission, the department shall immediately transfer the authority's Medi-Cal beneficiaries as follows:

(A) To other managed care contractors, when available, provided those contractors are able to demonstrate that they can absorb the increased enrollment without detriment to the provision of health care services to their existing enrollees.

(B) To the extent that other managed care contractors are unavailable or the department determines that it is otherwise in the best interest of any particular beneficiary, to a fee-for-service reimbursement system pending the availability of managed care contractors provided those contractors are able to demonstrate that they can absorb the increased enrollment without detriment to the provision of health care services to their existing enrollees, or the department determines that providing care to any particular beneficiary pursuant to a fee-for-service reimbursement system is no longer necessary to protect the continuity of care or other interests of the beneficiary.

(2) Beneficiary eligibility for Medi-Cal shall not be affected by actions taken pursuant to paragraph (1).

(3) Beneficiaries who have been or who are scheduled to be transferred to a fee-for-service reimbursement system or managed care contractor may make a choice to be enrolled in another managed care system, if one is available, in full compliance with the federal freedom-of-choice requirements.

(f) (1) A commission established pursuant to Section 14087.31 shall submit to a review of financial records when the department determines, based on data reported by the commission or otherwise, that the

commission will not be able to meet its financial obligations to health care providers contracting with the commission. Where the review of financial records determines that the commission will not be able to meet its financial obligations to contracting health care providers for the provision of health care services, the Director of Health Services shall immediately terminate the contract between the commission and the state, and immediately transfer the commission's Medi-Cal beneficiaries in accordance with subdivision (e) in order to ensure uninterrupted provision of health care services to the beneficiaries and to minimize financial disruption to providers.

(2) The action of the Director of Health Services pursuant to paragraph (1) shall be the final administrative determination. Beneficiary eligibility for Medi-Cal shall not be affected by this action.

(3) Beneficiaries who have been or who are scheduled to be transferred under subdivision (e) may make a choice to be enrolled in another managed care plan, if one is available, in full compliance with federal freedom-of-choice requirements.

(g) It is the intent of the Legislature that the department shall implement Medi-Cal capitated enrollments in a manner that ensures that appropriate levels of health care services will be provided to Medi-Cal beneficiaries and that appropriate levels of administrative services will be furnished to health care providers. The contract between the department and the commission shall authorize and permit the department to administer the number of covered Medi-Cal enrollments in such a manner that the commission's provider network and administrative structure are able to provide appropriate and timely services to beneficiaries and to participating providers.

(h) In the event a commission is terminated, files for bankruptcy, or otherwise no longer functions for the purpose for which it was established, the county shall, with respect to compensation for provision of health care services to beneficiaries, occupy no greater or lesser status than any other health care provider in the disbursement of assets of the commission.

(i) Nothing in this section shall be construed to impair or diminish the authority of the Director of the Department of Managed Health Care under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, nor shall anything in the section be construed to reduce or otherwise limit the obligation of a commission licensed as a health care service plan to comply with the requirements of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code and the rules of the Director of the Department of Managed Health Care adopted thereunder.

(j) Except as expressly provided by other provisions of this section, all exemptions and exclusions from disclosure as public records

pursuant to the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), including, but not limited to, those pertaining to trade secrets and information withheld in the public interest, shall be fully applicable for all state agencies and local agencies with respect to all writings that the commission is required to prepare, produce, or submit pursuant to this section.

SEC. 198. Section 14105.26 of the Welfare and Institutions Code is amended to read:

14105.26. (a) Each eligible facility, as described in paragraph (2) of subdivision (b), may, in addition to the rate of payment that the facility would otherwise receive for skilled nursing services, receive supplemental Medi-Cal reimbursement to the extent provided in this section.

(b) (1) Projects eligible for supplemental reimbursement shall include any new capital projects for which final plans have been submitted to the appropriate review agency after January 1, 2000, and before January 1, 2003. For purposes of this section, "capital project" means the construction, expansion, replacement, remodeling, or renovation of an eligible facility, including buildings and fixed equipment. A "capital project" does not include the provision of furnishings or of equipment that is not fixed equipment.

(2) A facility shall be eligible only if the submitting entity had all of the following additional characteristics during the 1998 calendar year:

(A) Provided services to Medi-Cal beneficiaries.

(B) Was a distinct part of an acute care hospital providing skilled nursing care and supportive care to patients whose primary need is for the availability of skilled nursing care on an extended basis. For the purposes of this section, "acute care hospital" means the facilities defined in subdivision (a) or (b), or both, of Section 1250 of the Health and Safety Code.

(C) Had not less than 300 licensed skilled nursing beds.

(D) Had an average skilled nursing Medi-Cal patient census of not less than 80 percent of the total skilled nursing patient days.

(E) Was owned by a county or city and county.

(c) (1) An eligible facility seeking to qualify for supplemental reimbursement shall submit documentation to the department regarding debt service on revenue bonds or other financing instruments used for financing the capital project.

(2) The department shall confirm in writing project eligibility under this section.

(d) (1) Capital projects receiving funding shall include only the upgrading or construction of buildings and equipment to a level required by currently accepted medical practice standards, including projects

designed to correct Joint Commission on Accreditation of Hospitals and Health Systems, fire and life safety, seismic, or other related regulatory standards.

(2) Capital projects receiving funding may expand service capacity as needed to maintain current or reasonably foreseeable necessary bed capacity to meet the needs of Medi-Cal beneficiaries after giving consideration to bed capacity needed for other patients, including unsponsored patients.

(3) Supplemental reimbursement shall only be made for capital projects, or for that portion of capital projects that provide skilled nursing services, and that are available and accessible to patients eligible for services under this chapter.

(e) An eligible facility's supplemental reimbursement for a capital project qualifying pursuant to this section shall be calculated and paid as follows:

(1) For any fiscal year for which the facility is eligible to receive supplemental reimbursement, the facility shall report to the department the amount of debt service on the revenue bonds or other financing instruments issued to finance the capital project.

(2) For each fiscal year in which an eligible facility requests reimbursement, the department shall establish the ratio of skilled nursing Medi-Cal days of care provided by the eligible facility to total skilled nursing patient days of care provided by the eligible facility. The ratio shall be established using data obtained from audits performed by the department, and shall be applied to the corresponding fiscal year of debt service on the revenue bonds or other financing instruments issued to finance the capital project.

(3) The amount of debt service that will be submitted to the federal Health Care Financing Administration for the purpose of claiming reimbursement for each fiscal year shall equal the amount determined annually in paragraph (1) multiplied by the percentage figure determined in paragraph (2).

(4) The supplemental reimbursement to an eligible facility shall be equal to the amount of federal financial participation received as a result of the claims submitted pursuant to paragraph (2) of subdivision (j).

(5) In no instance shall the total amount of supplemental reimbursement received under this section combined with that received from all other sources dedicated exclusively to debt service exceed 100 percent of the debt service for the capital project over the life of the loan, revenue bond, or other financing mechanism.

(6) A facility qualifying for and receiving supplemental reimbursement pursuant to this section shall continue to receive reimbursement until the qualifying loan, revenue bond, or other

financing mechanism is paid off, and as long as the facility meets the requirements of paragraph (3) of subdivision (d).

(7) The supplemental Medi-Cal reimbursement provided by this section shall be distributed under a payment methodology based on skilled nursing services provided to Medi-Cal patients at the eligible facility, either on a per diem basis, a per discharge basis, or any other federally permissible basis. The department shall seek approval from the federal Health Care Financing Administration for the payment methodology to be utilized, and shall not make any payment pursuant to this section prior to obtaining that approval.

(8) The supplemental reimbursement provided by this section shall not commence prior to the date upon which the hospital submits to the department a copy of the certificate of occupancy for the capital project.

(f) (1) It is the Legislature's intent in enacting this section to provide a funding source for a portion of the construction costs of eligible facilities without any expenditure from the state General Fund.

(2) The state share of the amount of the debt service submitted to the federal Health Care Financing Administration for purposes of supplemental reimbursement shall be paid with county-only funds and certified to the state as provided in subdivision (g). Any amount of the costs of the capital project that are not reimbursed by federal funds shall be borne solely by the eligible facility.

(3) Prior to receiving any funding through this section, an eligible facility shall demonstrate its ability to cover all of the anticipated costs of construction, including those not reimbursed through federal funding.

(g) The county or city and county, on behalf of any eligible facility, shall do all of the following:

(1) Certify, in conformity with the requirements of Section 433.51 of Title 42 of the Code of Federal Regulations, that the claimed expenditures for the capital project are eligible for federal financial participation.

(2) Provide evidence supporting the certification as specified by the department.

(3) Submit data, as specified by the department, to determine the appropriate amounts to claim as expenditures qualifying for financial participation.

(4) Keep, maintain, and have readily retrievable, the records as specified by the department in order to fully disclose reimbursement amounts to which the eligible facility is entitled, and any other records required by the federal Health Care Financing Administration.

(h) The department may require that any county or city and county seeking supplemental reimbursement under this section enter into an interagency agreement with the department for the purpose of implementing this section.

(i) All payments received by an eligible facility pursuant to this section shall be placed in a special account, the funds of which shall be used exclusively for the payment of expenses related to the eligible capital project.

(j) (1) The department shall promptly seek any necessary federal approvals for the implementation of this section. If necessary to obtain federal approval, the department may, for federal purposes, limit the program to those costs that are allowable expenditures under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code). If federal approval is not obtained for implementation of this section, this section shall become inoperative.

(2) The department shall submit claims for federal financial participation for the expenditures for debt service that are allowable expenditures under federal law.

(3) The department shall, on an annual basis, submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures that are allowable under federal law.

(k) Supplemental reimbursement paid under this section shall not duplicate any reimbursement received by an eligible facility pursuant to this chapter for construction costs that would otherwise be eligible for reimbursement under this section. In no event shall the total Medi-Cal reimbursement pursuant to this chapter to a facility eligible under this section be less than what would have been paid had this section not existed.

(l) In the event there is a final judicial determination by any court of appellate jurisdiction or a final determination by the administrator of the federal Health Care Financing Administration that the supplemental reimbursement provided in this section must be made to any facility not described therein, this section shall become immediately inoperative.

(m) Any and all funds expended pursuant to this section shall be subject to review and audit by the department.

SEC. 199. Section 511 of the San Gabriel Basin Water Quality Authority Act (Chapter 776 of the Statutes of 1992) is amended to read:

Sec. 511. (a) Except as otherwise provided, all actions of the board shall be approved by an affirmative vote of a majority of all of the members.

(b) Notwithstanding subdivision (a), an affirmative vote of a majority of all of the members shall include one city member, one producer member, and one water district member to take any of the following actions:

(1) Adopt the authority's budget.

(2) Pursue legal action pursuant to subdivision (c) of Section 407.

(3) Impose an annual pumping right assessment pursuant to Section 605 or to continue an assessment pursuant to Section 614.

(4) Make a determination pursuant to subdivision (a) or (d) of Section 707.

SEC. 200. Section 1 of Chapter 352 of the Statutes of 2000 is amended to read:

Section 1. (a) The Legislature finds and declares that it is necessary for the Fair Political Practices Commission to periodically review and improve the regulations that implement the Political Reform Act of 1974.

(b) It is the intent of the Legislature that, in order to prevent an unnecessary chilling of participation in the governmental and regulatory process by public officials of local government agencies, the Fair Political Practices Commission, as part of its Conflict of Interest Regulatory Improvement Project of 1999–2000, shall adopt regulations with respect to those officials that would accomplish all of the following:

(1) Minimize the instances of disqualification regarding governmental decisions that do not directly and materially affect an official's economic interest where it is reasonably foreseeable that the economic impact of the decision will be distributed over a broad segment of the official's jurisdiction.

(2) Clarify that the fact that holding a professional license does not of itself give rise to a disqualifying conflict of interest.

(3) Clarify that one, or more than one, industry, trade, or profession is not necessarily prohibited from constituting a significant segment of the public for purposes of analyzing whether the public official of a local government agency is affected by a decision in the same or similar manner as the "public generally."

SEC. 201. Section 1 of Chapter 661 of the Statutes of 2000 is amended to read:

Section 1. (a) It is the intent of the Legislature in enacting this act to enable the Redevelopment Agency of the City and County of San Francisco to redress the demolition of a substantial number of residential dwelling units affordable to very low, low-, and moderate-income households during the agency's earlier urban renewal efforts. San Francisco's housing situation is unique, in that median rents and sales prices are among the highest in the state even though it has consistently exceeded the housing production goals of the Community Redevelopment Law and has used local funds beyond the Low and Moderate Income Housing Fund to assist affordable housing development. San Francisco's early redevelopment activities, including the removal of previously existing dwelling units serving a lower income population, have compounded the effects of the private market that have led to the city's current affordable housing crisis.

(b) The Legislature finds and declares that prior to the enactment of the replacement housing obligations in Section 33413 of the Health and Safety Code (Chapter 970, Statutes of 1975), agencies destroyed or removed dwelling units housing persons and families of low or moderate income without replacing those units. In particular, some of San Francisco's existing redevelopment project areas have fewer housing units affordable to low- and moderate-income households than were in existence prior to the initiation of urban renewal activities. Four of San Francisco's project areas adopted prior to 1970 experienced a combined net loss of approximately 7,000 units of housing affordable to low- and moderate-income households since the initiation of redevelopment activities. The Redevelopment Agency of the City and County of San Francisco, due to its unique housing situation and net loss of affordable housing units in these project areas, wishes, to the greatest extent feasible, to replace these lost units according to the formulas set forth in Section 33413 of the Health and Safety Code.

(c) The Legislature further finds and declares that allowing the Redevelopment Agency of the City and County of San Francisco to replace units destroyed or removed prior to the enactment of the replacement housing obligations in 1975 is consistent with a fundamental purpose of the Community Redevelopment Law identified in subdivision (a) of Section 33334.6 of the Health and Safety Code, namely the provision of affordable housing.

(d) The Legislature further finds and declares that the time limits for incurring indebtedness in Section 33333.6 of the Health and Safety Code impede the efforts of the Redevelopment Agency of the City and County of San Francisco to replace affordable housing units destroyed or removed prior to the enactment of the replacement housing obligations in 1975.

(e) The Legislature further finds and declares that the Redevelopment Agency of the City and County of San Francisco should be granted a limited continuance of specific tax increment financing powers to achieve its goal of replacing housing units, and that this continuance will have no fiscal impact on the state.

(f) This limited continuance in no way affords the Redevelopment Agency of the City and County of San Francisco an extension of any of its powers, above and beyond tax increment financing and the collection of tax increment to repay indebtedness exclusively to support Low and Moderate Income Housing Fund activities, nor does it signify the extension or expansion of the redevelopment plans or activities to which paragraph (1) of subdivision (a) of Section 33333.6 of the Health and Safety Code applies.

SEC. 202. Section 2 of Chapter 693 of the Statutes of 2000 is amended to read:

Sec. 2. Section 1.5 of this bill incorporates amendments to Section 69.5 of the Revenue and Taxation Code proposed by both this bill and SB 1417. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, but this bill becomes operative first, (2) each bill amends Section 69.5 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1417, in which case Section 69.5 of the Revenue and Taxation Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of SB 1417, at which time Section 1.5 of this bill shall become operative.

SEC. 203. Section 5 of the Naval Training Center San Diego Public Trust Exchange Act (Chapter 714 of the Statutes of 2000) is amended to read:

Sec. 5. (a) The Legislature hereby approves an exchange of public trust lands within the NTC Property, whereby certain public trust lands that are not now useful for public trust purposes are freed of the public trust and certain other lands that are not now public trust lands, or are subject to uncertainty as to their trust status, and that are useful for public trust purposes are made subject to the public trust, resulting in a configuration of trust lands that is substantially similar to that shown on the diagram in Section 9, provided the exchange complies with the requirements of this act. The exchange is consistent with and furthers the purposes of the public trust and the city granting act and the port granting act.

(b) The commission is authorized to carry out an exchange of public trust lands within the NTC Property, in accordance with the requirements of this act. Pursuant to this authority, the commission shall establish appropriate procedures for effectuating the exchange. The procedures shall include procedures for ensuring that lands are not exchanged into the trust until any necessary hazardous material remediation for those lands has been completed, and may include, if appropriate, procedures for completing the exchange in phases.

(c) The precise boundaries of the lands to be taken out of the trust and the lands to be put into the trust pursuant to the exchange shall be determined by the commission. The commission shall not approve the exchange of any trust lands unless and until all of the following occur:

(1) The commission finds that the configuration of trust lands on the NTC Property upon completion of the exchange will not differ significantly from the configuration shown on the diagram in Section 9, and includes all lands presently subject to tidal action within the NTC Property.

(2) The commission finds that, with respect to the trust exchange as finally configured, the economic value of the lands that are to be exchanged into the trust, as phased, is equal to or greater than the value of the lands to be exchanged out of the trust. The commission may give

economic value to the port expansion area confirmed as public trust lands as provided in subdivision (h).

(3) The commission finds that, with respect to the trust exchange as finally configured and phased, the lands to be taken out of the trust have been filled and reclaimed, are cut off from access to navigable waters, are no longer needed or required for the promotion of the public trust, and constitute a relatively small portion of the lands originally granted to the city, and that the exchange will not result in substantial interference with trust uses and purposes.

(4) The exchange is approved by the entity or entities that, under the provisions of the city granting act, the port granting act, and this act, would be responsible for administering the public trust with respect to the lands to be exchanged into the trust, and any such lands will be accepted by that entity or those entities subject to the public trust and the requirements of the city granting act or port granting act, as applicable.

(d) The exchange authorized by this act is subject to any additional conditions that the commission determines are necessary for the protection of the public trust. At a minimum, the commission shall establish conditions to ensure both of the following:

(1) Streets and other transportation facilities located on trust lands are designed to be compatible with the public trust.

(2) Lands are not exchanged, or confirmed, into the trust until any necessary hazardous materials remediation for those lands has been completed.

(e) All former or existing tide or submerged lands within the NTC Property for which the public trust has not been terminated pursuant to the exchange authorized by this act, and any lands exchanged or confirmed into the trust pursuant to this act, shall be held, whether by the port or by the city, subject to the public trust and the requirements of the city granting act as public trust lands within the city NTC Property, or the port granting act, as to the land within the port expansion area. In addition, notwithstanding the provisions of the city granting act, during any period in which lands confirmed to the city as lands subject to the city granting act are held by the Redevelopment Agency of the City of San Diego rather than the city, the Redevelopment Agency shall be the public trust administrator for the lands, and shall have the same powers and be subject to the same requirements as would the city under the granting act.

(f) Any lands exchanged out of the trust pursuant to this act shall be deemed free of the public trust and the requirements of the city granting act.

(g) For purposes of effectuating the exchange authorized by this act, the commission may do all of the following:

(1) Receive and accept on behalf of the state any lands or interest in lands conveyed to the state by the port or the city, including lands that are now and that will remain subject to the public trust.

(2) Convey to the city or port by patent all of the right, title, and interest of the state in lands that are to be free of the public trust upon completion of an exchange of lands as authorized by this act and as approved by the commission.

(3) Convey to the city or port by patent all of the right, title, and interest of the state in lands that are to be subject to the public trust and the terms of this act and the granting act upon completion of an exchange of lands as authorized by this act and as approved by the commission, subject to the terms, conditions, and reservations that the commission may determine are necessary to meet the requirements of subdivisions (d) and (e).

(h) To achieve the configuration of public trust lands shown in the diagram in Section 9, the port, simultaneous with or following its receipt of the port expansion area, shall confirm its title as tide and submerged lands subject to the port granting act by agreement with the commission. The port and the commission may make conveyances between themselves to establish the title to the port expansion area as public trust lands subject to the port granting act.

(i) In any case where the state, pursuant to this act, conveys filled tidelands and submerged lands transferred to the city pursuant to Chapter 700 of the Statutes of 1911, as amended, the state shall reserve all minerals and all mineral rights in the lands of every kind and character now known to exist or hereafter discovered, including, but not limited to, oil and gas and rights thereto, together with the sole, exclusive, and perpetual right to explore for, remove, and dispose of those minerals by any means or methods suitable to the state or to its successors and assignees, except that, notwithstanding Chapter 700 of the Statutes of 1911, as amended, or Section 6401 of the Public Resources Code, the reservations shall not include the right of the state or its successors or assignees in connection with any mineral exploration, removal, or disposal activity, to do either of the following:

(1) Enter upon, use, or damage the surface of the lands or interfere with the use of the surface by any grantee or by the grantee's successor or assignees.

(2) Conduct any mining activities of any nature whatsoever above a plane located 500 feet below the surface of the lands without the prior written permission of any grantee of the lands or the grantee's successors or assigns.

SEC. 204. Section 6 of the Naval Training Center San Diego Public Trust Exchange Act (Chapter 714 of the Statutes of 2000) is amended to read:

Sec. 6. (a) Notwithstanding the provisions of the granting act, the existing child care center on trust lands within the NTC Property, which was constructed for nontrust purposes during the period of federal ownership and is incapable of being devoted to public trust purposes, may be used for those nontrust purposes for the remaining useful life of the building. The city and the commission, by agreement, shall establish the remaining useful life of the child care center, provided that in no case shall the useful life of the child care center be deemed to extend less than 15 years or more than 40 years from the effective date of this act.

(b) The maintenance, repair, or, in the event of a flood, fire, or similar disaster, partial reconstruction of the child care center, and any structural or other alterations necessary to bring the child care center into compliance with applicable federal, state, and local health and safety standards, including, but not limited to, seismic upgrading, shall be permitted, provided those activities will not enlarge the footprint or the size of the shell of the child care center.

SEC. 205. Section 228 of Chapter 862 of the Statutes of 2000 is amended to read:

Sec. 228. (a) Except as provided in subdivision (b), any section of any act enacted by the Legislature during the 2000 calendar year that does both of the following shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act:

(1) Takes effect on or before January 1, 2001.

(2) Amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act.

(b) This section shall not apply to Sections 23042, 23151, 23151.1, 23153, 23181, 23183, 23183.1, 23281, 23282, and 24631 of the Revenue and Taxation Code, as amended by this act.

SEC. 206. Section 2 of Chapter 975 of the Statutes of 2000 is amended to read:

Sec. 2. (a) The Bipartisan California Commission on Internet Political Practices is hereby established. The commission shall consist of 13 members appointed as follows:

(1) Three members appointed by the Governor, one of whom shall be a member of the Democratic Party, and one of whom shall be a member of the Republican Party.

(2) Two members appointed by the Senate Committee on Rules.

(3) One member appointed by the Minority Floor Leader of the Senate.

(4) Two members appointed by the Speaker of the Assembly.

(5) One member appointed by the Minority Floor Leader of the Assembly.

(6) Two members appointed by the Secretary of State, one of whom shall be a member of the Democratic Party, and one of whom shall be a member of the Republican Party.

(7) Two members appointed by the Chairperson of the Fair Political Practices Commission, one of whom shall be a member of the Democratic Party, and one of whom shall be a member of the Republican Party.

(b) Each appointing authority shall seek to appoint individuals with diversified backgrounds and expertise to ensure that the membership of the Bipartisan California Commission on Internet Political Practices is familiar with, among other matters, all of the following:

- (1) The magnitude of change posed by Internet technology.
- (2) Political campaign practices and trends.
- (3) Legal developments concerning political speech, the Internet, and the act.

- (4) The concerns of public interest groups.

(c) The Bipartisan California Commission on Internet Political Practices shall meet and select a chairperson from among its members not later than 45 days after the effective date of this act. The chairperson may hire a director, a secretary, and a legal adviser to assist with the work of the commission.

(d) The Bipartisan California Commission on Internet Political Practices shall examine the various issues posed by campaign activity on the Internet in relation to the goals and purposes of the act, and make recommendations for appropriate legislative action, if any. The examination of issues should include, but are not limited to, the following:

- (1) Whether political communications on the Internet, especially those that expressly advocate support for or opposition to clearly identified candidates for elective office or ballot measures should be subject to the campaign finance disclosure requirements of the act.

- (2) Whether costs associated with the development of campaign Web sites should be disclosed to the public, and whether they should be treated, depending on the circumstances, as reportable contributions, expenditures, independent expenditures, or payments.

- (3) Whether Web sites created by individuals, sometimes referred to as "fan sites," that contain references to candidates and measures, or urge support or opposition to candidates or measures, or that provide hyperlinks to official campaign sites, should be treated differently from sites created by political parties, candidate and ballot measure committees, or independent committees.

- (4) Whether the identity of publishers of Web sites that feature political campaign activity should be required to be disclosed similar to

current identification requirements for persons who pay for printed or broadcast advertising.

(5) Whether current laws are adequate to protect against fraud, libel, or slander in the context of Internet political activity.

(6) Whether any disclosure requirements should be imposed on Internet political activity in order to encourage the broadest possible citizen participation in the electoral process.

(7) Whether the act is an appropriate regulatory vehicle for campaign activity at the state level, or whether a different regulatory structure for Internet campaign activity should be developed, if any.

(e) The meetings of the Bipartisan California Commission on Internet Political Practices shall be open and public. The commission members shall receive one hundred dollars (\$100) per diem for each day of attendance at a meeting of the commission, not to exceed 10 meetings.

(f) The Bipartisan California Commission on Internet Political Practices shall report its findings and recommendations to the Legislature not later than December 1, 2001. The commission shall cease to exist on January 1, 2002.

SEC. 207. Section 3 of Chapter 975 of the Statutes of 2000 is amended to read:

Sec. 3. The sum of two hundred twenty thousand dollars (\$220,000) is hereby appropriated from the General Fund to the Controller for allocation to the Bipartisan California Commission on Internet Political Practices to defray the costs of the commission in conducting the study and preparing the report required by this act.

SEC. 208. Any section of any act enacted by the Legislature during the 2001 calendar year that takes effect on or before January 1, 2002, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2001 calendar year and takes effect on or before January 1, 2002, 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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