Assembly Bill No. 3470

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Passed the Assembly April 18, 1996

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Chief Clerk of the Assembly

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Passed the Senate June 20, 1996

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Secretary of the Senate

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This bill was received by the Governor this ___ day

of _____, 1996, at ___ o'clock __M.

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Private Secretary of the Governor

CHAPTER ____

An act to amend Sections 650.4, 2725, 12240, 23057, 23104.1, and 25662 of the Business and Professions Code, to amend Sections 2079.12, 2945.11, 2983.2, 3319, 3320, and 3321 of the Civil Code, to amend Section 1991.1 of, to amend and renumber Sections 107.65 and 708.750 of, and to repeal the heading of Part 3.5 (commencing with former Section 1823) of, the Code of Civil Procedure, to amend Section 9501 of the Commercial Code, to amend Sections 15320, 19336, 48664, 58552, 58751, 60242, and 84751 of, and to repeal the heading of Chapter 15 (commencing with Section 11400) of Part 7 of, the Education Code, to amend Sections 8051.2 and 8280.5 of the Fish and Game Code, to amend Section 24014 of the Food and Agricultural Code, to amend Sections 6518, 8546, 8879.13, 8880.68, 11354.1, 11504, 12805, 15399.22, 19853.1, 19854, 29530.5, 50022.5, 53069.8, 69911, and 73665.5 of, to amend and renumber Sections 6599, 6599.1, and 12173 of, and to amend and renumber the heading of Title 7.91 (commencing with Section 67910), Title 7.92 (commencing with Section 67920), and Title 7.93 (commencing with Section 67930) of, the Government Code, to amend Sections 1597.15, 1771, 1779, 1779.4, 11837.9, 18062.8, 18080.9, 25158.4, 25198, 25201.1, 25218.11, 41503.6, 44017, 44085, and 44220 of, to amend and renumber Sections 1250.9, 18965, 18966, 18967, 18968, 18969, 18970, 18971, 27622.5, and 27623 of, to add the heading of Chapter 7 (commencing with Section 18949.25) to Part 2.5 of Division 13 of, and to repeal the heading of Chapter 7 (commencing with Section 18965) of Part 2.5 of Division 13 of, the Health and Safety Code, to amend Sections 10082, 10083, 10089.40, 10089.7, 10603, 10604, and 12376 of, and to amend and renumber Section 10089.7 of, the Insurance Code, to amend Section 626.10 of, and to amend and renumber Section 11113 of, the Penal Code, to amend Sections 4551.3 and 30514 of, and to repeal Section 21083.8 of, the Public Resources Code, to amend Section 2889.5 of, and to amend and renumber

Sections 739.3 and 5387.5 of, the Public Utilities Code, to amend Section 75.60, 214, 2503.2, 2611.6, 3698.5, 3698.7, 6202.5, 6359, 17233, 17266, 23051.5, 23622, 24356.4, 24385, 60706.1, and 60707.1 of, and to amend the heading of Chapter 2.92 (commencing with Section 7286.50) of Part 1.7 of Division 2 of, the Revenue and Taxation Code, to amend Sections 10218.5 and 15037.1 of the Unemployment Insurance Code, to amend Sections 415, 672, 1656.2, 1675, 1810, 4655, 5011.5, 5070, 8200, 9252, 11216.2, 13378, 17302, 21114.5, 21663, 22507.9, 22512, 22851.1, 23197, 23203, 25110, 25802, 27207, 32050, 33002, 35782, 35790, 36505, 38010, 38080, 40000.7, 40513, 40802, 40802.5, 40803, 40901, 42003, and 42230 of the Vehicle Code, to amend Sections 10610.2, 10635, 10913, 13274, 35281, and 35282 of, and to amend and renumber Section 21267 of, the Water Code, to amend and renumber the heading of Article 4.05 (commencing with Section 14139.05) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, and to amend Section 5 of Chapter 52 of the Statutes of 1941 and Section 3 of Chapter 981 of the Statutes of 1995, relating to maintenance of the codes.

LEGISLATIVE COUNSEL'S DIGEST

AB 3470, Committee on Judiciary. Maintenance of the Codes.

Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes.

This bill would restate existing provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature for consideration during 1996, and would not make any substantive change in the law.

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

SECTION 1. Section 650.4 of the Business and Professions Code is amended to read:

650.4. (a) Notwithstanding Section 650, subdivision (o) of Section 4982, or any other provision of law, it shall not be unlawful for a person licensed pursuant to Chapter 13 (commencing with Section 4980) or any other person, to participate in or operate a group advertising and referral service for marriage, family, and child counselors if all of the following conditions are met:

(1) The patient referrals by the service are the result of patient-initiated responses to service advertising.

(2) The service advertises, if at all, in conformity with Section 651 and subdivision (p) of Section 4982.

(3) The service does not employ a solicitor to solicit prospective patients or clients.

(4) The service does not impose a fee on the member marriage, family, and child counselors that is dependent upon the number of referrals or amount of professional fees paid by the patient to the marriage, family, and child counselor.

(5) Participating marriage, family, and child counselors charge no more than their usual and customary fees to any patient referred.

(6) The service registers with the Board of Behavioral Science Examiners, providing its name, street address, and telephone number.

(7) The service files with the Board of Behavioral Science Examiners a copy of the standard form contract that regulates its relationship with member marriage, family, and child counselors, which contract shall be confidential and not open to public inspection.

(8) If more than 50 percent of its referrals are made to one individual, association, partnership, corporation, or group of three or more marriage, family, and child counselors, the service discloses that fact in all public communications, including, but not limited to, communications by means of television, radio, motion picture, newspaper, book, list, or directory of healing arts practitioners.

(9) (A) When member marriage, family, and child counselors pay any fee to the service, any advertisement by the service shall clearly and conspicuously disclose that

fact by including a statement as follows: ‘‘Paid for by participating marriage, family, and child counselors.’’ In print advertisements, the required statement shall be in at least 9-point type. In radio advertisements, the required statement shall be articulated so as to be clearly audible and understandable by the radio audience. In television advertisements, the required statement shall be either clearly audible and understandable to the television audience, or displayed in a written form that remains clearly visible to the television audience for at least five seconds.

(B) The Board of Behavioral Science Examiners may suspend or revoke the registration of any service that fails to comply with subparagraph (A). No service may reregister with the board if its registration currently is under suspension for a violation of subparagraph (A), nor may a service reregister with the board for a period of one year after it has had a registration revoked by the board for a violation of subparagraph (A).

(b) The Board of Behavioral Science Examiners may adopt regulations necessary to enforce and administer this section.

(c) The Board of Behavioral Science Examiners or 10 individual licensed marriage, family, and child counselors may petition the superior court of any county for the issuance of an injunction restraining any conduct that constitutes a violation of this section.

(d) It is unlawful and shall constitute a misdemeanor for a person to operate a group advertising and referral service for marriage, family, and child counselors without providing its name, address, and telephone number to the Board of Behavioral Science Examiners.

(e) It is the intent of the Legislature in enacting this section not to otherwise affect the prohibitions of Section 650. The Legislature intends to allow the pooling of resources by marriage, family, and child counselors for the purpose of advertising.

(f) This section shall not be construed in any manner that would authorize a referral service to engage in the practice of marriage, family, and child counseling.

SEC. 2. Section 2725 of the Business and Professions Code is amended to read:

2725. (a) In amending this section at the 1973–74 session, the Legislature recognizes that nursing is a dynamic field, the practice of which is continually evolving to include more sophisticated patient care activities. It is the intent of the Legislature in amending this section at the 1973–74 session to provide clear legal authority for functions and procedures that have common acceptance and usage. It is the legislative intent also to recognize the existence of overlapping functions between physicians and registered nurses and to permit additional sharing of functions within organized health care systems that provide for collaboration between physicians and registered nurses. These organized health care systems include, but are not limited to, health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, clinics, home health agencies, physicians' offices, and public or community health services.

(b) The practice of nursing within the meaning of this chapter means those functions, including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or the treatment thereof, and that require a substantial amount of scientific knowledge or technical skill, including all of the following:

(1) Direct and indirect patient care services that ensure the safety, comfort, personal hygiene, and protection of patients; and the performance of disease prevention and restorative measures.

(2) Direct and indirect patient care services, including, but not limited to, the administration of medications and therapeutic agents, necessary to implement a treatment, disease prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician, dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health and Safety Code.

(3) The performance of skin tests, immunization techniques, and the withdrawal of human blood from veins and arteries.

(4) Observation of signs and symptoms of illness, reactions to treatment, general behavior, or general physical condition, and (A) determination of whether the signs, symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics, and (B) implementation, based on observed abnormalities, of appropriate reporting, or referral, or standardized procedures, or changes in treatment regimen in accordance with standardized procedures, or the initiation of emergency procedures.

(c) ''Standardized procedures,'' as used in this section, means either of the following:

(1) Policies and protocols developed by a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code through collaboration among administrators and health professionals including physicians and nurses.

(2) Policies and protocols developed through collaboration among administrators and health professionals, including physicians and nurses, by an organized health care system which is not a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

The policies and protocols shall be subject to any guidelines for standardized procedures that the Division of Licensing of the Medical Board of California and the Board of Registered Nursing may jointly promulgate. If promulgated, the guidelines shall be administered by the Board of Registered Nursing.

(d) Nothing in this section shall be construed to require approval of standardized procedures by the Division of Licensing of the Medical Board of California, or by the Board of Registered Nursing.

SEC. 3. Section 12240 of the Business and Professions Code is amended to read:

12240. (a) Except as otherwise provided in this section, the board of supervisors may, by ordinance,

charge an annual device registration fee, not to exceed the county's total cost of actually inspecting or testing the devices as required by law, to recover the costs of inspecting or testing weighing and measuring devices required of the county sealer pursuant to Section 12210, and to recover the cost of carrying out Section 12211.

(b) Except as otherwise provided in this section, the device registration fee shall not exceed the amount prescribed in the Table of Maximum Annual Charges set forth in subdivision (f).

(c) The county may collect the fees biennially, in which case they shall not exceed twice the amount of an annual fee. The ordinance shall be adopted pursuant to Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 2 of the Government Code.

(d) Retail gasoline pump meters, for which the above fees are assessed, shall be inspected as frequently as required by regulation, but not less than once every two years.

(e) Livestock scales, animal scales and scales used primarily for weighing feed and seed, for which the above fees are assessed, shall be inspected as frequently as required by regulation.

(f) Table of Maximum Annual Charges:

Number of Devices		Charge Per Location
1 to 3	. . . . .	$ 40
4 to 9	. . . . .	$ 80
10 to 19	. . . . .	$120
20 to 25	. . . . .	$160
Over 25	. . . . .	$200

(g) For mobilehome parks, recreational vehicle parks, and apartment complexes, where the owner of the park or complex owns and is responsible for the utility meters, the annual fee shall not exceed sixty dollars ($60) per park or complex, and a fee of up to two dollars ($2) per device per space or apartment. Mobilehome parks, recreational vehicle parks, and apartment complexes for which the

above fees are assessed shall be inspected and tested as frequently as required by regulation.

(h) For weighing devices, other than livestock and motor truck scales, with capacities of 20,000 pounds or greater, the registration fee shall be two hundred dollars ($200) per device.

(i) For motor truck scales, the registration fee shall be one hundred dollars ($100) per device.

(j) This section does not apply to farm milk tanks.

(k) A scale or device used in a certified farmers' market, as defined by Section 27512 of the Health and Safety Code, is not required to be registered in the county where the market is conducted if the scale or device has an unexpired seal for the current year, issued by a licensed California county sealer.

(*l*) For livestock scales with capacities of 20,000 pounds or more, the registration fee shall be one hundred dollars ($100) per device, except that the fee for not more than three devices at a single location shall be one hundred dollars ($100).

SEC. 4. Section 23057 of the Business and Professions Code is amended to read:

23057. The department shall send, with each renewal notice to any on-sale or off-sale licensee, information regarding the use of persons under the age of 21 years by peace officers to apprehend licensees, or the employees or agents of licensees, who sell alcoholic beverages to persons under the age of 21 years.

SEC. 5. Section 23104.1 of the Business and Professions Code is amended to read:

23104.1. A retailer may return wine to the seller or to the successor of the seller and the seller or his or her successor may accept the return thereof, except that the seller or his or her successor may not sell wine to the retailer for a period of one year after the date the returned wine is accepted or received unless any of the following exists:

(a) The wine is returned in exchange for the identical quantity, brand, and item of wine.

(b) The wine is returned pursuant to court order.

(c) The returned wine is a brand or item of wine that has been discontinued by the seller or his or her successor, and the wine is exchanged for the identical quantity of a brand or item of similar quality.

(d) The wine delivered was other than that ordered by a retailer or was in a quantity other than that ordered. In these cases, the retailer may, within 15 days after delivery, return the wine to the seller or his or her successor for exchange for the wine actually ordered, or may return the wine delivered in excess of the wine actually ordered. Returns under this subdivision may also be made after 15 days from the date of delivery upon written approval of the department.

(e) The wine has deteriorated in quality or the container thereof has been damaged, or the label or container for the wine has been changed, and the wine is returned and exchanged for the identical quantity of the same brand and type of wine and size of container. For the purpose of this subdivision, ‘‘wines of the same type’’ means wines that are within the same class as provided in Article 14 (commencing with Section 17001) of Title 17 of the California Code of Regulations and bear the same rate of state wine excise tax.

If wine or the container thereof is damaged or deteriorated, and the seller thereof has ceased to carry on a business licensed under this division and there is no successor to the business, the wine may be returned by a retailer to a winegrower or wholesaler who handles the same brand or item of wine, upon the same terms and conditions provided in this section for the return of wine to a seller or his or her successor, after receiving approval from the department.

The approval of the department shall be required only for returns made after 15 days from the date of delivery under the provisions of subdivision (d), or returns made under the provisions of the immediately preceding paragraph.

(f) As used in subdivisions (a), (c), and (e), the term ‘‘identical quantity’’ includes wine in metric measure containers and wine in United States standard measure

containers that contain substantially the same amount of wine.

(g) Notwithstanding the above provisions, a seller may accept the return of wine from a seasonal or temporary licensee if, at the termination of the period of the license, the seasonal or temporary licensee has wine remaining unsold, or from an annual licensee operating on a temporary basis if, at the termination of the temporary period, the annual licensee has wine remaining unsold.

SEC. 6. Section 25662 of the Business and Professions Code is amended to read:

25662. (a) Any person under the age of 21 years who has any alcoholic beverage in his or her possession on any street or highway or in any public place or in any place open to the public is guilty of a misdemeanor. This section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his or her parent, responsible adult relative, or any other adult designated by the parent or legal guardian, or in pursuance of his or her employment. That person shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent legal guardian, responsible adult relative, or adult designee relating to disposition of the alcoholic beverage.

(b) Unless otherwise provided by law, where a peace officer has lawfully entered the premises, the peace officer may seize any alcoholic beverage in plain view that is in the possession of, or provided to, a person under the age of 21 years at social gatherings, when those gatherings are open to the public, 10 or more persons under the age of 21 years are participating, persons under the age of 21 years are consuming alcoholic beverages, and there is no supervision of the social gathering by a parent or guardian of one or more of the participants.

Where a peace officer has seized alcoholic beverages pursuant to this subdivision, the officer may destroy any alcoholic beverage contained in an opened container and in the possession of, or provided to, a person under the age of 21 years, and, with respect to alcoholic beverages in

unopened containers, the officer shall impound those beverages for a period not to exceed seven working days pending a request for the release of those beverages by a person 21 years of age or older who is the lawful owner or resident of the property upon which the alcoholic beverages were seized. If no one requests release of the seized alcoholic beverages within that period, those beverages may be destroyed.

SEC. 7. Section 2079.12 of the Civil Code is amended to read:

2079.12. (a) The Legislature hereby finds and declares all of the following:

(1) That the imprecision of terms in the opinion rendered in Easton v. Strassburger, 152 Cal. App. 3d 90, and the absence of a comprehensive declaration of duties, standards, and exceptions, has caused insurers to modify professional liability coverage of real estate licensees and has caused confusion among real estate licensees as to the manner of performing the duty ascribed to them by the court.

(2) That it is necessary to resolve and make precise these issues in an expeditious manner.

(3) That it is desirable to facilitate the issuance of professional liability insurance as a resource for aggrieved members of the public.

(4) That Sections 2079 to 2079.6, inclusive, of this article should be construed as a definition of the duty of care found to exist by the holding of Easton v. Strassburger, 152 Cal. App. 3d 90, and the manner of its discharge.

(b) It is the intent of the Legislature to codify and make precise the holding of Easton v. Strassburger, 152 Cal. App. 3d 90. It is not the intent of the Legislature to modify or restrict existing duties owed by real estate licensees.

SEC. 8. Section 2945.11 of the Civil Code is amended to read:

2945.11. (a) Any representative, as defined in subdivision (b) of Section 2945.9, deemed to be the agent or employee or both the agent and the employee of the

foreclosure consultant shall be required to provide both of the following:

(1) Written proof to the owner that the representative has a valid current California Real Estate Sales License and that the representative is bonded by an admitted surety insurer in an amount equal to at least twice the fair market value of the real property that is the subject of the contract.

(2) A statement in writing, under penalty of perjury, that the representative has a valid current California Real Estate Sales License, that the representative is bonded by an admitted surety insurer in an amount equal to at least twice the value of the real property that is the subject of the contract and has complied with paragraph (1). The written statement required by this paragraph shall be provided to all parties to the contract prior to the transfer of any interest in the real property that is the subject of the contract.

(b) The failure to comply with subdivision (a) shall, at the option of the owner, render the contract void and the foreclosure consultant shall be liable to the owner for all damages proximately caused by the failure to comply.

SEC. 9. Section 2983.2 of the Civil Code is amended to read:

2983.2. (a) Except where the motor vehicle has been seized as described in paragraph (6) of subdivision (b) of Section 2983.3, notwithstanding any provision in any conditional sale contract for the sale of a motor vehicle to the contrary, at least 15 days' written notice of intent to dispose of a repossessed or surrendered motor vehicle shall be given to all persons liable on the contract. The notice shall be personally served or shall be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of the persons liable on the contract. If those persons are married to each other and, according to the most recent records of the seller or holder of the contract, reside at the same address, one notice addressed to both persons at that address is sufficient. Except as otherwise provided in Section 2983.8, those persons shall be liable for any

deficiency after disposition of the repossessed or surrendered motor vehicle only if the notice prescribed by this section is given within 60 days of repossession or surrender and does all of the following:

(1) States that those persons shall have a right to redeem the motor vehicle by paying in full the indebtedness evidenced by the contract until the expiration of 15 days from the date of giving or mailing the notice and provides an itemization of the contract balance and of any delinquency, collection, or repossession costs and fees and sets forth the computation or estimate of the amount of any credit for unearned finance charges or canceled insurance as of the date of the notice.

(2) States either that there is a conditional right to reinstate the contract until the expiration of 15 days from the date of giving or mailing the notice and all the conditions precedent thereto or that there is no right of reinstatement and provides a statement of reasons therefor.

(3) States that, upon written request, the seller or holder shall extend for an additional 10 days the redemption period or, if entitled to the conditional right of reinstatement, both the redemption and reinstatement periods. The seller or holder shall provide the proper form for applying for the extensions with the substance of the form being limited to the extension request, spaces for the requesting party to sign and date the form, and instructions that it must be personally served or sent by certified or registered mail, return receipt requested, to a person or office and address designated by the seller or holder and received before the expiration of the initial redemption and reinstatement periods.

(4) Discloses the place at which the motor vehicle will be returned to those persons upon redemption or reinstatement.

(5) Designates the name and address of the person or office to whom payment shall be made.

(6) States the seller's or holder's intent to dispose of the motor vehicle upon the expiration of 15 days from the date of giving or mailing the notice, or if by mail and either the place of deposit in the mail or the place of address is outside of this state, the period shall be 20 days instead of 15 days and, further, that upon written request to extend the redemption period and any applicable reinstatement period for 10 days, the seller or holder shall without further notice extend the period accordingly.

(7) Informs those persons that, upon written request, the seller or holder shall furnish a written accounting regarding the disposition of the motor vehicle as provided for in subdivision (b). The seller or holder shall advise them that the request must be personally served or sent first-class mail, postage prepaid, or certified mail, return receipt requested, to a person or office and address designated by the seller or holder.

(8) Includes notice, in at least 10-point bold type if the notice is printed, reading as follows: ''NOTICE. YOU MAY BE SUBJECT TO SUIT AND LIABILITY IF THE AMOUNT OBTAINED UPON DISPOSITION OF THE VEHICLE IS INSUFFICIENT TO PAY THE CONTRACT BALANCE AND ANY OTHER AMOUNTS DUE.''

(b) Unless automatically provided to the buyer within 45 days after the disposition of the motor vehicle, the seller or holder shall provide to any person liable on the contract within 45 days after their written request, if the request is made within one year after the disposition, a written accounting regarding the disposition. The accounting shall itemize all of the following:

(1) The gross proceeds of the disposition.

(2) The reasonable and necessary expenses incurred for retaking, holding, preparing for and conducting the sale and, to the extent provided for in the agreement and not prohibited by law, reasonable attorney fees and legal expenses incurred by the seller or holder in retaking the vehicle from any person not a party to the contract.

(3) The satisfaction of indebtedness secured by any subordinate lien or encumbrance on the motor vehicle if

written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the seller or holder, the holder of a subordinate lien or encumbrance must seasonably furnish reasonable proof of its interest and, unless it does so, the seller or holder need not comply with its demand.

(c) In all sales that result in a surplus, the seller or holder shall furnish an accounting as provided in subdivision (b) whether or not requested by the buyer. Any surplus shall be returned to the buyer within 45 days after the sale is conducted.

(d) This section does not apply to a loan made by a lender licensed under Division 9 (commencing with Section 22000) or Division 10 (commencing with Section 24000) of the Financial Code.

SEC. 10. Section 3319 of the Civil Code is amended to read:

3319. (a) In each written contract for private works of improvement entered into on or after January 1, 1996, the contracting party and the design professional may agree to contractual provisions that include a late payment penalty, in lieu of any interest otherwise due. The terms of the late payment penalty shall be specifically set forth in the written contract.

(b) The penalty authorized pursuant to subdivision (a) shall be separate from, and in addition to, the design professionals' liens provided by Chapter 8 (commencing with Section 3081.1) of Title 14 of Part 4 of Division 3, mechanics' liens provided by Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3, and stop notices for private works provided in Chapter 3 (commencing with Section 3156) of Title 15 of Part 4 of Division 3.

(c) None of the rights or obligations created or permitted by this section between design professionals and contracting parties shall apply to construction loan funds held by a lender pursuant to a construction loan agreement.

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

(1) ‘‘Contracting party’’ means any person or entity entering into a written contract with a design professional for professional design services for a private work of improvement.

(2) ‘‘Design professional’’ means a person licensed as an architect pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, registered as a professional engineer pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, or licensed as a land surveyor pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code.

SEC. 11. Section 3320 of the Civil Code is amended to read:

3320. (a) In each contract for public works of improvement, entered into on or after January 1, 1996, the public agency shall pay to the prime design professional any progress payment within 30 days of receipt of a written demand for payment in accordance with the contract, and the final retention payment within 45 days of receipt of a written demand for payment in accordance with the contract. If the public agency disputes in good faith any portion of the amount due, it may withhold from the payment an amount not to exceed 150 percent of the disputed amount. The disputed amount withheld shall not be subject to any penalty authorized by this section.

(b) If any amount is wrongfully withheld or is not timely paid in violation of this section, the prime design professional shall be entitled to a penalty of $1^1/_2$ percent for the improperly withheld amount, in lieu of any interest otherwise due, per month for every month that payment is not made. In any action for the collection of amounts withheld in violation of this section, the prevailing party shall be entitled to his or her reasonable attorney’s fees and costs.

(c) The penalty described in subdivision (b) shall be separate from, and in addition to, the design professionals’ liens provided by Chapter 8 (commencing with Section

3081.1) of Title 14 of Part 4 of Division 3, mechanics' liens provided by Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3, and stop notices for public works provided in Chapter 3 (commencing with Section 3156) of Title 15 of Part 4 of Division 3.

(d) This section does not apply to state agency contracts subject to Sections 926.15 and 926.17 of the Government Code.

(e) None of the rights or obligations created by this section between prime design professionals and public agencies shall apply to construction loan funds held by a lender pursuant to a construction loan agreement.

(f) For purposes of this section:

(1) ''Public agency'' means the state, any county, any city, any city and county, any district, any public authority, any public agency, any municipal corporation or other political subdivision or political corporation of the state.

(2) ''Design professional'' means a person licensed as an architect pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, registered as a professional engineer pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, or licensed as a land surveyor pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code.

(3) ''Prime design professional'' means a design professional with a written contract directly with the public agency.

SEC. 12. Section 3321 of the Civil Code is amended to read:

3321. (a) In each contract for public works of improvement, a prime design professional shall pay to each subconsultant design professional the amount due him or her from the payment received, not later than 15 days after receipt of each progress payment or final retention payment. If the prime design professional disputes in good faith any portion of the amount due, he or she may withhold from the payment an amount not to

exceed 150 percent of the disputed amount. The disputed amount withheld shall not be subject to any penalty authorized by this section.

(b) If any amount is wrongfully withheld or is not timely paid in violation of this section, the subconsultant design professional shall be entitled to a penalty of $1^1/_2$ percent of the improperly withheld amount, in lieu of any interest otherwise due, per month, for each month that payment is not made. In any action for the collection of amounts withheld in violation of this section, the prevailing party shall be entitled to his or her reasonable attorney's fees and costs.

(c) The penalty described in subdivision (b) shall be separate from, and in addition to, the design professionals' liens provided by Chapter 8 (commencing with Section 3081.1) of Title 14 of Part 4 of Division 3, mechanics' liens provided by Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3, and stop notices for public works provided in Chapter 3 (commencing with Section 3156) of Title 15 of Part 4 of Division 3.

(d) None of the rights or obligations created by this section between prime design professionals and subconsultant design professionals shall apply to construction loan funds held by a lender pursuant to a construction loan agreement.

(e) For purposes of this section:

(1) ''Public agency'' means the state, any county, any city, any city and county, any district, any public authority, any public agency, any municipal corporation or other political subdivision or political corporation of the state.

(2) ''Design professional'' means a person licensed as an architect pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, registered as a professional engineer pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, or licensed as a land surveyor pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code.

(3) ‘‘Prime design professional’’ means a design professional having a written contract directly with the public agency.

(4) ‘‘Subconsultant design professional’’ means a design professional having a written contract with a prime design professional.

SEC. 13. Section 107.65 of the Code of Civil Procedure is amended and renumbered to read:

170.65. (a) A retired judge shall not hear and try any criminal cause when it is stipulated jointly by the prosecuting attorney and the defendant and his or her counsel, and submitted to the court as hereinafter provided, that the retired judge is not capable or qualified to hear and try the criminal cause.

(b) (1) If the parties know which retired judge is scheduled to hear and try the criminal cause at least 10 days before the date set for trial or hearing, the stipulation shall be submitted in writing at least five days before that date. If directed to the trial of a criminal cause where there is a master calendar, the stipulation shall be submitted to the judge supervising the master calendar not later than the time the criminal cause is assigned for trial. If the stipulation is submitted orally, a written stipulation shall also be submitted within five days of submitting the oral stipulation.

(2) Commencing January 1, 1997, upon receipt of a stipulation submitted pursuant to paragraph (1), the clerk of the municipal and superior courts of each county shall submit a copy to the Judicial Council.

(3) On or before June 30, 2000, the Judicial Council shall submit to the Legislature a written report regarding the frequency of parties stipulating that a retired judge is not capable or qualified to hear and try a criminal cause based upon the information collected pursuant to paragraph (2) during the operative time period of this section.

(c) This section shall remain in effect until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2001, deletes or extends that date.

SEC. 14. Section 708.750 of the Code of Civil Procedure, as added by Chapter 363 of the Statutes of 1995, is amended and renumbered to read:

708.755. (a) Upon compliance with this section, the lien of a judgment creditor pursuant to this article is created against a lottery prize to be paid in annual installments and shall continue in force and effect until the judgment is paid or expires, whichever occurs first. For the lien to continue in effect, the judgment creditor shall do all of the following:

(1) Commencing with the second installment against which the judgment lien creditor asserts its lien, annually file with the lottery an affidavit stating that the judgment has not been satisfied and the amount of the remaining unsatisfied judgment, including interest and costs, if any. This affidavit shall be filed with the lottery not less than 45 days, nor more than 90 days, before the annual payment due date on the prize that is the subject of the judgment lien.

(2) If the judgment lien is renewed, file with the lottery a certified copy of the renewal application, as authorized in this code not less than 45 days, nor more than 90 days, before the annual payment due date on the prize that is the subject of the judgment lien, in order for the judgment lien to be effective in continuing the existing judgment lien against the annual lottery prize payments.

(b) If the judgment lien creditor fails to file the annual statement, renewal of judgment, or renewal of abstract, the lien shall expire. Expiration of a lien for failure to comply with this section shall not preclude the judgment creditor from commencing a new procedure under this article to enforce the judgment, to the extent that the judgment otherwise continues to be enforceable under applicable law.

SEC. 15. The heading of Part 3.5 (commencing with former Section 1823) of the Code of Civil Procedure is repealed.

SEC. 15.5. Section 1991.1 of the Code of Civil Procedure is amended to read:

1991.1. Disobedience to a subpoena requiring attendance of a witness before an officer out of court in a deposition taken pursuant to Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4, or refusal to be sworn as a witness at that deposition, may be punished as contempt, as provided in paragraph (5) of subdivision (b) of Section 2023, without the necessity of a prior order of court directing compliance by the witness.

SEC. 16. Section 9501 of the Commercial Code, as amended by Section 6 of Chapter 591 of the Statutes of 1995, is amended to read:

9501. (1) When a debtor is in default under a security agreement, a secured party has the rights and remedies provided in this chapter and, except as limited by subdivision (3), those provided in the security agreement. The secured party may reduce his or her claim to judgment, foreclose, or otherwise enforce the security interest by any available judicial procedure. If the collateral is documents the secured party may proceed either as to the documents or as to the goods covered thereby. A secured party in possession has the rights, remedies, and duties provided in Section 9207. The rights and remedies referred to in this subdivision are cumulative.

(2) After default, the debtor has the rights and remedies provided in this chapter, those provided in the security agreement, and those provided in Section 9207.

(3) To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subdivisions referred to below may not be waived or varied except as provided with respect to compulsory disposition of collateral (subdivision (3) of Section 9504 and Section 9505) and with respect to redemption of collateral (Section 9506), but the parties may by agreement determine the standards by which the fulfillment of these rights and duties is to be measured if those standards are not manifestly unreasonable:

(a) Subdivision (2) of Section 9502 and subdivision (2) of Section 9504, insofar as they require accounting for

surplus proceeds of collateral and deal with the debtor's liability for any deficiency;

(b) Subdivision (3) of Section 9504 and subdivision (1) of Section 9505 that deal with disposition of collateral;

(c) Subdivision (2) of Section 9505 that deals with acceptance of collateral as discharge of obligation;

(d) Section 9506 that deals with redemption of collateral; and

(e) Subdivision (1) of Section 9507 that deals with the secured party's liability for failure to comply with this chapter.

(4) If an obligation secured by a security interest in personal property or fixtures (Section 9313(1)(a)) is also secured by an interest in real property or an estate therein:

(a) The secured party may do any of the following:

(i) Proceed, in any sequence, (1) in accordance with the secured party's rights and remedies in respect of real property as to the real property security, and (2) in accordance with this chapter as to the personal property or fixtures.

(ii) Proceed in any sequence, as to both some or all of the real property and some or all of the personal property or fixtures in accordance with the secured party's rights and remedies in respect of the real property, by including the portion of the personal property or fixtures selected by the secured party in the judicial or nonjudicial foreclosure of the real property in accordance with the procedures applicable to real property. In proceeding under this subparagraph, (A) no provision of this chapter other than this subparagraph, subparagraph (iii) of paragraph (d), and paragraphs (g) and (h) shall apply to any aspect of the foreclosure; (B) a power of sale under the deed of trust or mortgage shall be exercisable with respect to both the real property and the personal property or fixtures being sold; and (C) the sale may be conducted by the mortgagee under the mortgage or by the trustee under the deed of trust. The secured party shall not be deemed to have elected irrevocably to proceed as to both real property and personal property

or fixtures as provided in this subparagraph with respect to any particular property, unless and until that particular property actually has been disposed of pursuant to a unified sale (judicial or nonjudicial) conducted in accordance with the procedures applicable to real property, and then only as to the property so sold.

(iii) Proceed, in any sequence, as to part of the personal property or fixtures as provided in subparagraph (i), and as to other of the personal property or fixtures as provided in subparagraph (ii).

(b) (i) Except as otherwise provided in paragraph (c), provisions and limitations of any law respecting real property and obligations secured by an interest in real property or an estate therein, including, but not limited to, Section 726 of the Code of Civil Procedure, provisions regarding acceleration or reinstatement of obligations secured by an interest in real property or an estate therein, prohibitions against deficiency judgments, limitations on deficiency judgments based on the value of the collateral, limitations on the right to proceed as to collateral, and requirements that a creditor resort either first or at all to its security, do not in any way apply to either (1) any personal property or fixtures other than personal property or fixtures as to which the secured party has proceeded or is proceeding under subparagraph (ii) of paragraph (a), or (2) the obligation.

(ii) Pursuant to, but without limiting subparagraph (i), in the event that an obligation secured by personal property or fixtures would otherwise become unenforceable by reason of Section 726 of the Code of Civil Procedure or any requirement that a creditor resort first to its security, then, notwithstanding that section or any similar requirement, the obligation shall nevertheless remain enforceable to the full extent necessary to permit a secured party to proceed against personal property or fixtures securing the obligation in accordance with the secured party’s rights and remedies as permitted under this chapter.

(c) (i) Paragraph (b) does not limit the application of Section 580b of the Code of Civil Procedure.

(ii) If the secured party commences an action, as defined in Section 22 of the Code of Civil Procedure, and the action seeks a monetary judgment on the debt, paragraph (b) does not prevent the debtor's assertion of any right to require the inclusion in the action of any interest in real property or an estate therein securing the debt. If a monetary judgment on the debt is entered in the action, paragraph (b) does not prevent the debtor's assertion of the subsequent unenforceability of the encumbrance on any interest in real property or an estate therein securing the debt and not included in the action.

(iii) Nothing in paragraph (b) shall be construed to excuse compliance with Section 2924c of the Civil Code as a prerequisite to the sale of real property, but that section has no application to the right of a secured party to proceed as to personal property or fixtures except, and then only to the extent that, the secured party is proceeding as to personal property or fixtures in a unified sale as provided in subparagraph (ii) of paragraph (a).

(iv) Paragraph (b) does not deprive the debtor of the protection of Section 580d of the Code of Civil Procedure against a deficiency judgment following a sale of the real property collateral pursuant to a power of sale in a deed of trust or mortgage.

(v) Paragraph (b) shall not affect, nor shall it determine the applicability or inapplicability of, any law respecting real property or obligations secured in whole or in part by real property with respect to a loan or a credit sale made to any individual primarily for personal, family, or household purposes.

(vi) Paragraph (b) does not deprive the debtor of the protection of Section 580a of the Code of Civil Procedure following a sale of real property collateral.

(vii) If the secured party violates any statute or rule of law that requires a creditor who holds an obligation secured by an interest in real property or an estate therein to resort first to its security before resorting to any property of the debtor that does not secure the obligation, paragraph (b) does not prevent the debtor's assertion of any right to require correction of the violation, any right

of the secured party to correct the violation, or the debtor's assertion of the subsequent unenforceability of the encumbrance on any interest in real property or an estate therein securing the obligation, or the debtor's assertion of the subsequent unenforceability of the obligation except to the extent that the obligation is preserved by subparagraph (ii) of paragraph (b).

(d) If the secured party realizes proceeds from the disposition of collateral that is personal property or fixtures, the following provisions shall apply:

(i) The disposition of the collateral, the realization of the proceeds, the application of the proceeds, or any one or more of the foregoing shall not operate to cure any nonmonetary default.

(ii) The disposition of the collateral, the realization of the proceeds, the application of the proceeds, or any one or more of the foregoing shall not operate to cure any monetary default (although the application of the proceeds shall, to the extent of those proceeds, satisfy the secured obligation) so as to affect in any way the secured party's rights and remedies under this chapter with respect to any remaining personal property or fixtures collateral.

(iii) All proceeds so realized shall be applied by the secured party to the secured obligation in accordance with the agreement of the parties and applicable law.

(e) An action by the secured party utilizing any available judicial procedure, as provided in subdivision (1), shall in no way be affected by omission of a prayer for a monetary judgment on the debt. Notwithstanding Section 726 of the Code of Civil Procedure, any prohibition against splitting causes of action or any other statute or rule of law, a judicial action that neither seeks nor results in a monetary judgment on the debt shall not preclude a subsequent action seeking a monetary judgment on the debt or any other relief.

(f) As used in this subdivision, ''monetary judgment on the debt'' means a judgment for the recovery from the debtor of all or part of the principal amount of the secured obligation, including, for purposes of this subdivision,

contractual interest thereon. ‘‘Monetary judgment on the debt’’ does not include a judgment that provides only for other relief (whether or not that other relief is secured by the collateral), such as one or more forms of nonmonetary relief, and monetary relief ancillary to any of the foregoing, such as attorneys’ fees and costs incurred in seeking the relief.

(g) If a secured party fails to comply with the procedures applicable to real property in proceeding as to both real and personal property under subparagraph (ii) of paragraph (a), a purchaser for value of any interest in the real property at judicial or nonjudicial foreclosure proceedings conducted pursuant to subparagraph (ii) of paragraph (a) takes that interest free from any claim or interest of another person, or any defect in title, based upon that noncompliance, unless:

(i) The purchaser is the secured party and the failure to comply with this chapter occurred other than in good faith; or

(ii) The purchaser is other than the secured party and at the time of sale of the real property at that foreclosure the purchaser had knowledge of the failure to comply with this chapter and that the noncompliance occurred other than in good faith.

Even if the purchaser at the foreclosure sale does not take his or her interest free of claims, interests, or title defects based upon that noncompliance with this chapter, a subsequent purchaser for value who acquires an interest in that real property from the purchaser at that foreclosure takes that interest free from any claim or interest of another person, or any defect in title, based upon that noncompliance, unless at the time of acquiring the interest the subsequent purchaser has knowledge of the failure to comply with this chapter and that the noncompliance occurred other than in good faith.

(h) If a secured party proceeds by way of a unified sale under subparagraph (ii) of paragraph (a), then, for purposes of applying Section 580a or subdivision (b) of Section 726 of the Code of Civil Procedure to any such unified sale, the personal property or fixtures included in

the unified sale shall be deemed to be included in the ''real property or other interest sold,'' as that term is used in Section 580a or subdivision (b) of Section 726 of the Code of Civil Procedure.

(5) When a secured party has reduced his or her claim to judgment, the lien of any levy that may be made upon his or her collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in the collateral. A judicial sale, pursuant to that execution, is a foreclosure of the security interest by judicial procedure within the meaning of this section, and the secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this division.

(6) This section shall be repealed on January 1, 1999.

SEC. 17. The heading of Chapter 15 (commencing with Section 11400) of Part 7 of the Education Code is repealed.

SEC. 18. Section 15320 of the Education Code is amended to read:

15320. Whenever the governing board of a school district meeting the requirements set forth in Section 15301 determines that a school facilities improvement district is necessary, the governing board shall adopt a resolution of intention that states all of the following:

(a) The intention of the governing board to form the proposed school facilities improvement district.

(b) The purpose for which the proposed school facilities improvement district is to be formed, consistent with the requirements set forth in Section 15302.

(c) The estimated cost of the school facilities improvement project.

(d) That any taxes levied for the purpose of financing the general obligation bonds issued to finance the project shall be levied exclusively upon lands in the proposed school facilities improvement district.

(e) That a map showing the exterior boundaries of the proposed school facilities improvement district is on file with the governing board of the school district and is available for inspection by the public. The boundaries of

the school facilities improvement district shall meet the requirements set forth in subdivision (b) of Section 15301.

(f) The time and place for a hearing by the governing board on the formation of the proposed school facilities improvement district.

(g) That any interested persons, including all persons owning lands in the school district or in the proposed school facilities improvement district, may appear and be heard.

SEC. 19. Section 19336 of the Education Code is amended to read:

19336. The State Librarian shall establish the Reading Initiative Program with funds appropriated for that purpose and with funds received from private sources. The State Librarian shall administer the program, for which purpose he or she shall do all of the following:

(a) Develop a list of recommended books, in consultation with various groups, including, but not limited to, teachers, librarians, parents, writers, publishers, and employees of the State Department of Education. The recommended books shall supplement the state-recommended English/language arts curriculum framework, and shall include recreational reading selections for children.

(b) Develop a method of involving pupils enrolled in kindergarten and grades 1 to 12, inclusive, in the program and an appropriate form of recognition for pupils who volunteer to participate in the program and who succeed in the program. Rewards and related recognition activities shall be funded with amounts received from private sources.

(c) To the extent private funds are available, and consistent with subdivision (b), expend private funds received by the State Librarian for the purposes of this article to obtain and make available to the public the books on the list developed pursuant to subdivision (a) .

SEC. 20. Section 48664 of the Education Code is amended to read:

48664. (a) 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 one thousand five hundred dollars ($1,500) per year for each unit of average daily attendance reported at the annual apportionment for pupil attendance at community day schools. 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 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) In calculating the average daily attendance for a community day school, the school district shall use a divisor of 180 even if the community day school has a school year in excess of 180 days.

(c) The Superintendent of Public Instruction shall apportion to each school district that operates a community day school a sum equal to one dollar and forty cents ($1.40) 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 a school district employee 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 established by subdivision (a). 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 school districts 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. This article does 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 annually for two years thereafter, all of the following:

(1) The number of expulsions statewide.

(2) The number of school districts operating community day schools.

(3) The status of the countywide plans required by Section 48926.

(4) An evaluation of the community day school average daily attendance funding percentage cap.

(5) The number of small school districts requesting, and the number receiving, a waiver under this section.

(6) The effect of hourly accounting under Section 48663 upon the apportionment of funding under this section.

(7) The number of pupils and average daily attendance served in community day programs, identified as the number expelled pursuant to subdivision (d) of Section 48915, subdivision (b) of Section 48915, or 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 authorized by subdivisions (a), (c), and (d) shall be apportioned only to the extent that funds are appropriated for this purpose in the annual Budget Act or other legislation, or both, except that, 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.

SEC. 21. Section 58552 of the Education Code is amended to read:

58552. (a) In order to obtain certification as an educational clinic from the Superintendent of Public Instruction, each private educational institution shall submit an application to the superintendent documenting compliance with all of the following requirements:

(1) The applicant qualifies as an educational clinic, as defined by subdivision (c) of Section 58551.

(2) The applicant offers instruction in basic academic skills, employment orientation, and reentry orientation, as defined by Section 58551.

(3) The applicant operates on a clinical, client-centered basis, as defined by subdivision (b) of Section 58551.

(4) The applicant will produce educational gains among pupils that directly relate to the identified individual learning objectives and educational or employment goals.

(5) The applicant maintains accurate and complete financial and personnel records.

(b) Private educational institutions seeking certification by the Superintendent of Public Instruction as educational clinics shall submit applications upon forms designated for that purpose which shall include documentation verifying that the applicant meets each of the requirements prescribed by subdivision (a). The superintendent shall notify each applicant of its

certification status within five weeks after the receipt of the completed application.

(c) Each private educational institution approved for certification as an educational clinic by the Superintendent of Public Instruction shall be certified for a period not to exceed three years. When its initial certification expires, an educational clinic may apply for a renewal of its certification.

(d) Any changes in the operation of the educational clinic that are relevant to the certification criteria prescribed by subdivision (a) shall be approved in writing by the Superintendent of Public Instruction before the change takes effect.

(e) The Superintendent of Public Instruction may withdraw certification from any approved educational clinic if it is determined that any of the following conditions exists:

(1) The educational clinic does not provide adequate instruction in basic academic skills, as defined by subdivision (a) of Section 58551.

(2) Pupil performance data do not substantiate educational gains for pupils that directly relate to the identified individual learning objectives and the educational or employment goals.

(3) The educational clinic does not provide opportunities for employment orientation or reentry orientation as required by this chapter.

(4) The educational clinic fails to meet any of the criteria for certification prescribed by subdivision (a).

(f) The ratio of pupils to professional staff members for a certified educational clinic shall not exceed 20 to 1.

SEC. 22. Section 58751 of the Education Code is amended to read:

58751. The following definitions apply for the purposes of this chapter:

(a) ‘‘Applicant’’ means a local education agency that may collaborate with a nonprofit organization, private child care provider, park and recreation agency, or other public agency and that is applying for a grant pursuant to this chapter.

(b) ‘‘Local education agency’’ means a school district, county superintendent of schools, or a consortium of those entities.

(c) ‘‘Nonprofit organization’’ means any private nonprofit organization that provides coordinated educational and human services to schoolage children, qualifies for exempt status under paragraph (3) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, and is working or will work in cooperation with a local education agency in operating a program pursuant to this chapter.

(d) ‘‘Volunteer’’ means any person willing and able to donate time, energy, and skills to the tasks and duties necessary to operate an extended schoolday program. Volunteers shall be adults or older pupils, other than those pupils being served by the program.

Notwithstanding any other provision of law, any volunteer staff person or employee who has frequent and routine contact with the participants in an extended schoolday program that is not covered under Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) of Division 2 of the Health and Safety Code, and does not possess a valid state teaching credential, shall submit, on or before the first day of his or her service, two sets of fingerprints to the Department of Justice for the purpose of obtaining a criminal record summary from the Department of Justice and the Federal Bureau of Investigation. The Department of Justice shall return a criminal record summary to the grant recipient. The grant recipient shall use the substantive rules of Section 1596.871 of the Health and Safety Code to guide it in determining the retention of the volunteer or employee. A volunteer shall not be deemed to have frequent and routine contact for this purpose unless the volunteer is given sole charge for the care and supervision of children without staff assistance or supervision.

SEC. 23. Section 60242 of the Education Code is amended to read:

60242. (a) The state board shall encumber the fund for the purpose of establishing an allowance for each district board, which may reflect increases or decreases in average daily attendance, that the district board may use for the following purposes:

(1) To purchase instructional materials adopted by the state board.

(2) To purchase instructional materials, including, but not limited to, technology-based materials, from any source.

(3) To purchase tests.

(4) To bind basic textbooks that are otherwise usable and are on the most recent list of basic instructional materials adopted by the state board and made available pursuant to Section 60200.

(5) To fund in-service training.

(b) The state board shall specify the percentage of a district board's allowance that is authorized to be used for each of the purposes identified in subdivision (a).

(c) Allowances established for school districts pursuant to this section shall be apportioned in September of each fiscal year.

SEC. 24. Section 84751 of the Education Code is amended to read:

84751. In calculating each community college district's revenue level for each fiscal year pursuant to subdivision (a) of Section 84750, the chancellor shall subtract, from the total revenues owed, all of the following:

(a) The local property tax revenue specified by law for general operating support, exclusive of bond interest and redemption.

(b) Ninety-eight percent of the fee revenues collected pursuant to Sections 76300 and 76330.

(c) Motor vehicle license fees received pursuant to Section 11003.4 of the Revenue and Taxation Code.

(d) Timber yield tax revenue received pursuant to Section 38905 of the Revenue and Taxation Code.

(e) Any amounts received pursuant to Section 33492.15, 33607.5, or 33607.7 of the Health and Safety

Code, and Section 33676 of the Health and Safety Code as amended by Section 2 of Chapter 1368 of the Statutes of 1990, that are considered to be from property tax revenues pursuant to those sections for the purposes of community college revenue levels, except those amounts that are allocated exclusively for educational facilities.

(f) Ninety-eight percent of the revenues received through collection of a student fee from a student enrolled in the district who registered or enrolled between July 1, 1995, and August 3, 1995.

SEC. 25. Section 8051.2 of the Fish and Game Code is amended to read:

8051.2. (a) The landing tax collected pursuant to Section 8051.1 shall be deposited in the Fish and Game Preservation Fund and 60 percent of the revenue deposited shall be used solely for the Sea Urchin Resources Enhancement Program in support of the recommendations of the committee established by subdivision (c) and other sea urchin resource enhancement measures as provided in the annual Budget Act. The remaining 40 percent of the revenue shall be used solely for research and management activities to monitor and maintain the sea urchin resource. The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of Sea Urchin Resources Enhancement Program funds and research and management funds are met.

(b) The revenues received pursuant to former subdivision (b) of Section 8051.1, as that section read on December 31, 1995, shall first be used for the grant and departmental overhead charges, as provided in Section 1068, and any remaining revenues shall be used for sea urchin enhancement as described in subdivision (a).

(c) An amount, not to exceed 15 percent of the allocations made pursuant to subdivision (a) from the total annual revenues deposited in the fund pursuant to subdivision (a), may be used by the department for the administration of the Sea Urchin Resources

Enhancement Program, including any reasonable and necessary expenses.

(d) The Commercial Sea Urchin Advisory Committee in existence on October 14, 1991, which consists of 12 members, shall be continued in existence and renamed the Director's Sea Urchin Advisory Committee. One member shall be selected by the director from the personnel of the department. Ten members, who shall serve at the pleasure of the director for a term of not more than two years and who may be reappointed, shall be selected by the director from nominations submitted by sea urchin fishermen and processors and by associations representing the commercial sea urchin industry of California. Five of the industry members shall represent processors and five of the industry members shall represent divers. Each of the diver representatives shall hold a valid sea urchin diving permit. Two of the diver representatives shall be from northern California, and three of the diver representatives shall be from southern California. One of the diver representatives from southern California shall reside in Santa Barbara County, one in Ventura County, and one in either Los Angeles County or San Diego County. All of the California diver representatives shall reside in different geographical areas of the state. Each diver representative shall select an alternate, approved by the director, who may act in that representative's absence. The alternate is not required to hold a current sea urchin diving permit and may reside in any geographical area in the state. The area marine coordinator from the University of California at Davis shall be the other member.

From the money available to the Sea Urchin Resource Enhancement Program, the committee may annually submit to the department proposed projects and a budget for the program. The department, after conducting a public review and discussion, shall incorporate all or part of the proposed projects and budget recommendations in its submittal to the Governor's Budget.

(e) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a

later enacted statute, which is enacted before January 1, 2002, deletes or extends that date.

SEC. 26. Section 8280.5 of the Fish and Game Code is amended to read:

8280.5. (a) The director shall convene a Dungeness crab review panel for the purpose of reviewing applications for Dungeness crab vessel permits pursuant to paragraphs (2) and (4) of subdivision (b) of Section 8280.1 and applications for permit transfers pursuant to Section 8280.3 if the department determines that the additional review and advice of the panel will be helpful in deciding whether to issue a permit or approve a transfer.

(b) The panel shall consist of one nonvoting representative of the department and three public voting members selected by the director to represent the Dungeness crab fishing industry. One public member shall be licensed pursuant to Article 7 (commencing with Section 8030) and active in Dungeness crab processing in this state. Two public members shall be licensed pursuant to Section 7852, one from Sonoma County or a county south of Sonoma County, and one from Mendocino County or a county north of Mendocino County, and active in the taking and landing of Dungeness crab in this state. The public members shall be reimbursed for their necessary and proper expenses to participate on the panel. A public member shall serve on the panel for not more than four consecutive years.

(c) The panel may conduct its review of applications referred to it by mail or teleconference.

(d) The panel shall review each application for a permit or permit transfer referred to it by the department and shall consider all oral and written evidence presented by the applicant that is pertinent to the application under review. If the panel recommends issuance of a permit or approval of the transfer, the department may issue a Dungeness crab vessel permit pursuant to Section 8280.1 or approve a permit transfer pursuant to Section 8280.3.

(e) All appeals of denials of Dungeness crab vessel permits shall be made to the commission and may be heard by the commission if the appeal of denial is filed in writing with the commission not later than 90 days of the date of a permit denial. The commission may order the department to issue a permit upon appeal if the commission finds that the appellant qualified for a permit under this chapter.

(f) This section shall become inoperative on April 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 27. Section 24014 of the Food and Agricultural Code is amended to read:

24014. It is the intent of the Legislature that each of the persons appointed to the advisory committee pursuant to Section 24013.5 represent and further the interests of the industry that person is selected to represent, and that this representation and furtherance serve the public interest. Accordingly, the Legislature finds that, with respect to each person who is appointed to the committee, the industry represented is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

SEC. 28. Section 6518 of the Government Code is amended to read:

6518. (a) A joint powers agency, without being subject to any limitations of any party to the joint powers agreement pursuant to Section 6509, may also finance or refinance the acquisition or transfer of transit equipment or transfer federal income tax benefits with respect to any transit equipment by executing agreements, leases, purchase agreements, and equipment trust certificates in the forms customarily used by a private corporation engaged in the transit business to effect purchases of transit equipment, and dispose of the equipment trust certificates by negotiation or public sale upon terms and conditions authorized by the parties to the agreement. Payment for transit equipment, or rentals therefor, may

be made in installments, and the deferred installments may be evidenced by equipment trust certificates payable from any source or sources of funds specified in the equipment trust certificates that are authorized by the parties to the agreement. Title to the transit equipment shall not vest in the joint powers agency until the equipment trust certificates are paid.

(b) An agency that finances or refinances transit equipment or transfers federal income tax benefits with respect to transit equipment under subdivision (a) may provide in the agreement to purchase or lease transit equipment any of the following:

(1) A direction that the vendor or lessor shall sell and assign or lease the transit equipment to a bank or trust company, duly authorized to transact business in the state as trustee, for the benefit and security of the equipment trust certificates.

(2) A direction that the trustee shall deliver the transit equipment to one or more designated officers of the entity.

(3) An authorization for the joint powers agency to execute and deliver simultaneously therewith an installment purchase agreement or a lease of equipment to the joint powers agency.

(c) An agency that finances or refinances transit equipment or transfers federal income tax benefits with respect to transit equipment under subdivision (a) shall do all of the following:

(1) Have each agreement or lease duly acknowledged before a person authorized by law to take acknowledgments of deeds and be acknowledged in the form required for acknowledgment of deeds.

(2) Have each agreement, lease, or equipment trust certificate authorized by resolution of the joint powers agency.

(3) Include in each agreement, lease, or equipment trust certificate any covenants, conditions, or provisions that may be deemed necessary or appropriate to ensure the payment of the equipment trust certificate from

legally available sources of funds, as specified in the equipment trust certificates.

(4) Provide that the covenants, conditions, and provisions of an agreement, lease, or equipment trust certificate do not conflict with any of the provisions of any trust agreement securing the payment of any bond, note, or certificate of the joint powers agency.

(5) File an executed copy of each agreement, lease, or equipment trust certificate in the office of the Secretary of State, and pay the fee, not to exceed one dollar ($1), for each copy filed.

(d) The Secretary of State may charge a fee, not to exceed one dollar ($1) for the filing of an agreement, lease, or equipment trust certificate under this section. The agreement, lease, or equipment trust certificate shall be accepted for filing only if it expressly states thereon in an appropriate manner that it is filed under the provisions of this section. The filing constitutes notice of the agreement, lease, or equipment trust certificate to any subsequent judgment creditor or any subsequent purchaser.

(e) Each vehicle purchased or leased under this section shall have the name of the owner or lessor plainly marked on both sides thereof followed by the appropriate words ‘‘Owner and Lessor’’ or ‘‘Owner and Vendor,’’ as the case may be.

SEC. 29. Section 6599 of the Government Code is amended and renumbered to read:

6598.5. Local agencies may request advice from the California Debt Advisory Commission pursuant to Section 8859 regarding the formation of local bond pooling authorities and the planning, preparing, insuring, marketing, and selling of bonds as authorized pursuant to this article.

SEC. 30. Section 6599.1 of the Government Code is amended and renumbered to read:

6598.6. (a) The legislative body shall, no later than 30 days prior to the sale of any bonds pursuant to this article, give written notice of the proposed sale to the California Debt Advisory Commission by mail, postage prepaid, as

required by Chapter 12 (commencing with Section 8885) of Division 1 of Title 2.

(b) Beginning January 1, 1996, each year after the sale of any bonds by the authority for the purpose of acquiring local obligations, the legislative body shall, not later than October 30 of each year until the final maturity of the bonds, supply the following information to the California Debt Advisory Commission by mail, postage prepaid:

(1) The principal amount of bonds outstanding, both authority bonds and local obligations acquired with the proceeds of authority bonds.

(2) The balance in the reserve fund.

(3) The costs of issuance, including any ongoing fees.

(4) The total amount of administrative fees collected.

(5) The amount of administrative fees charged to each local obligation.

(6) The interest earnings and terms of all guaranteed investment contracts.

(7) Commissions and fees paid on guaranteed investment contracts.

(8) The delinquency rates on all local obligations.

(9) The balance in capitalized interest accounts.

(c) In addition, with respect to any bonds sold pursuant to this article, regardless of when sold, and until the final maturity of the bonds, the legislative body shall notify the California Debt Advisory Commission by mail, postage prepaid, within 10 days if any of the following events occurs:

(1) The local agency or its trustee fails to pay principal and interest due on any scheduled payment date.

(2) Funds are withdrawn from a reserve fund to pay principal and interest on the bonds issued by the authority or any bonds acquired by the authority.

(d) Neither the legislative body nor the California Debt Advisory Commission shall be liable for any inadvertent error in reporting the information required by this section.

SEC. 31. Section 8546 of the Government Code is amended to read:

8546. It is the intent of the Legislature that the Bureau of State Audits have the independence necessary to conduct all of its audits in conformity with ''Government Auditing Standards'' published by the Comptroller General of the United States and the standards published by the American Institute of Certified Public Accountants, free from influence of existing state control agencies that could be the subject of audits conducted by the bureau. Therefore, all of the following exclusions apply to the office:

(a) Notwithstanding Section 19790, the State Auditor shall establish an affirmative action program that shall meet the criteria and objectives established by the State Personnel Board and shall report annually to the State Personnel Board and the commission.

(b) Notwithstanding Section 12470, the State Auditor shall be responsible for maintaining its payroll system. In lieu of audits of the uniform payroll system performed by the Controller or any other department, the office shall contract pursuant to subdivision (e) of Section 8544.5 for an annual audit of its payroll and financial operations by an independent public accountant.

(c) Notwithstanding Sections 11730 and 13292, the State Auditor is delegated the authority to establish and administer the fiscal and administrative policies of the bureau in conformity with the State Administrative Manual without oversight by the Department of Finance, the Office of Information Technology, or any other state agency.

(d) Notwithstanding Section 11032, the State Auditor may approve actual and necessary traveling expenses for travel outside the state for officers and employees of the bureau.

(e) Notwithstanding Section 11033, the State Auditor or officers and employees of the bureau may be absent from the state on business of the state upon approval of the State Auditor or Chief Deputy State Auditor.

(f) Sections 11040, 11042, and 11043 shall not apply to the Bureau of State Audits. The State Auditor may employ legal counsel under those terms that he or she

deems necessary to conduct the legal business of, or render legal counsel to, the State Auditor.

(g) The provisions and definitions of Section 11342 shall not be construed to include the Bureau of State Audits. The State Auditor may adopt regulations necessary for the operation of the bureau pursuant to the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Division 3), but these regulations shall not be subject to the review or approval of the Office of Administrative Law.

(h) The State Auditor shall be exempt from all contract requirements of the Public Contract Code that require oversight, review, or approval by the Department of General Services or any other state agency. The State Auditor may contract on behalf of the State of California for goods and services that he or she deems necessary for the furtherance of the purposes of the bureau.

(i) (1) Subject to Article VII of the California Constitution, the State Auditor is delegated the authority to establish and administer the personnel policies and practices of the Bureau of State Audits in conformity with Part 2.6 (commencing with Section 19815) of Division 5 of Title 2 without oversight or approval by the Department of Personnel Administration.

(2) At the election of the State Auditor, officers and employees of the bureau may participate in benefits programs administered by the Department of Personnel Administration subject to the same conditions for participation that apply to civil service employees in other state agencies. For the purposes of benefits programs administration only, the State Auditor is subject to the determinations of the department. The Bureau of State Audits shall reimburse the Department of Personnel Administration for the normal administrative costs incurred by the Department of Personnel Administration and for any extraordinary costs resulting from the inclusion of the bureau employees in these state benefit programs.

SEC. 32. Section 8879.13 of the Government Code, as added by Section 1 of Chapter 310 of the Statutes of 1995, is amended to read:

8879.13. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of the State General Obligation Bond Law. Approval by the electors of this act shall constitute approval of any refunding bonds issued pursuant to the State General Obligation Bond Law.

SEC. 33. Section 8879.13 of the Government Code, as added by Section 2 of Chapter 310 of the Statutes of 1995, is amended to read:

8879.13. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of the State General Obligation Bond Law. Approval by the electors of this act shall constitute approval of any refunding bonds issued pursuant to the State General Obligation Bond Law.

SEC. 34. Section 8880.68 of the Government Code is amended to read:

8880.68. (a) Except as provided in subdivision (b), no state or local taxes shall be imposed upon the sale of lottery tickets or shares of the lottery or any prize awarded by the lottery.

(b) This section does not prohibit the imposition of property taxes or license fees for any noncash prize that is awarded by the lottery.

SEC. 35. Section 11354.1 of the Government Code is amended to read:

11354.1. (a) For purposes of this section, ‘‘commission’’ means the San Francisco Bay Conservation and Development Commission.

(b) Except as provided in subdivision (d), this chapter does not apply to any policy, plan, or guideline adopted by the commission prior to January 1, 1996, pursuant to Chapter 5 (commencing with Section 66650) of Title 7.2 of this code or Division 19 (commencing with Section 29000) of the Public Resources Code .

(c) The issuance or denial by the commission of any permit pursuant to subdivision (a) of Section 66632, and

the issuance or denial by, or appeal to, the commission of any permit pursuant to Chapter 6 (commencing with Section 29500) of Division 19 of the Public Resources Code, are not subject to this chapter.

(d) (1) Any amendments or other changes to the San Francisco Bay Plan or to a special area plan pursuant to Chapter 5 (commencing with Section 66650) of Title 7.2, and amendments or other changes to the Suisun Marsh Protection Plan, as defined in Section 29113 of the Public Resources Code, or in the Suisun Marsh local protection program, as defined in Section 29111 of the Public Resources Code, adopted by the commission on and after January 1, 1996, shall be submitted to the office.

(2) The commission shall include in its submittal to the office pursuant to paragraph (1) both of the following documents:

(A) A clear and concise summary of any regulatory provision adopted or approved by the commission as part of the proposed change for publication in the California Code of Regulations.

(B) The administrative record for the proceeding, and a list of the documents relied upon in making the change. Proposed additions to the plans shall be indicated by underlined text, and proposed deletions shall be indicated by strike-through text in documents submitted as part of the administrative record for the proceeding.

(3) The office shall review the regulatory provisions to determine compliance with the standards of necessity, authority, clarity, consistency, reference, and nonduplication set forth in subdivision (a) of Section 11349.1. The office shall also review the responses to public comments prepared by the commission to determine compliance with the public participation requirements of Sections 11000 to 11007, inclusive, of Title 14 of the California Code of Regulations, and to ensure that the commission considers all relevant matters presented to it before adopting, amending, or repealing any regulatory provision, and that the commission explains the reasons for not modifying a proposed plan change to accommodate an objection or

recommendation. The office shall restrict its review to the regulatory provisions and the administrative record of the proceeding. Sections 11349.3, 11349.4, 11349.5, and 11350.3 shall apply to the review by the office to the extent that those sections are consistent with this section.

(4) In reviewing proposed changes to the commission's plans for the criteria specified in subdivision (a) of Section 11349.1, the office shall consider the clarity of the proposed plan change in the context of the commission's existing plans.

(5) The proposed plan or program change subject to this subdivision shall not become effective unless and until the regulatory provisions are approved by the office in accordance with subdivision (a) of Section 11349.3.

(6) Upon approval of the regulatory provisions, the office shall transmit to the Secretary of State for filing the clear and concise summary of the regulatory provisions submitted by the commission.

(e) Except as provided in subdivisions (b) and (c), the adoption of any regulation by the commission shall be subject to this chapter in all respects.

SEC. 36. Section 11504 of the Government Code is amended to read:

11504. A hearing to determine whether a right, authority, license, or privilege should be granted, issued or renewed shall be initiated by filing a statement of issues. The statement of issues shall be a written statement specifying the statutes and rules with which the respondent must show compliance by producing proof at the hearing, and in addition any particular matters that have come to the attention of the initiating party and that would authorize a denial of the agency action sought. The statement of issues shall be verified unless made by a public officer acting in his official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief. The statement of issues shall be served in the same manner as an accusation, except that, if the hearing is held at the request of the respondent, Sections 11505 and 11506 shall not apply and the

statement of issues together with the notice of hearing shall be delivered or mailed to the parties as provided in Section 11509. Unless a statement to respondent is served pursuant to Section 11505, a copy of Sections 11507.5, 11507.6, and 11507.7, and the name and address of the person to whom requests permitted by Section 11505 may be made, shall be served with the statement of issues.

SEC. 37. Section 12173 of the Government Code, as added by Section 2 of Chapter 426 of the Statutes of 1995, is amended and renumbered to read:

12174. (a) The Secretary of State shall administer, protect, develop, and interpret the Secretary of State and State Archives Building Complex located in Sacramento in the area bounded by 10th, 11th, O, and P Streets as authorized by Section 12235 for the use, education, and enjoyment of the public.

(b) The Secretary of State may enter into an operating agreement with a private, nonprofit, tax-exempt organization, currently known as the California Archives Foundation, the sole purpose of which is expressed in its articles of incorporation and bylaws as the support of the education, museum operations, and public service programs of the State Archives and Museum. The California Archives Foundation shall develop, administer, interpret, and manage the State Archives Museum and related public services by authority of the Secretary of State as set forth in the operating agreement, and acquire and fully manage funding for these programs and services. Employees, volunteers, docents, members, or others working with or for the private, nonprofit, tax-exempt organization described in this subdivision for purposes consistent with the mission of that organization shall be considered volunteers under Sections 3118 and 3119 of this code and Section 3363.5 of the Labor Code.

(c) The Board of Trustees of the California Archives Foundation shall include the Secretary of State and the Chairperson of the California Heritage Preservation Commission as ex officio members of the board. The Board of Trustees of the California Archives Foundation shall be the governing authority for operations funded

through moneys received by the California Archives Foundation. The Board of Trustees of the California Archives Foundation shall submit an audit report annually to the Secretary of State. The board shall submit copies of annual audit reports to the Director of Finance, the Chair of the Joint Legislative Audit Committee, and the Chair of the Joint Legislative Budget Committee. The California Archives Foundation and the State Archives shall function as a public-private partnership, not as separate entities, and the Keeper of the Archives may serve as the Executive Director of the California Archives Foundation. No funds raised or assets acquired by the California Archives Foundation shall be used for purposes inconsistent with support of the public programs of the State Archives and the State Archives Museum.

(d) No later than January 10 of each year, the California Archives Foundation shall submit the foundation business plan for the following fiscal year to the Director of Finance and the Chair of the Joint Legislative Budget Committee for review and comment. The executive director of the foundation shall also submit, 30 days prior to board adoption, any proposed formal amendments to the business plan to the Director of Finance and the Chair of the Joint Legislative Budget Committee for review and comment.

(e) Fees for copying, reproduction, and other services provided by the State Archives shall be at a level consistent with the costs of providing these services. The Secretary of State may establish an agreement with the California Archives Foundation to provide these services and collect moneys for providing these services.

SEC. 38. Section 12805 of the Government Code is amended to read:

12805. The Resources Agency consists of the State Air Resources Board, the Colorado River Board, the State Energy Resources Conservation and Development Commission, the State Water Resources Control Board and each California regional water quality control board, the State Lands Commission, the Division of State Lands, the San Joaquin River Conservancy, and the following

departments: Conservation; Fish and Game; Forestry and Fire Protection; Navigation and Ocean Development; Parks and Recreation; and Water Resources.

SEC. 39. Section 15399.22 of the Government Code is amended to read:

15399.22. (a) Upon the effective date of the repeal of Chapter 8.5 (commencing with Section 15399.10), all money remaining in the Petroleum Underground Storage Tank Financing Account and all subsequent loan repayments shall revert to the Underground Storage Tank Cleanup Fund in the General Fund, except that the interest earnings specified in former Section 15399.20, as that section read on the date that it was repealed, that are necessary to support the administrative costs associated with the collection of outstanding loan amounts, shall remain with the Petroleum Underground Storage Tank Financing Account and may be expended by the Trade and Commerce Agency for those costs.

(b) The inoperation and repeal of Chapter 8.5 (commencing with Section 15399.10) shall not terminate the following obligations or authorities necessary to administer the obligations until all of the following obligations are satisfied:

(1) The payment of claims filed prior to the date that Chapter 8.5 (commencing with Section 15399.10) becomes inoperative, against the Underground Storage Tank Cleanup Fund pursuant to Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code, until the money in the fund is exhausted. Upon exhaustion of the Underground Storage Tank Cleanup Fund, any remaining claims shall be invalid.

(2) The repayment of loans, outstanding as of the date that Chapter 8.5 (commencing with Section 15399.10) becomes inoperative, due and payable to the agency under the terms of that former chapter.

(3) The resolution of any cost recovery action filed prior to the date that Chapter 8.5 (commencing with Section 15399.10) becomes inoperative, pursuant to

Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.

(c) This chapter shall become operative upon the effective date of the repeal of Chapter 8.5 (commencing with Section 15399.10).

SEC. 40. Section 19853.1 of the Government Code is amended to read:

19853.1. (a) Notwithstanding Section 19853, this section shall apply only to state employees in State Bargaining Unit 5.

(b) Except as provided in subdivision (c), all employees shall be entitled to the following holidays: January 1, the third Monday in January, the third Monday in February, the last Monday in May, July 4, the first Monday in September, November 11, the day after Thanksgiving, December 25, and every day appointed by the Governor of this state for a public fast, Thanksgiving, or holiday.

When a day herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If November 11 falls upon a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. Any employee who may be required to work on any of the holidays herein mentioned and who does work on any of these holidays shall be entitled to be paid compensation or given compensating time off for that work in accordance with his or her classification's assigned workweek group.

(c) If the provisions of subdivision (b) are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(d) Any employee who either is excluded from the definition of state employee in subdivision (c) of Section 3513, or is a nonelected officer or employee of the executive branch of government who is not a member of

the civil service, is entitled to the following holidays, with pay, in addition to any official state holiday appointed by the Governor:

(1) January 1, the third Monday in January, the third Monday in February, the last Monday in May, July 4, the first Monday in September, November 11, Thanksgiving Day, the day after Thanksgiving, December 25.

(2) When November 11 falls on a Saturday, employees shall be entitled to the preceding Friday as a holiday with pay.

(3) When a holiday, other than a personal holiday, falls on a Saturday, an employee shall, regardless of whether he or she works on the holiday, accrue only an additional eight hours of personal holiday credit per fiscal year for the holiday. The holiday credit shall be accrued on the actual date of the holiday and shall be used within the same fiscal year.

(4) When a holiday other than a personal holiday falls on Sunday, employees shall be entitled to the following Monday as a holiday with pay.

(5) Employees who are required to work on a holiday shall be entitled to pay or compensating time off for this work in accordance with their classifications' assigned workweek group.

(6) Persons employed on less than a full-time basis shall receive holidays in accordance with the Department of Personnel Administration rules.

(e) Any employee, as defined in subdivision (c) of Section 3513, may elect to use eight hours of vacation, annual leave, or compensating time off consistent with departmental operational needs and collective bargaining agreements for March 31, known as ''Cesar Chavez Day.''

(f) This section shall become effective only when the Department of Personnel Administration notifies the Legislature that the language contained in this section has been agreed to by all the parties, and the necessary statutes are amended to reflect this change for employees excluded from the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512), Division 4, Title 1).

SEC. 41. Section 19854 of the Government Code is amended to read:

19854. (a) Every employee, upon completion of six months of his or her initial probationary period in state service, shall be entitled to one personal holiday per fiscal year. The personal holiday shall be credited to each full-time employee on the first day of July. No employee shall lose a personal holiday credit because of the change from calendar to fiscal year crediting. The department head or designee may require the employee to provide five working days' advance notice before a personal holiday is taken, and may deny use subject to operational needs. The department may provide by rule for the granting of this holiday for employees.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) This section does not apply to state employees in State Bargaining Unit 5.

(d) Subdivision (c) shall become effective only when the Department of Personnel Administration notifies the Legislature that the language contained in that subdivision has been agreed to by all the parties, and the necessary statutes are amended to reflect this change for employees excluded from the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512), Division 4, Title 1).

SEC. 42. Section 29530.5 of the Government Code is amended to read:

29530.5. (a) Notwithstanding any other provision of this article, the Board of Supervisors of the County of Orange may, upon the adoption of a resolution approved by a majority of all of its members, unilaterally modify its contract, as specified in Section 29530 with the State Board of Equalization, to require that, effective on or

after July 1, 1996, except to the extent that subdivision (b) applies during any period, county sales and use tax revenues specified in Section 29530 be deposited into the county general fund payable, on a monthly basis, in an amount equal to three million one hundred sixty-six thousand six hundred sixty-seven dollars ($3,166,667).

(b) (1) If the county has elected to guarantee payment of its obligations under an agreement to finance the lease or lease-purchase of property through the execution and delivery or issuance, as the case may be, of certificates of participation or lease revenue bonds pursuant to subdivision (a) of Section 25350.7, the amounts required to be deposited in the general fund of the county, in any month, pursuant to subdivision (a) shall be reduced by the amounts, if any, transferred by the Controller to the trustee for the certificates of participation or lease revenue bonds pursuant to subdivision (a) of Section 25350.7.

(2) If the county has elected to guarantee payment of its obligations under an agreement to finance the lease or lease-purchase of property through the execution and delivery or issuance, as the case may be, of certificates of participation or lease revenue bonds pursuant to subdivision (b) of Section 25350.7, the amounts required to be deposited in the general fund of the county, in any month, pursuant to subdivision (a) shall be reduced by the amounts transferred by the Controller to the trustee for the certificates of participation or lease revenue bonds pursuant to subdivision (b) of Section 25350.7.

(c) This section shall not take effect unless and until (1) a plan of adjustment is confirmed in Case No. SA-94-22272-JR in the United States Bankruptcy Court for the Central District of California, or (2) a trustee is appointed pursuant to Chapter 10 (commencing with Section 30400).

(d) In enacting this section, the Legislature intends that the provisions of Chapter 746 of the Statutes of 1995 shall not be utilized to justify reductions in existing bus and paratransit services.

(e) The modification authorized by this section does not apply to the City of Laguna Beach.

(f) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 43. Section 50022.5 of the Government Code is amended to read:

50022.5. Nothing contained in this article shall be deemed to relieve any local agency from the requirement of publishing in full the ordinance that adopts any code, and all provisions applicable to the publication shall be fully carried out.

SEC. 44. Section 53069.8 of the Government Code is amended to read:

53069.8. (a) The board of supervisors of any county may contract on behalf of the sheriff of that county, and the legislative body of any city may contract on behalf of the chief of police of that city, to provide supplemental law enforcement services to private individuals or private entities to preserve the peace at special events or occurrences that happen on an occasional basis. Contracts entered into pursuant to this section shall provide for full reimbursement to the county or city of the actual costs of providing those services, as determined by the county auditor or auditor-controller, or by the city, as the case may be.

(b) The services provided pursuant to this section shall be rendered by regularly appointed full-time peace officers, as defined in Section 830.1 of the Penal Code, or as negotiated with the respective certified employee organizations.

(c) Peace officer rates of pay shall be governed by a memorandum of understanding.

(d) A contract entered into pursuant to this section shall encompass only law enforcement duties and not services authorized to be provided by a private patrol operator, as defined in Section 7582.1 of the Business and Professions Code.

(e) Contracting for law enforcement services, as authorized by this section, shall not reduce the normal and regular ongoing service that the county, agency of the county, or city otherwise would provide .

SEC. 45. The heading of Title 7.91 (commencing with Section 67910) of the Government Code is amended and renumbered to read:

TITLE 7.87. PLACER COUNTY TRANSPORTATION PLANNING AGENCY

SEC. 46. The heading of Title 7.92 (commencing with Section 67920) of the Government Code is amended and renumbered to read:

TITLE 7.88. NEVADA COUNTY TRANSPORTATION PLANNING AGENCY

SEC. 47. The heading of Title 7.93 (commencing with Section 67930) of the Government Code is amended and renumbered to read:

TITLE 7.89. TRANSPORTATION AGENCY OF MONTEREY COUNTY

SEC. 48. Section 69911 of the Government Code is amended to read:

69911. In the County of Kern, a majority of the judges of the superior court may appoint the following officers and employees whose salaries shall be:

Number	Title	Range
1	Superior Court Executive Officer/Jury Commissioner	64.3
3	Principal Attorney	62.0 or,
	Senior Attorney OR	59.2 or,
	Associate Attorney OR	56.3 or,
	Deputy Attorney OR	53.5

1	Court Commissioner	75–85% of a Superior Court judge's annual salary
1	Senior Juvenile Court Referee	75–85% of a Superior Court judge's annual salary
1	Court Services Manager	53.1
1	Superior Court Calendar Coordinator	47.9
1	Departmental Systems Coordinator II	54.8
1	Probate Examiner	48.5
13	Assistant Secretary, Superior Court	44.0
22	Court Reporter	55.4
1	Asst. Clerk of the Court	60.7
1	Dept. Systems Coord. I	52.8
1	Data Entry OP II	39.4
1	Account Clerk IV	44.4
2	Account Clerk II OR	38.9
	Account Clerk I	36.1
1	Records Clerk	41.2
2	Microphotographer	40.3
2	Asst. Chief Deputy Clerk	52.6
1	CJIS Coord.	49.6
4	Supv. Superior Court Clerk	49.6
24	Superior Court Clerk II OR	47.4
	Superior Court Clerk I	43.8
10	Deputy Clerk III	45.8
32	Deputy Clerk II OR	43.7
	Deputy Clerk I	41.4
4	Typist Clerk II OR	38.1
	Typist Clerk I	35.3
1	Clerk III	40.3
2	Clerk II OR	37.6
	Clerk I	34.8
1	Senior Secretary	44.5

The salary range set forth above is provided for in the salary schedule of the Kern County salary ordinance.

All personnel appointed pursuant to this section shall be noncivil service and shall serve at the pleasure of the majority of the judges. With the approval of the board of supervisors, the majority of the judges may establish any additional positions as are required, and, with the approval of the board of supervisors, may appoint and employ additional commissioners, officers, assistants, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. Rates of compensation of all positions assigned to the superior court may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court. Any additional appointments or changes in compensation made pursuant to this section shall be on an interim basis and shall expire on the effective date of appropriate ratifying or modifying state legislation.

All personnel appointed pursuant to this section shall be entitled to the same employee benefits, with the exception of court holidays, that are provided to all other county employees by the board of supervisors.

SEC. 49. Section 73665.5 of the Government Code is amended to read:

73665.5. (a) There shall be one marshal for each division of the district. On and after January 1, 1994, the following shall apply:

(1) The elected constable of the North Humboldt Judicial District shall continue in office as the marshal of the North Humboldt Division until the expiration of his or her current elected term of office. Until the expiration of his or her current term, the marshal shall receive the same salary and benefits to which he or she was entitled as constable.

(2) The elected marshal of the Eureka Judicial District shall continue in office as the marshal of the Eureka Division until the expiration of his or her current elected term of office. Until the expiration of his or her current

term, the marshal shall receive the same salary and benefits to which he or she was entitled as marshal.

(3) The elected constable on the Eel River Judicial District shall continue in office as the marshal of the Eel River Division until the expiration of his or her current elected term in office. Until the expiration of his or her current term, the marshal shall receive the same salary and benefits to which he or she was entitled as constable.

(4) The marshal may appoint in his or her division, with the approval of the presiding judge and the concurrence of the board of supervisors, the following officers:

(A) In the North Humboldt Division, one deputy marshal and one legal office assistant I/II.

(B) In the Eureka Division, one chief deputy marshal, three deputy marshals I/II, one senior legal office assistant, and one legal office assistant I/II.

(C) In the Eel River Division, one deputy marshal and one legal office assistant I/II.

This paragraph is not intended, and shall not be construed, to limit the county from changing the number or types of positions set forth herein.

(b) Notwithstanding any other provision of law, in the event of a vacancy in the position of marshal in any division, whether prior to or subsequent to the expiration of the then current term, an appointment to fill that vacancy shall be made by the presiding judge of that division with the concurrence of the board of supervisors. Each appointed marshal shall serve at the pleasure of the presiding judge and may be removed from office in accordance with any appropriate county personnel resolutions.

SEC. 50. Section 1250.9 of the Health and Safety Code is amended and renumbered to read:

128600. (a) The Legislature finds and declares that the oversight and reporting requirements of the demonstration project established in this section are equal to or exceed similar licensing standards for other health facilities.

(a) The Office of Statewide Health Planning and Development shall conduct a demonstration project to evaluate the accommodation of postsurgical care patients for periods not exceeding two days, except that the attending physician and surgeon may require that the stay be extended to no more than three days.

(b) (1) The demonstration project shall operate for a period not to exceed six years, for no more than 12 project sites, one of which shall be located in Fresno County. However, the demonstration project shall be extended an additional six years, to September 30, 2000, only for those project sites that were approved by the Office of Statewide Health Planning and Development and operational prior to January 1, 1994.

(2) Any of the 12 project sites may be distinct parts of health facilities, or any of those sites may be physically freestanding from health facilities. None of the project sites that are designated as distinct parts of health facilities, shall be located in the service area of any one of the six freestanding project sites. None of the project sites that are designated as distinct parts of health facilities shall have a service area that overlaps with any one or more service areas of the freestanding pilot sites. For the purposes of this section, service area shall be defined by the office.

(c) (1) The office shall establish standards for participation commensurate with the needs of postsurgical care patients requiring temporary nursing services following outpatient surgical procedures.

(2) In preparing the standards for participation, the office may, as appropriate, consult with the State Department of Health Services and a technical advisory committee that may be appointed by the Director of the Office of Statewide Health Planning and Development. The committee shall have no more than eight members, all of whom shall be experts in health care, as determined by the director of the office. One of the members of the committee shall, as determined by the director of the office, have specific expertise in the area of pediatric surgery and recovery care.

(3) If a technical advisory committee is established by the director of the office, members of the committee shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the committee.

(d) Not later than six months prior to the conclusion of the demonstration project, the office shall submit an evaluation of the demonstration project to the Legislature on the effectiveness and safety of the demonstration project in providing recovery services to patients receiving outpatient surgical services. The office shall include, as part of the evaluation, recommendations regarding the establishment of a new license category or amendment of existing licensing standards.

(e) The office shall establish and administer the demonstration project in facilities with no more than 20 beds that continuously meet the standards of skilled nursing facilities licensed under subdivision (c) of Section 1250, except that the office may, as appropriate and unless a danger to patients would be created, eliminate or modify the standards. This section does not prohibit general acute care hospitals from participating in the demonstration project. The office may waive those building standards applicable to a project site that is a distinct part of a health facility that are inappropriate, as determined by the office, to the demonstration project. Notwithstanding health facility licensing regulations contained in Division 5 (commencing with Section 70001) of Title 22 of the California Code of Regulations, a project site that is a distinct part of a health facility shall comply with all standards for participation established by the office and with all regulations adopted by the office to implement this section. A project site that is a distinct part of a health facility shall not, for the duration of the pilot project, be subject to any provisions of Division 5 (commencing with Section 70001) of Title 22 of the California Code of Regulations that conflict, as determined by the office, with the demonstration project standards or regulations.

(f) The office shall issue a facility identification number to each facility selected for participation in the demonstration project.

(g) Persons who wish to establish recovery care programs shall make application to the office for inclusion in the pilot program. Applications shall be made on forms provided by the office and shall contain sufficient information determined as necessary by the office.

(h) As a condition of participation in the pilot program, each applicant shall agree to provide statistical data and patient information that the office deems necessary for effective evaluation. It is the intent of the Legislature that the office shall develop procedures to assure the confidentiality of patient information and shall disclose patient information, including name identification, only as is necessary pursuant to this section or any other law.

(i) Any authorized officer, employee, or agent of the office may, upon presentation of proper identification, enter and inspect any building or premises and any records, including patient records, of a pilot project participant at any reasonable time to review compliance with, or to prevent any violation of, this section or the regulations and standards adopted under this section.

(j) The office may suspend or withdraw approval of any or all pilot projects with notice, but without hearing, if it determines that patient safety is being jeopardized.

(k) The office may charge applicants and participants in the program a reasonable fee to cover its actual cost of administering the pilot program and the cost of any committee established by this section. The facilities participating in the pilot project shall pay fees that equal the amount of any increase in fiscal costs incurred by the state as a result of the extension of the pilot project until September 30, 2000, pursuant to subdivision (b).

(*l*) The office may contract with a medical consultant or other advisers as necessary, as determined by the office. Due to the necessity to expedite the demonstration project and its extremely specialized nature, the contracts shall be exempt from Section 10373 of the Public

Contract Code, and shall be considered sole-source contracts.

(m) The office may adopt emergency regulations to implement this section in accordance with Section 11346.1 of the Government Code, except that the regulations shall be exempt from the requirements of subdivisions (e), (f), and (g) of that section. The regulations shall be deemed emergency regulations for the purposes of Section 11346.1.

Applications to establish any of the four project sites authorized by the amendments made to this section by Chapter 949 of the Statutes of 1988 shall be considered by the office from among the applications submitted to it in response to its initial request for proposal process.

(n) Any administrative opinion, decision, waiver, permit, or finding issued by the office prior to July 1, 1990, with respect to any of the demonstration projects approved by the office prior to July 1, 1990, shall automatically be extended by the office to remain fully effective as long as the demonstration projects are required to operate pursuant to this section.

(o) The office shall not grant approval to a postsurgical recovery care facility, as defined in Section 97500.111 of Title 22 of the California Code of Regulations, that is freestanding, as defined in Section 97500.49 of Title 22 of the California Code of Regulations, to begin operation as a participating demonstration project if it is located in the County of Solano.

(p) Participants in the demonstration program for postsurgical recovery facilities shall not be precluded from receiving reimbursement from, or conducting good faith negotiations with, a third party payor solely on the basis that the participant is engaged in a demonstration program and accordingly is not licensed.

SEC. 51. Section 1597.15 of the Health and Safety Code is amended to read:

1597.15. (a) The director shall authorize the University of California to conduct a pilot project pursuant to this section for a period not to extend 24 months beyond the date that funding is available for

expenditure for the pilot project. The purpose of the pilot project is to test the feasibility of permitting family day care home providers and child day care center staff to undertake gastric tube feeding or the administration of medication through nebulizers under the conditions and with the precautions specified in subdivision (c).

(b) Notwithstanding any other provision of law, upon authorization from the director pursuant to subdivision (a), child day care center and family day care home licensees and staff selected by the principal investigator of the pilot project, to be known as the Access Project, or his or her staff shall be authorized to undertake gastrostomy tube feeding or the administration of medication through nebulizers on children enrolled in their facilities.

(c) For the purposes of the pilot project, the following precautions shall be taken:

(1) The principal investigator selected by the University of California shall be a person who is licensed to practice medicine in the state and is experienced in supervising programs in which nonmedical personnel perform minor health procedures.

(2) The availability of, and interaction with, experienced nurses with appropriate experience, as determined by the principal investigator, shall be part of the study design.

(3) Only children with explicit and signed permission from their personal physicians shall be included in the pilot project.

(d) The University of California shall notify the department of any family day care provider or child day care center staff selected to participate in the training and procedures described in subdivision (b) prior to undertaking these procedures.

(e) Eighteen months after the date funding for the proposed pilot became available for expenditure, the principal investigator of the Access Project shall submit an evaluation of the project to the Assembly Human Services Committee and the Senate Health and Human Services Committee of the Legislature. In preparing the

evaluation, the Access Project shall consult with representatives from the State Department of Health Services, the department, family day care associations, family resource centers and networks, the child care center provider community, and child care resource and referral agencies. The principal investigator of the Access Project shall consult with the department to determine the additional data necessary for the department to make use of the evaluation. The evaluation shall include, but not be limited to, all of the following:

(1) The number of family day care home providers who participated in the project, with information identifying the procedure the provider was trained in and his or her licensed capacity and actual enrollment.

(2) The number of child day care center staff who participated in the project, with information identifying the procedure the staff was trained in, the licensed capacity and actual enrollment of the program, and the number of staff overall.

(3) The number of children who were able to be served in licensed child care programs with trained family day care home providers or child day care center staff.

(4) Overall impressions, problems encountered, and satisfaction with the pilot project by providers and staff.

(5) Overall impressions, problems encountered, and satisfaction with the pilot project by parents and children.

(6) Overall impressions, problems encountered, and satisfaction with the pilot project by licensing staff.

(7) Overall impressions, problems encountered, and satisfaction with the pilot project by those providing the training, backup, and monitoring, of a nonlicensing nature.

(8) Input from providers, staff, trainers, parents, and children as appropriate about the effectiveness of the pilot project.

(9) An assessment of the adequacy of the training, including curriculum and core competencies for the health care procedures taught; teaching methods used in

the project; and the quality of health care procedures provided, including errors and incidents.

(10) The impact on health and safety from engaging in these procedures on the child needing the procedure and the other children and staff in the program, where measurable.

(11) The impact of the pilot project on increasing the ability of child care programs to serve children with special health needs.

(12) The number of nurse visits required for initial placement in the child care setting.

(13) The need for a nurse with appropriate experience, as determined by the principal investigator, after placement is arranged and initiated as an adjunct to support each child's own physician or physicians.

(14) The cost of providing the training and services.

(15) Recommendations as to whether the pilot project should be expanded to enable family day care home providers and child day care center staff throughout the state to undertake these procedures and under what specific conditions, with accompanying rationales.

(16) Recommendations for other possible procedures to be authorized in a pilot project with the reasons for those recommendations.

(17) The cost of the care provided in the project, the likely cost of the care if performed by the child day care licensees or staff pursuant to the project, and the cost for provision of that care by the child's current care providers, specifically including the cost of nursing services.

(18) The number of Medi-Cal recipients participating in the project.

(f) No provision of this section applies to the Regents of the University of California unless the Regents, by appropriate resolution, make it applicable. It is the intent of the Legislature that the project be funded from non-General Fund resources.

(g) This section shall remain in effect only until two years from the date funding is available for expenditure for the pilot project established pursuant to this section

and as of that date shall be repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends that date. The director shall notify the Chief Clerk of the Assembly in writing of the date this section is repealed and the Chief Clerk shall publish the notification in the Assembly Journal.

SEC. 52. Section 1771 of the Health and Safety Code is amended to read:

1771. Unless the context otherwise requires, the definitions in this section govern the interpretation of this chapter.

(a) (1) ‘‘Affinity group’’ means a grouping of individuals sharing a common interest, philosophy, or connection (e.g., military officers, religion).

(2) ‘‘Annual report’’ means audited financial statements and reserve calculations (as required by Sections 1792.2 and 1793), with accompanying certified public accountant’s opinions thereon, resident lists, evidence of fidelity continuing care bond, and certification that the contract in use for new residents has been approved by the department, all to be submitted to the department by each provider annually, as required by Section 1790.

(3) ‘‘Applicant’’ means any entity that submits an application to the department for a permit to sell deposit subscriptions and certificate of authority.

(b) [reserved]

(c) (1) ‘‘Cancellation’’ means to destroy the force and effect of an agreement or continuing care contract, by making or declaring it void or invalid.

(2) ‘‘Cancellation period’’ means the 90-day period, beginning when the transferor signs the continuing care contract, during which time the resident or transferor may rescind the continuing care contract.

(3) ‘‘Care’’ means nursing, medical, or other health related services, protection or supervision, assistance with the personal activities of daily living, or any combination of those services.

(4) ‘‘Cash equivalent’’ means certificates of deposit and United States treasury securities with a maturity of

five years or less. Possession and control of any of these instruments shall be transferred to the escrow agent or depository at the time the deposit is paid.

(5) ‘‘Certificate’’ or ‘‘certificate of authority’’ means the written authorization from the department for a specified provider to enter into one or more continuing care contracts at a single specified continuing care retirement community.

(6) ‘‘Condition’’ means a restriction or required action placed on a provisional or final certificate of authority by the department. A condition may limit the circumstances under which the provider may enter into any new contract, or may be a condition precedent to the issuance of a final certificate of authority.

(7) ‘‘Consideration’’ means some right, interest, profit, or benefit accruing to one party, or some forbearance, detriment, loss, or responsibility, given, suffered, or undertaken by the other.

(8) ‘‘Continuing care contract’’ means a written contract that includes a promise, expressed or implied, by a provider to provide one or more elements of care to an elderly resident for the duration of his or her life or for a term in excess of one year, in exchange for the payment of an entrance fee, the payment of periodic charges, or both types of payments. A continuing care contract may consist of one agreement or a series of agreements and may have other writings incorporated by reference. A life care contract, as defined in paragraph (1) of subdivision (*l*), is a type of continuing care contract.

(9) ‘‘Continuing care contract committee’’ means an advisory panel appointed pursuant to Section 1777.

(10) ‘‘Continuing care retirement community’’ (CCRC) means a facility where services promised in a continuing care contract are provided. A distinct phase of development approved by the department may be considered to be the continuing care retirement community when a project is being developed in successive multiple phases over a period of time. When the services are provided in a resident’s own home, the

homes into which the provider takes those services collectively are considered part of the community.

(11) ‘‘Control’’ means the power to direct or cause the direction of the management and policies of an operator of a continuing care retirement community, whether through the ownership of voting securities, by contract, or otherwise. A parent or sole corporate member of a corporation may exhibit control of the operator of the continuing care retirement community through direct participation in the initiation or approval of policies directly affecting the operations, including, but not limited to, approval of budgets or approval of the continuing care retirement community administrator.

(d) (1) ‘‘Department’’ means the State Department of Social Services.

(2) ‘‘Deposit subscription’’ means a cash or cash equivalent payment made by a subscriber to an applicant and the escrow agent prior to the release of escrow during development or construction of a continuing care retirement community.

(3) ‘‘Deposit subscription agreement’’ means a written contract in compliance with Section 1780.4 entered into between the transferor and applicant. This agreement allows an applicant to accept deposit subscriptions prior to the issuance of a provisional certificate of authority.

(4) ‘‘Depository’’ means a bank or institution that is a member of the Federal Deposit Insurance Corporation or a comparable title insurance program. The department’s approval of the depository shall be based, in part, upon its capability to ensure the safety of funds and properties entrusted to it and capable and willing to perform the obligations of the depository pursuant to the escrow agreement and this chapter. The depository may be the same entity as the escrow agent.

(5) ‘‘Director’’ means the Director of the State Department of Social Services.

(e) (1) ‘‘Elderly’’ means an individual who is 60 years of age or older.

(2) ‘‘Entity’’ means an organization or being that possesses separate existence for tax purposes. Entity includes a person, sole proprietorship, estate, trust, association, joint venture, partnership, or corporation.

(3) ‘‘Entrance fee’’ means an initial or deferred transfer of consideration made or promised to be made by a person entering into a continuing care contract, for the purpose of assuring care or related services pursuant to that continuing care contract or as full or partial payment for the promise to provide one or more elements of care for the term of the continuing care contract. An entrance fee includes the purchase price of a condominium, cooperative, or other interest sold in connection with a promise of continuing care. The entrance fee may include a previously paid deposit subscription, which is credited to the total entrance fee due at the time the transferor signs the continuing care contract. An entrance fee that is greater than 12 times the monthly fee shall be presumed to imply a promise to provide care for more than one year. The term ‘‘accommodation fee’’ may be synonymously used to mean an entrance fee.

(4) ‘‘Equity’’ means the residual value of a business or property beyond any mortgage or deed of trust thereon and liability therein.

(5) ‘‘Equity project’’ means a continuing care development project in which the transferors are given an equity interest in the continuing care retirement community property or in a transferable membership in a resident’s association.

(6) ‘‘Escrow agent’’ means a bank or institution, including, but not limited to, a title insurance company, approved by the department as capable of ensuring the safety of the funds and properties entrusted to it and capable and willing to perform the terms of the escrow pursuant to the escrow agreement and this chapter.

(f) (1) ‘‘Facility’’ means any place or accommodation in which a provider undertakes to provide a resident with care or related services, whether or not the place or accommodation is constructed, owned, leased, rented, or otherwise contracted for by the provider.

(g) [reserved]

(h) [reserved]

(i) ‘‘Inactive certificate of authority’’ means a certificate that has been declared inactive under Section 1793.8 and renders its holder no longer authorized to enter into continuing care contracts, but still contractually obligated to continuing care residents and statutory compliance requirements.

(j) [reserved]

(k) [reserved]

(*l*) (1) ‘‘Life care contract’’ means a continuing care contract that includes a promise, expressed or implied, by a provider to provide routine services at all levels of care, including acute care and the services of physicians and surgeons, to a resident for the duration of his or her life. Care shall be provided in a continuing care retirement community having a comprehensive continuum of care, including a skilled nursing facility, under the ownership and supervision of the provider on or adjacent to the premises. In a life care contract, no change is made in the monthly fee based on level of service. A life care contract shall also include provisions to subsidize residents who become financially unable to pay their monthly care fees.

(2) ‘‘Life lease’’ means a landlord-tenant relationship in which the tenant obtains only the right to possess a defined living unit for life. In a life lease there is no obligation or intent to provide care and services to the tenant at any time, present or future.

(m) (1) ‘‘Monthly care fee’’ means the monthly charge to a resident for accommodations and services rendered, including care, board, or lodging, and any other periodic charges to the resident, determined on a monthly or other recurring basis, pursuant to the provisions of a continuing care contract. Monthly care fees are exclusive of periodic entrance fee payments or other prepayments.

(2) ‘‘Monthly fee contract’’ means a continuing care contract that provides by its terms for the monthly payment of a fee for accommodations and services rendered.

(n) (1) ‘‘Nonambulatory person’’ means a person who is unable to leave a building unassisted under emergency conditions, as described by Section 13131.

(o) [reserved]

(p) (1) ‘‘Per capita cost’’ means a continuing care retirement community’s operating expenses, excluding depreciation, divided by the average number of residents.

(2) ‘‘Permit to sell deposit subscriptions’’ means a written authorization by the department for an applicant to enter into one or more deposit subscription agreements at a single specified location.

(3) ‘‘Personal care’’ means assistance with personal activities of daily living, including dressing, feeding, toileting, bathing, grooming, mobility, and associated tasks, to help provide for and maintain physical and psychosocial comfort.

(4) ‘‘Personal care unit’’ means the living unit within a physical area of a continuing care retirement community specifically designed to provide ongoing personal care. A personal care unit is synonymous with an assisted living unit.

(5) ‘‘Prepaid contract’’ means a continuing care contract in which the monthly care fee, if any, may not be adjusted to cover the actual cost of care and services.

(6) ‘‘Processing fee’’ means a payment by the transferor to cover administrative costs of processing the application of a subscriber or prospective resident.

(7) ‘‘Promise to provide care’’ means any expressed or implied representation that care will be provided or will be available, such as by preferred access, whether the representation is part of a continuing care contract, other agreement, or series of agreements, or is contained in any advertisement, brochure, or other material, either written or oral.

(8) ‘‘Proposes’’ means a representation that an applicant or provider plans to make a future promise to provide care, which may be subject to the happening of certain events, such as continuing care retirement

community construction or obtaining a certificate of authority.

(9) ‘‘Provider’’ means an entity that provides, promises to provide, or proposes to promise to provide, care for life or for more than one year. ‘‘Provider’’ includes any entity that controls the entity that promises care as determined by the department. A homeowner’s association, cooperative, or condominium association shall not be a provider.

(10) ‘‘Provisional certificate of authority’’ means written authorization by the department that allows the provider to enter into continuing care contracts. This provisional certificate is issued after the conditions defined in Section 1786 have been met and is issued for a term specified by subdivision (b) of Section 1786.

(q) [reserved]

(r) (1) ‘‘Refundable reserve’’ means the amount calculated to ensure the availability of funds for specified refunds of entrance fees.

(2) ‘‘Refundable contract’’ means a continuing care contract form that includes promises, expressed or implied, to pay refunds of entrance fees or to repurchase the transferor’s unit, membership, stock, or other interest in the continuing care retirement community when the specified refund right is not fully amortized by the end of the sixth year of residency. A lump sum payment to a resident after termination of a continuing care contract that is conditioned upon resale of a unit shall not be considered a refund and shall not be advertised as a refund.

(3) ‘‘Reservation fee’’ means cash received by an applicant from an interested individual during a market test feasibility study that complies with subdivision (b) of Section 1771.6.

(4) ‘‘Resident’’ means a person who enters into a continuing care contract with a provider, or who is designated in a continuing care contract to be a person being provided or to be provided services, including care, board, or lodging.

(5) ‘‘Residential care facility for the elderly’’ means a housing arrangement as defined by Section 1569.2.

(6) ‘‘Residential living unit’’ means a living unit in a continuing care retirement community that is included in the residential care facility for the elderly license capacity, but not used exclusively for personal care or nursing services.

(s) ‘‘Subscriber’’ means a person who has applied to be a resident in a continuing care retirement community under development or construction, and who has entered into a deposit subscription agreement.

(t) (1) ‘‘Termination’’ means the ending of a continuing care contract as provided for in the terms of the continuing care contract.

(2) ‘‘Transfer’’ means conveyance of a right, title, or interest.

(3) ‘‘Transfer fee’’ means a levy by the provider against the proceeds from the sale of a transferor’s equity interest.

(4) ‘‘Transfer trauma’’ means death, depression, or regressive behavior caused by the abrupt and involuntary transfer of an elderly resident from one home to another, resulting in a loss of familiar physical environment, loss of well-known neighbors, attendants, nurses and medical personnel, the stress of an abrupt break in the small routines of daily life, and the major loss of visits from friends and relatives who may be unable to reach the new facility.

(5) ‘‘Transferor’’ means a person who transfers or promises to transfer a sum of money or property for the purpose of assuring care or related services pursuant to a continuing care contract, whether for the benefit of the transferor or another.

SEC. 53. Section 1779 of the Health and Safety Code is amended to read:

1779. (a) An application for a permit to sell deposit subscriptions and certificate of authority shall be filed with the department, as set forth in this chapter, in any of the following circumstances:

(1) Prior to entering into any continuing care contracts or any deposit subscription agreements.

(2) Prior to initiating construction of a prospective continuing care retirement community.

(3) Prior to initiating construction on a new phase or expansion of an existing continuing care retirement community. An expansion has occurred when there is an increase in Residential Care Facility for the Elderly license capacity, an increase in the number of units at the continuing care retirement community, an increase in the number of skilled nursing beds, or additions to or replacement of existing continuing care retirement community structures that affects obligations to current residents. The department may waive all or portions of the application contents requirements under Section 1779.4 for an expansion of an existing continuing care retirement community.

(4) Prior to converting an existing structure to a continuing care retirement community.

(5) Prior to recommencing marketing on a planned facility when the applicant has previously forfeited a permit to sell deposit subscriptions pursuant to Section 1793.7.

(6) Prior to executing new continuing care contracts after a provisional or final certificate of authority has been inactivated, revoked, surrendered, or forfeited.

(7) Prior to closing the sale or transfer of a continuing care retirement community.

(b) If the provider undergoes an organizational change, including, but not limited to, a change in structure, separation, or merger, a new application shall be required and a new certificate of authority must be issued by the department before any continuing care contracts may be executed by the new entity.

(c) A new application is not required for an entity name change if there is no change in the entity structure or management. If the provider undergoes a name change, the provider shall notify the department of the name change and shall return the previously issued

certificate of authority for reissuance under the new corporate name.

SEC. 54. Section 1779.4 of the Health and Safety Code is amended to read:

1779.4. An application shall contain all of the following:

(a) The name and business address of the applicant.

(b) An itemization of the total fee calculation, including sources of figures used, and a check in the amount of 80 percent of the total application fee.

(c) The name, address, and a description of the real property of the continuing care retirement community.

(d) The estimated number of continuing care residents of the continuing care retirement community.

(e) A description of the proposed continuing care retirement community, including the services and care to be available for residents or provided to residents, or both.

(f) A statement indicating whether the application is for a certificate of authority to enter into life care contracts.

(g) Documentation evidencing a preliminary approval for licensure from the Community Care Licensing Division of the State Department of Social Services or the Licensing and Certification Division of the State Department of Health Services, as appropriate.

(h) If the applicant is an individual, a statement disclosing any revocation or other disciplinary action taken, or in the process of being taken, against a license, permit, or certificate held or previously held by the applicant.

(i) A description of any matter in which any principal involved with the proposed continuing care retirement community has been convicted of a felony or pleaded nolo contendere to a felony charge, or been held liable or enjoined in a civil action by final judgment, if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or the misappropriation of property. For the purpose of this subdivision, ‘‘principal’’ means any representative of the developer or applicant including a

general partner, chief executive officer, or chief operating officer who has significant decisionmaking authority with respect to the proposed continuing care retirement community.

(j) If the applicant is an entity other than an individual, the following information also shall be submitted:

(1) A statement identifying the type of legal entity and listing the interest and extent of the interest of each principal in the legal entity. For the purposes of this paragraph, ''principal'' means any person or entity having a financial interest in the legal entity of 10 percent or more. When the application is submitted in the name of a corporation, the parent, sole corporate shareholder, or sole corporate member who controls the operation of the continuing care retirement community shall be listed as an applicant. When multiple corporate applicants exist, they shall be listed jointly by corporate name on the application, and the certificate of authority shall be issued in the joint names of the corporations. When the application is submitted by a partnership, all general partners shall be listed as applicants and the certificate of authority shall be issued in the joint names of the general partners.

(2) The names of the members of the board of directors, the trustees, the general partners, or other responsible officers of the legal entity.

(3) A statement as to whether the applicant was or is affiliated with a religious, charitable, nonprofit or for-profit organization, and the extent of any affiliation. The statement shall also include the extent, if any, to which the affiliate organization will be responsible for the financial and contract obligations of the applicant and shall be signed by a responsible officer of the affiliate organization.

(4) A statement identifying any parent corporation or other affiliate corporation, the primary activities, and the interest in the applicant held by each entity.

(5) Copies of all contracts, management agreements, or other documents setting forth the relationships of the entities.

(6) A statement as to whether the applicant, a principal, a parent, affiliate, or subsidiary corporation, any other affiliate entity, any responsible employee, manager, or board member, or anyone who otherwise profits from the continuing care retirement community has had applied against it any injunctive or restrictive order of a court of record, or any suspension or revocation of any state or federal license, permit, or certificate, arising out of or relating to business activity of health or nonmedical care, including, but not limited to, actions affecting a license to operate a health care institution, nursing home, intermediate care facility, hospital, home health agency, residential care facility for the elderly, community care facility, or child day care facility.

(k) A description of the business experience of the applicant in the operation or management of similar facilities.

(*l*) A copy of any advertising material regarding the proposed continuing care retirement community prepared for distribution or publication.

(m) Evidence of the bonds required by Section 1789.8.

(n) Copies of the proposed continuing care contracts to be entered into with residents of the continuing care retirement community.

(o) A copy of the proposed deposit subscription agreement form.

(p) The name of the proposed escrow agent and depository.

(q) Copies of all escrow agreements.

(r) A statement of any periodic fees to be paid by residents, the components and services considered in determining such fees, and the manner by which the provider may adjust these fees in the future. If the continuing care retirement community is already in operation, or if the provider operates one or more similar continuing care retirement communities within this state, the statement shall include tables showing the

frequency and each percentage increase in periodic rates at each continuing care retirement community for the previous five years, or any shorter period for which each continuing care retirement community may have been operated by the provider or his or her predecessor in interest.

(s) A statement of the provisions that have been made, or will be made, to provide reserve funding or security by the provider to enable the provider to fully perform his or her obligations pursuant to continuing care contracts, including, but not limited to, the establishment of escrow accounts in financial institutions, trusts, or reserve funds.

(t) A copy of audited financial statements for the three most recent fiscal years of the applicant or any shorter period of time the applicant has been in existence, prepared in accordance with generally accepted accounting principles and accompanied by an independent auditor's report from a reputable firm of certified public accountants. The audited financial statements shall be accompanied by a statement signed and dated by both the chief financial officer and chief executive officer for the identified corporation, or by each general partner, that the financial statements are complete, true, and correct in all material matters to the best of their knowledge.

(u) Unaudited interim financial statements shall be included if the applicant's fiscal year ended more than 90 days prior to the date of filing. The statements shall be either quarterly or monthly, and prepared on the same basis as the annual audited financial statements or other basis acceptable to the department. The period between the end of the most recent fiscal year for which audited financial statements are submitted and a date not more than 90 days prior to the date the application is filed shall be covered in the unaudited interim financial statements.

(v) A financial and marketing feasibility study prepared by a firm acceptable to the department. The study shall include or address, as appropriate, all of the following items:

(1) A narrative describing the applicant and its prior experience, qualifications, and management, including a descriptive analysis of the proposed continuing care retirement community and its service package, fee structure, and anticipated opening date.

(2) A narrative describing the financing and construction plans for the proposed continuing care retirement community, including a statement of the anticipated source and application of the funds to be used in the purchase, lease, rental, or construction. This statement shall include, but not be limited to, all of the following:

(A) A description of any mortgage loan or other long-term financing intended to be used for the financing of the continuing care retirement community, including the anticipated terms and costs of the financing. This indebtedness shall not exceed the appraised value of the continuing care retirement community.

(B) Equity to be contributed by the applicant.

(C) Other sources of funds, including entrance fees, if applicable.

(D) An estimate of the cost of purchasing, leasing, renting, designing, or constructing and equipping the continuing care retirement community, including, but not limited to, financing expense, legal expense, land costs, occupancy development costs, and all other similar costs that the provider expects to incur, or become obligated for, prior to the commencement of operation.

(E) Interest expense, insurance premiums, and property taxes prior to opening.

(F) An estimate of any proposed continuing care retirement community reserves required for items such as debt service, insurance premiums, and operations.

(G) An estimate of any funds that are anticipated to be necessary to fund startup losses and to assure full performance of the obligations of the provider pursuant to continuing care contracts, including, but not limited to, any reserve fund escrow.

(3) An analysis of the potential market, addressing such items as:

(A) Service area, including its demographic, economic, and growth characteristics.

(B) Forecasts of penetration based on the proposed fee structure.

(C) Existing and planned competition in and about the primary service area.

(4) A detailed description of the sales and marketing plan, addressing such items as:

(A) Marketing schedule, anticipated sales, and cancellation rates.

(B) Month-by-month forecast of unit sales through sellout.

(C) A marketing plan describing the methods, staffing, and advertising media.

(D) An estimate of the total entrance fees to be received from residents prior to completion of occupancy.

(5) Projections of move-in rates, deposit subscription fee collections, couple mix by unit type, age distribution, care and nursing unit utilization, and unit turnover or resale rates.

(6) A description or analysis of development-period costs and revenues. This item should be provided to the department on a quarterly basis, throughout the development of the proposed continuing care retirement community.

(w) Projected annual financial statements for a period commencing on the first day of the first fiscal year, following the most recent year for which an audited financial statement has been provided, through at least the fifth year of operations.

(1) The projected annual financial statements shall be on an accrual basis using the same accounting principles and procedures as the audited financial statements furnished pursuant to paragraph (u), but need not be audited.

(2) Separate projected annual cash-flow statements shall be provided. The statements shall cover the entire duration of debt, and be presented on a quarterly basis during the preopening, construction, and fill-up periods.

If the real property is leased, the cash-flow statement shall project the feasibility of closing the continuing care retirement community at the end of the lease period.

(A) The projected annual cash-flow statements shall be submitted, using prevailing rates of interest, with no increase of revenues and expenses due to inflation, as one set of assumptions.

(B) The projected annual cash-flow statements shall include the following:

(i) A detailed listing, including a full explanation of all assumptions used in preparing the projections, plus supporting supplementary schedules and calculations, all to be consistent with the financial and marketing feasibility study furnished pursuant to paragraph (v), as may be required by the department for use in evaluating the feasibility of the proposed continuing care retirement community.

(ii) Cash flow from monthly operations, including, but not limited to, monthly fees received from continuing care contracts, medical unit fees if applicable, other periodic fees, and gifts and bequests used in operations less operating expenses.

(iii) Contractual cash flow from activities, including, but not limited to, presales, deposit subscription receipts, and entrance fee receipts less contract acquisition, marketing, and advertising expenditures.

(iv) Cash flow from financing activities, including, but not limited to, bond or loan proceeds less bond issue or loan costs and fees, debt service including CAL Mortgage Insurance premiums, trustee fees, principal and interest payments, leases, contracts, rental agreements, or other long-term financing.

(v) Cash flow from investment activities, including, but not limited to, construction progress payments, architect and engineering, furnishings, and equipment not included in the construction contract, project development, inspection and testing, marketable securities, investment earnings, and interfund transfers.

(vi) Increase or decrease in cash during the projection period.

(vii) The beginning cash balance, which means cash, marketable securities, reserves, and other funds on hand available and committed to the proposed continuing care retirement community.

(viii) Cash balance at the end of the period.

(ix) Details of the components of the ending cash balance shall be provided for each period presented, including, but not limited to, the ending cash balances for bond reserves, other reserve funds, deposit subscription funds, and construction funds balance.

(3) If the cash-flow statements required by subparagraph (B) indicate that the provider will have cash balances exceeding two months' projected operating expenses of the continuing care retirement community, a description of the manner in which the cash balances will be invested, and the persons who will be making the investment decisions, shall accompany the application.

(4) The applicant shall furnish further explanatory information, schedules, and calculations as required by the department on actuarial data used to project occupancy rate, unit type and couple mix, sex, age, and turnover, refund and sales rate subscription collection rates, a detailed operating budget, and projections of cash required for major repairs and improvements or on any other factor considered during the projected periods.

(x) A declaration acknowledging the requirement of executing and recording a Notice of Statutory Limitation on Transfer (hereinafter referred to as the notice), relating to continuing care retirement community property pursuant to this section.

(1) The notice shall be acknowledged so as to entitle it to be recorded, describe the property, and declare the applicant's intention to use all or part of the described property for the purposes of a continuing care retirement community pursuant to this chapter, and shall be in substantially the following form:

NOTICE OF STATUTORY LIMITATION ON TRANSFER

Notice is hereby given that the property described below is licensed, or proposed to be licensed, for use as a continuing care retirement community and accordingly, the use and transfer of the property is subject to the conditions and limitations as to use and transfer set forth in Sections 1773 and 1789.4 of the Health and Safety Code. This notice is recorded pursuant to subdivision (x) of Section 1779.4 of the Health and Safety Code.

The real property, which is legally owned by (insert the name of the legal owner) and is the subject of the statutory limitation to which this notice refers, is more particularly described as follows: (Insert the legal description and the assessor's parcel number of the real property to which this notice applies.)

(2) The notice shall remain in effect until notice of release is given by the State Department of Social Services Continuing Care Contract Branch. The State Department of Social Services Continuing Care Contracts Branch shall execute and record a release of the notice upon proof of complete performance of all obligations to transferors.

(3) Unless a notice has already been recorded with respect to the land on which the applicant or provider is operating or intends to operate a continuing care retirement community, prior to the date of execution of any trust deed, mortgage, or any other lien or encumbrance securing or evidencing the payment of money and affecting land on which the applicant or provider intends to operate a continuing care retirement community, the applicant or provider shall give the department written notice of the proposed encumbrance. Upon the giving of notice to the department, the applicant or provider shall execute and record the Notice of Statutory Limitation on Transfer in the office of the county recorder in each county in which any portion of the continuing care retirement community is located.

(4) In the event that the applicant or provider and the owner of record are not the same entity or individual on the date on which execution and recordation of the notice is required, the applicant or provider shall serve a copy of the notice on the owner of record by certified mail.

(5) The notice shall be indexed by the recorder in the grantor-grantee index to the name of the owner of record and the name of the applicant or provider.

(y) A statement that the applicant will keep the department informed of any material changes to the proposed continuing care retirement community plan as reflected in the application form and attachments.

(z) Any other information as may be required by the department for the proper administration and enforcement of this chapter.

SEC. 55. Section 11837.9 of the Health and Safety Code is amended to read:

11837.9. As an element of the program, the probation department may provide any of the face-to-face interviews required pursuant to paragraph (1) of subdivision (a) of Section 11837.4 and may supplement any of the other services required to be provided by a program. The participation of the probation department shall be described in the amendment to the county alcohol program plan.

SEC. 56. Section 18062.8 of the Health and Safety Code is amended to read:

18062.8. It is unlawful for any manufacturer or distributor licensed under this part to do any of the following:

(a) Refuse or fail to deliver, in reasonable quantities and within a reasonable time after receipt of an order from a dealer having a franchise for the retail sale of any new manufactured home, mobilehome, or commercial coach sold or distributed by the manufacturer or distributor, any new manufactured home, mobilehome, or commercial coach or parts or accessories to new manufactured homes, mobilehomes, or commercial coaches that are covered by the franchise, if the mobilehome or commercial coach, parts or accessories

are publicly advertised as being available for delivery or actually being delivered. This subdivision is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer or distributor.

(b) Prevent or require or attempt to prevent or require, by contract or otherwise, any change in the capital structure of a dealership, if the dealer at all times meets any reasonable capital standards agreed to by the dealer and the manufacturer or distributor, and also provided that no change in capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor.

(c) Prevent or require, or attempt to prevent or require, a dealer to change the executive management of a dealership, other than the principal dealership operator or operators, if the franchise was granted the dealer in reliance upon the personal qualifications of that person or persons.

(d) Prevent or require, or attempt to prevent or require, by contract or otherwise, any dealer, or any officer, partner, or stockholder of any dealership, to participate in the sale or transfer of any part of the interest of any of them to any other person or persons. No dealer, officer, partner, or stockholder shall, however, have the right to sell, transfer, or assign the franchise, or any right thereunder, without the consent of the manufacturer or distributor if the consent is not unreasonably withheld.

(e) Prevent, or attempt to prevent, a dealer from receiving fair and reasonable compensation for the value of the franchised business. There shall be no transfer or assignment of the dealer’s franchise without the consent of the manufacturer or distributor, if the consent is not unreasonably withheld.

(f) Obtain money, goods, services, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and any other person, other than for

compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to, the dealer.

(g) Require a dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel that would relieve any person from liability imposed by this part or to require any controversy between a dealer and a manufacturer or distributor to be referred to any person other than the department, if the referral would be binding on the dealer. This subdivision does not, however, prohibit arbitration before an independent arbitrator.

(h) Increase the prices of manufactured homes, mobilehomes, or commercial coaches that the dealer ordered for private retail consumers prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer shall constitute evidence of each order. In the event of manufacturer price reductions, the amount of any reduction received by a dealer shall be passed on to the private retail consumer by the dealer if the retail price was negotiated on the basis of the previous higher price to the dealer. Price reductions shall apply to all manufactured homes, mobilehomes, and commercial coaches in the dealer's inventory that were subject to the price reduction. A price difference applicable to new model or series manufactured homes, mobilehomes, or commercial coaches at the time of the introduction of new models or series shall not be considered a price increase or price decrease. Price changes caused by either of the following shall not be subject to this subdivision:

(1) The addition to a manufactured home, mobilehome, or commercial coach of required or optional equipment pursuant to state or federal law.

(2) Revaluation of the United States dollar, in the case of foreign-made manufactured homes, mobilehomes, or commercial coaches.

(i) Fail to pay to a dealer, within a reasonable time following receipt of a valid claim by a dealer thereof, any payment agreed to be made by the manufacturer or

distributor to the dealer by reason of the fact that a new manufactured home, mobilehome, or commercial coach of a prior year model is in the dealer's inventory at the time of introduction of new model manufactured homes, mobilehomes, or commercial coaches. A manufacturer or distributor shall not authorize or enable any new model to be delivered by dealers at retail more than 30 days prior to the eligibility date of the model change allowance payment for prior year model manufactured homes, mobilehomes, or commercial coaches.

(j) Deny, to the surviving spouse or heirs designated by a deceased owner of a dealership, the opportunity to participate in the ownership of the dealership or successor dealership under a valid franchise for a reasonable time after the death of the owner.

(k) Offer any refunds or other types of inducements to any dealer or other person for the purchase of new manufactured homes, mobilehomes, or commercial coaches of a certain make and model to be sold to the state or any political subdivision of the state without making the same offer to all other dealers in the same make and model within the relevant market area.

(*l*) Employ a person as a distributor who has not been licensed pursuant to this chapter.

(m) Deny any dealer the right of free association with any other dealer for any lawful purpose.

(n) Compete with a dealer in the same make and model operating under an agreement or franchise from a manufacturer or distributor in the relevant market area. A manufacturer or distributor shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a bona fide retail operation that is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions.

(o) Unfairly discriminate among its franchisees with respect to warranty reimbursement or authority granted its franchisees to make warranty adjustments with retail customers.

(p) Sell manufactured homes, mobilehomes, or commercial coaches to persons not licensed under this part for resale, except as authorized pursuant to Section 18015.7 or 18062.9.

(q) Fail to exercise reasonable supervision over the activities of employees who negotiate or promote the sale of manufactured homes, mobilehomes, or commercial coaches.

SEC. 57. Section 18080.9 of the Health and Safety Code is amended to read:

18080.9. (a) An owner of a mobilehome park who obtains a final money judgment for unpaid rent against the registered owner of a manufactured home or mobilehome registered with the department may, subject to subdivision (b), perfect a lien against the manufactured home or mobilehome pursuant to Section 18080.7 by filing a form prescribed by the department. The priority of the lien shall be determined in accordance with Article 3 (commencing with Section 18085) and Article 4 (commencing with Section 18098). For purposes of a sale conducted pursuant to Section 18037.5, an owner of a mobilehome park filing a lien pursuant to this section shall be treated as a junior lienholder.

(b) Notwithstanding any other provision of law, the department shall accept, for the purposes of the perfection of a lien pursuant to this section, a certified copy of either the final money judgment or an abstract of the final money judgment in lieu of the certificate of title, registration card, or signatures otherwise required by subdivision (a) of Section 18080.7.

(c) Upon satisfaction of the final money judgment, a lien perfected pursuant to this section shall be released in accordance with Section 18100.5.

(d) A lien created pursuant to this section shall not be subject to execution pursuant to Chapter 3 (commencing

with Section 699.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure or in any other manner.

(e) If the final money judgment for unpaid rent against a registered owner covers any portion of the period for which a legal owner or junior lienholder is required to pay past due obligations of the registered owner pursuant to Section 798.56a of the Civil Code, the amount of the lien created by this section shall be reduced by the amount required to be paid by the legal owner or junior lienholder pursuant to Section 798.56a of the Civil Code.

(f) A surrender of ownership interest by the registered owner of a mobilehome or manufactured home to the legal owner shall operate as a matter of law to divest the registered owner of any claim to possession or title to the mobilehome or manufactured home and shall be effective upon acceptance of that surrender by the legal owner. Any judgment lien filed pursuant to this section on a mobilehome or manufactured home that is thereafter surrendered to the legal owner shall be extinguished by any of the following:

(1) If the proceeds of the sale of the surrendered mobilehome or manufactured home by the legal owner to a third party after the surrender is effective are not sufficient to satisfy the amount due to the legal owner by the registered owner under a security agreement, promissory note, or other debt instrument secured by the mobilehome or manufactured home.

(2) If the proceeds of the sale of the surrendered mobilehome or manufactured home by the legal owner to a third party after the surrender is effective are sufficient to satisfy the amount due the legal owner by the registered owner under a security agreement, promissory note, or other debt instrument secured by the mobilehome or manufactured home, but there are no surplus funds available for payment to the junior lienholder.

(3) Upon payment of any surplus proceeds owed to the junior lienholder if the proceeds of the sale of the surrendered mobilehome or manufactured home by the

legal owner to a third party after the surrender is effective exceed the amount due to the legal owner from the registered owner under the security agreement, promissory note, or other debt instrument secured by the mobilehome or manufactured home.

(g) The completion of a foreclosure on a mobilehome or manufactured home pursuant to Section 18037.5 shall divest the registered owner of title to the mobilehome or manufactured home by operation of law. The foreclosure shall (A) make any judgment lien created pursuant to this section invalid and unenforceable, and (B) extinguish and bar any levy upon a judgment lien perfected pursuant to this section. Except to the extent that surplus proceeds from the foreclosure sale were paid to the judgment creditor under the judgment lien perfected pursuant to this section, nothing in this subdivision shall be deemed to extinguish, satisfy, or reduce in any way the final money judgment owed by the former registered owner for unpaid rent.

(h) If the money judgment has been satisfied and the judgment creditor fails without just cause to comply with Section 18100.5 within 20 days from the date the judgment creditor's lien is satisfied, the judgment creditor is liable for all damages sustained by reason of that failure and shall also forfeit one hundred dollars ($100) to the person who sustained those damages. In any action to enforce this provision, the court shall award reasonable attorney's fees to the prevailing party. Where the prevailing party is someone other than the judgment creditor, the court shall order the department to remove the lien from the manufactured home or mobilehome record. A copy of the court order may be submitted to the department as evidence that the judgment creditor's lien has been satisfied.

SEC. 58. The heading of Chapter 7 (commencing with Section 18965) of Part 2.5 of Division 13 of the Health and Safety Code is repealed.

SEC. 59. The heading of Chapter 7 (commencing with Section 18949.25) of Part 2.5 of Division 13 of the Health and Safety Code is added, to read:

CHAPTER 7. CONSTRUCTION INSPECTORS, PLANS EXAMINERS, AND BUILDING OFFICIALS

SEC. 60. Section 18965 of the Health and Safety Code is amended and renumbered to read:

18949.25. For purposes of this chapter, ‘‘construction inspector’’ means any person who is hired or contracted by a local agency in a temporary or permanent capacity for the purpose of inspecting construction for structural, seismic safety, fire and life safety, or building system requirements of adopted uniform codes or standards, as applied to residential, commercial, or industrial buildings.

SEC. 61. Section 18966 of the Health and Safety Code is amended and renumbered to read:

18949.26. For purposes of this chapter, ‘‘plans examiner’’ means any person who is hired or contracted by a local agency in a temporary or permanent capacity for the purpose of performing construction plan review for structural, seismic safety, fire and life safety, or building system requirements of adopted uniform codes or standards, as applied to residential, commercial, or industrial buildings.

SEC. 62. Section 18967 of the Health and Safety Code is amended and renumbered to read:

18949.27. For purposes of this chapter, ‘‘building official’’ means the individual invested with the responsibility for overseeing local code enforcement activities, including administration of the building department, interpretation of code requirements, and direction of the code adoption process.

SEC. 63. Section 18968 of the Health and Safety Code is amended and renumbered to read:

18949.28. (a) All construction inspectors, plans examiners and building officials who are not exempt from the requirements of this chapter pursuant to subdivision (b), or previously certified, shall complete one year of verifiable experience in the appropriate field, and shall, within one year thereafter, obtain certification from a recognized state, national, or international association, as

determined by the local agency. The area of certification shall be closely related to the primary job function, as determined by the local agency.

(b) Any person who is currently and has continuously been employed as a construction inspector, plans examiner, or building official for not less than two years prior to the effective date of this section shall be exempt from the certification provisions of this section, unless and until that person obtains employment as a construction inspector, plans examiner, or building official with a different employer.

(c) Nothing in this article is intended to prohibit a local agency from prescribing additional criteria for the certification of construction inspectors, plans examiners, or building officials.

(d) Nothing in this chapter, as it relates to construction inspectors, plans examiners, or building officials, shall be construed to alter the requirements for licensure, or the jurisdiction, authority, or scope of practice, of architects pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, professional engineers pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, or land surveyors pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code.

SEC. 64. Section 18969 of the Health and Safety Code is amended and renumbered to read:

18949.29. All construction inspectors, plans examiners, and building officials shall complete a minimum of 45 hours of continuing education for every three-year period.

(a) Providers of continuing education may include any organizations affiliated with the code enforcement profession, community colleges, or other providers of similar quality, as determined by the local agency.

(b) For purposes of this section, ‘‘continuing education’’ is defined as that education relating to the enforcement of Title 24 of the California Code of Regulations, and any other locally enforced building and

construction standards, including, but not limited to, the model uniform codes adopted by the state. When a local agency selects a model code organization as a provider of continuing education or certification programs regarding the enforcement of a model code adopted by the state, the local agency shall give preference to the organization responsible for promulgating or drafting that model code.

SEC. 65. Section 18970 of the Health and Safety Code is amended and renumbered to read:

18949.30. This chapter does not apply to a registered professional engineer, licensed land surveyor, or licensed architect rendering construction inspection services, plan examination services, or building official services within the scope of his or her registration or licensure, except that this chapter applies to a registered professional engineer, licensed land surveyor, or licensed architect who is an employee of a local agency. This chapter does not apply to a construction inspector or plans examiner employed by any city or county fire department or district providing fire protection services.

SEC. 66. Section 18971 of the Health and Safety Code is amended and renumbered to read:

18949.31. The local agency shall bear the costs of certification, certification renewal, and continuing education, as mandated by this chapter. The local agency may impose fees, including, but not limited to, fees for construction inspection and plan checks, which may be used to cover the costs of compliance with this chapter. A local agency's actual costs of compliance with this chapter may include, but are not limited to, training and certification courses, certification exam and renewal fees, employee salary during training and certification courses, and mileage and other reimbursable costs incurred by the employee. The fees imposed to cover the costs of compliance with this chapter shall reflect these actual costs, and are not limited by Chapter 5 of Division 1 of Title 7.

SEC. 67. Section 25158.4 of the Health and Safety Code is amended to read:

25158.4. (a) On or before April 30, 1996, the department shall adopt regulations for the management of treatability studies.

(b) The regulations that are adopted pursuant to subdivision (a) shall be consistent with subdivisions (e) and (f) of Section 261.4 of Title 40 of the Code of Federal Regulations, as adopted pursuant to the federal act, provided that the regulations may apply to hazardous waste not regulated under the federal act, as well as to hazardous waste subject to regulation under the federal act.

(c) The department shall amend the regulations adopted pursuant to subdivision (a) to maintain consistency with subdivisions (e) and (f) of Section 261.4 of Title 40 of the Code of Federal Regulations, as adopted pursuant to the federal act.

(d) For purposes of this section, ''treatability study'' shall have the same meaning as in Section 260.10 of Title 40 of the Code of Federal Regulations, as adopted pursuant to the federal act.

(e) (1) Not later than January 1, 2002, the Department of Toxic Substances Control shall submit a report to the Legislature on the risks and benefits of the regulations adopted pursuant to this section. The report shall evaluate all of the following:

(A) The effect of the regulations on the development of hazardous waste treatment technologies and businesses in California.

(B) Risks to health and the environment, if any, that have resulted from the transportation and study of waste under the regulations.

(C) The types of treatability studies that have been conducted under the regulations, and whether there has been any misuse of the regulations.

(2) The report shall propose revisions in the law needed to address any problems identified by the report.

(f) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

SEC. 68. Section 25198 of the Health and Safety Code is amended to read:

25198. (a) For purposes of this section, ‘‘state department’’ means the State Department of Health Services.

(b) Except as provided in subdivision (c), the analysis of any material required by this chapter shall be performed by a laboratory certified by the state department pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101, except that laboratories previously issued a certificate under this section shall be deemed certified until the time that certification under Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 has been either granted or denied, but not beyond the expiration date shown on the certificate previously issued under this section.

(c) The requirements of subdivision (b) shall not apply to analyses performed by a laboratory pursuant to the facility’s waste analysis plan that is prepared in accordance with the regulations adopted by the Department of Toxic Substances Control pursuant to this chapter, if both of the following conditions are met:

(1) The laboratory is owned or operated by the same person who owns or operates the facility at which the waste will be managed, and the facility is a hazardous waste treatment, storage, or disposal facility that is required to obtain a hazardous waste facilities permit pursuant to Article 9 (commencing with Section 25200).

(2) The analysis is conducted for any of the following purposes:

(A) To determine whether a facility will accept the hazardous waste for transfer, storage, or treatment, as described in paragraph (3) of subdivision (a) of Section 66264.13 of, and paragraph (3) of subdivision (a) of Section 66265.13 of, Title 22 of the California Code of Regulations, as those sections read on January 1, 1996.

(B) To ensure that the analysis used to determine whether a facility will accept the hazardous waste for transfer, storage, or treatment is accurate and up to date,

as described in paragraph (4) of subdivision (a) of Section 66264.13 of, and paragraph (4) of subdivision (a) of Section 66265.13 of, Title 22 of the California Code of Regulations, as those sections read on January 1, 1996.

(C) To determine whether the hazardous waste received at the facility for transfer, storage, or treatment matches the identity of the hazardous waste designated on an accompanying manifest or shipping paper, as described in paragraph (5) of subdivision (a) of Section 66264.13 of, and paragraph (5) of subdivision (a) of Section 66265.13 of, the California Code of Regulations, as those sections read on January 1, 1996.

(d) An analysis performed in accordance with subdivision (c) is not an analysis performed for regulatory purposes within the meaning of paragraph (4) of subdivision (c) of Section 100825.

(e) The exemption provided by subdivision (c) does not exempt the analyses of waste for purposes of disposal from the requirements of subdivision (b) requiring certified laboratory analyses. The analyses described in subdivision (c) are not exempt from any other requirement of law, regulation, or guideline governing quality assurance and quality control.

(f) No person or public entity of the state shall contract with a laboratory for environmental analyses for which certification is required pursuant to this chapter, unless the laboratory holds a valid certificate from the state department.

(g) This section shall remain in effect until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 2001, deletes or extends that date.

SEC. 69. Section 25201.1 of the Health and Safety Code is amended to read:

25201.1. (a) A solid waste facility, as defined in Section 40194 of the Public Resources Code, or any recycling facility, that accepts and processes empty aerosol cans and de minimus quantities of nonempty aerosol cans collected as an incidental part of the collection of empty cans for recycling, is exempt from the

requirement to obtain a hazardous waste facilities permit or other authorization from the department for purposes of conducting that activity if both of the following conditions are met:

(1) The nonempty aerosol cans are from products that are normally intended for household use and were generated by households.

(2) The city, county, or regional agency in the area that the facility serves provides educational information to the public on the safe collection and recycling or disposal of empty and nonempty aerosol cans that encourages, to the maximum extent feasible, the separation and recycling of empty aerosol cans through such programs as curbside, dropoff, and buy-back recycling programs, and the diversion of nonempty aerosol cans into household hazardous waste collection programs. Issues of compliance with this subdivision shall be determined by the California Integrated Waste Management Board or by the appropriate local enforcement agency.

(b) This section is not intended to alter the obligation to manage as a hazardous waste any nonempty aerosol cans that meet the requirements of Section 25117, and that are not subject to the exemption provided in this section.

(c) Nothing in this section exempts a solid waste facility that engages in an activity that requires a hazardous waste facility permit, other than the acceptance and processing of empty aerosol cans and de minimus quantities of nonempty aerosol cans as an incidental part of the collection of empty cans for recycling, from the requirement of obtaining a hazardous waste facilities permit.

SEC. 70. Section 25218.11 of the Health and Safety Code is amended to read:

25218.11. (a) On or before March 31, 1996, the department shall develop a separate and distinct regulatory structure for the permitting of permanent household hazardous waste facilities that conduct the activities specified in subdivision (b). The regulations

shall simplify the permitting of facilities and encourage the collection of material and shall be not more burdensome than is necessary to protect the public health and safety. The regulations adopted to implement this section shall balance public safety considerations of household hazardous waste collection with the safety and environmental considerations of illegal disposal.

(b) The regulations adopted pursuant to subdivision (a) shall apply only to household hazardous waste collection activities that are operated by a public agency, or its contractor, and that accept only household hazardous waste or hazardous waste collected from conditionally exempt small quantity generators. The regulations shall require that, prior to the commencement of the activities specified in this subdivision, the activities shall be authorized by the department.

SEC. 71. Section 27622.5 of the Health and Safety Code is amended and renumbered to read:

114086. It is the intent of the Legislature that the California Uniform Retail Food Facilities Law Revision Committee, in its effort to bring forward a uniform state food health code that is appropriate for every type of retail food facility, recommend internal cooking temperatures and time ratios that kill the Escherichia Coli 0157: H_7 (E-Coli) bacteria in ground beef of 145 degrees Fahrenheit for three minutes; 150 degrees Fahrenheit for one minute; 155 degrees Fahrenheit for 15 seconds ; or as otherwise approved by the State Department of Health Services.

SEC. 72. Section 27623 of the Health and Safety Code is amended and renumbered to read:

114090. (a) All utensils and equipment shall be scraped, cleaned, or sanitized as circumstances require.

(b) All food establishments in which food is prepared or in which multiservice kitchen utensils are used shall have a sink with at least three compartments with two integral metal drainboards. Additional drainage space may be provided that is not necessarily attached to the sink. The sink compartments and drainage facilities shall

be large enough to accommodate the largest utensil or piece of equipment to be cleaned therein. A one-compartment or two-compartment sink that is in use on January 1, 1996, may be continued in use until replaced. The enforcement officer may approve the continued use of a one-compartment or two-compartment sink even upon replacement if the installation of a three-compartment sink would not be readily achievable and where other approved sanitation methods are used.

(c) All food establishments in which multiservice consumer utensils are used shall clean the utensils in one of the following ways:

(1) Handwashing of utensils using a three-compartment metal sink with dual integral metal drainboards where the utensils are first washed by hot water and a cleanser until they are clean, then rinsed in clear, hot water before being immersed in a final warm solution meeting the requirements of Section 114060.

(2) Machine washing of utensils in machines using a hot water or chemical sanitizing rinse shall meet or be equivalent to sanitation standards approved pursuant to Section 114065 and shall be installed and operated in accordance with those standards. The machines shall be of a type, and shall be installed and operated as approved by the department. The velocity, quantity, and distribution of the washwater, type and concentration of detergent used therein, and the time the utensils are exposed to the water shall be sufficient to clean the utensils. All new spray-type dish machines designed for hot water sanitizing shall be equipped with a self-sealing temperature and pressure test plug. The test plug shall be located immediately upstream of the rinse manifold in a horizontal position and on the machine exterior.

(3) A two-compartment metal sink, having metal drainboards, equipped for hot water sanitization, which is in use on January 1, 1985, may be continued in use until replaced.

(4) Other methods may be used after approval by the department.

(d) Hot and cold water under pressure shall be provided through a mixing valve to each sink compartment in all food establishments constructed on or after January 1, 1985.

(e) All utensil washing equipment, except undercounter dish machines, shall be provided with two integral metal drainboards of adequate size and construction. One drainboard shall be attached at the point of entry for soiled items and one shall be attached at the point of exit for cleaned and sanitized items. Where an undercounter dish machine is used, there shall be two metal drainboards, one for soiled utensils and one for clean utensils, located adjacent to the machine. The drainboards shall be sloped and drained to an approved waste receptor. This requirement may be satisfied by using the drainboards appurtenant to sinks as required in subdivision (b) and paragraph (1) of subdivision (c), if the facilities are located adjacent to the machine.

(f) The handling of cleaned and soiled utensils, equipment, and kitchenware shall be undertaken in a manner that will preclude possible contamination of cleaned items with soiled items.

(g) All utensils, display cases, windows, counters, shelves, tables, refrigeration units, sinks, dishwashing machines, and other equipment or utensils used in the preparation, sale, service, and display of food shall be made of nontoxic, noncorrosive materials, shall be constructed, installed, and maintained to be easily cleaned, and shall be kept clean and in good repair.

(h) Utensils and equipment shall be handled and stored so as to be protected from contamination. Single-service utensils shall be obtained only in sanitary containers or approved sanitary dispensers, stored in a clean, dry place until used, handled in a sanitary manner, and used once only.

(i) Equipment food-contact surfaces and utensils shall be cleaned and sanitized as follows:

(1) Each time there is a change in processing between types of animal products except when products are handled in the following order: any cooked ready-to-eat

products first; raw beef and lamb products second; raw fish products third; and raw pork or poultry products last.

(2) Each time there is a change from working with raw foods of animal origin to working with ready-to-eat foods.

(3) Between uses with raw fruits or vegetables and with potentially hazardous food.

(4) Before each use of a food temperature measuring device.

(5) At any time during the food handling operation when contamination may have occurred.

(j) (1) Except as provided in paragraphs (2) and (3) of this subdivision, if used with potentially hazardous food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four hours.

(2) Equipment food-contact surfaces and utensils may be cleaned less frequently than every four hours if the utensils and equipment are used to prepare food in a refrigerated room, at or below 13 degrees Celsius (55 degrees Fahrenheit), and the utensils and equipment are cleaned at least every 24 hours.

(3) Equipment food-contact surfaces and utensils may be cleaned less frequently than every four hours if the enforcement agency approves the cleaning schedule utilized based on a consideration of the following factors:

(A) Characteristics of the equipment and its use.

(B) The type of food involved.

(C) The amount of food residue accumulation.

(D) The temperature at which the food is maintained during the operation and the potential for the rapid and progressive growth of infectious or toxigenic microorganisms that may cause food infections or food intoxications.

(k) Nonfood contact surfaces of equipment shall be cleaned at a frequency necessary to prevent accumulation of residue.

SEC. 73. Section 41503.6 of the Health and Safety Code is amended to read:

41503.6. (a) The Legislature finds and declares that the California Pollution Control Financing Authority and the Department of Commerce, working with the south

coast district, have established successful programs to assist small businesses in complying with district rules and financing the purchase of pollution control equipment.

(b) The Treasurer, the California Pollution Control Financing Authority, and the Department of Commerce shall work with, and provide all feasible assistance to, districts to increase opportunities for small businesses to comply with the rules and regulations of the district. That assistance may include loans, loan guarantees, and other forms of financial assistance.

SEC. 74. Section 44017 of the Health and Safety Code is amended to read:

44017. (a) Except as otherwise provided in this section, the cost limit for repairs under the program, including parts and labor, shall be a minimum of four hundred fifty dollars ($450) in all areas where the program operates.

(b) The limit established pursuant to subdivision (a) shall not become operative until the department issues a public notice declaring that the program established pursuant to Section 44010.5 is operational in the relevant geographical areas of the state, or until the date that testing in those geographic areas is operative using loaded mode test equipment, as defined in this article, whichever occurs first. Prior to that time, the following cost limits shall remain in effect:

(1) For motor vehicles of 1971 and earlier model years, fifty dollars ($50).

(2) For motor vehicles of 1972 to 1974, inclusive, model years, ninety dollars ($90).

(3) For motor vehicles of 1975 to 1979, inclusive, model years, one hundred twenty-five dollars ($125).

(4) For motor vehicles of 1980 to 1989, inclusive, model years, one hundred seventy-five dollars ($175).

(5) For motor vehicles of 1990 and later model years, three hundred dollars ($300).

(c) The department shall periodically revise the cost limits specified in subdivisions (a) and (b) in accordance with changes in the Consumer Price Index, as published by the United States Bureau of Labor Statistics.

(d) No cost limit shall be imposed in those cases where emissions control equipment is missing or is partially or totally inoperative as a result of being tampered with or when the vehicle has been identified as a gross polluter pursuant to Section 44081 and verified as a gross polluter at a test-only station. The cost limits prescribed pursuant to this section, when implemented, shall not be imposed on vehicles identified as gross polluters prior to repairs at a smog check station. However, if there is no evidence of tampering and the vehicle owner has had repairs performed as necessary to bring the vehicle's emissions below the appropriate threshold established for gross polluters, the emission cost waiver provisions shall apply.

(e) A one-time 12-month economic hardship extension from the biennial certificate of compliance requirement may be granted, pursuant to the program established by the department pursuant to Section 44015.3, to consumers who would be subject to repair costs in excess of the limit established by the department if the requirements specified in paragraph (2) of subdivision (c) of Section 44015 are met. The economic hardship extension shall constitute neither a certificate of compliance nor a certificate of noncompliance for the purpose of transferring the ownership or the registration of the vehicle. On or before the expiration date of the economic hardship extension, the vehicle shall be brought fully into compliance with all appropriate emission standards as determined by a test in accordance with Section 44012 at a test-only station. The emission cost waiver provisions shall not apply to those vehicles.

SEC. 75. Section 44085 of the Health and Safety Code is amended to read:

44085. Districts may establish procedures to generate marketable emission reduction credits from programs established pursuant to Section 44084. Emission reduction credits generated pursuant to this section may be used to meet or offset transportation control requirements, average vehicle ridership reductions, or other mobile source emission requirements, as determined by the district.

SEC. 76. Section 44220 of the Health and Safety Code is amended to read:

44220. The Legislature hereby finds and declares as follows:

(a) This chapter is intended to ensure that any county air pollution control district, or unified or regional air pollution control district, may, upon adoption of a resolution by the district governing board, exercise fee authority similar to that provided the south coast district pursuant to Section 9250.11 of the Vehicle Code and the Sacramento district pursuant to Section 41081, in order to ensure that districts, and, in the south coast district, other implementing agencies, have the necessary funds to carry out their responsibilities for implementing the California Clean Air Act of 1988 (Chapter 1568 of the Statutes of 1988).

(b) The revenues from the fees collected pursuant to this chapter shall be used solely to reduce air pollution from motor vehicles and for related planning, monitoring, enforcement, and technical studies necessary for the implementation of the California Clean Air Act of 1988.

SEC. 77. Section 10082 of the Insurance Code is amended to read:

10082. (a) The offer required by Section 10081 shall include coverage against risk of loss or damage from the peril of earthquake, in accordance with the minimum coverages required by subdivisions (a) and (b) of Section 10089.

(b) The earthquake coverage shall be in accordance with the insurer's rules and rating plan, provided, however, that nothing contained in this chapter shall require an insurer to issue a policy of residential property insurance except in accordance with the insurer's usual underwriting standards. However, those standards shall not permit an insurer to provide a policy of residential property insurance unless the offer of coverage required by this chapter is made.

SEC. 78. Section 10083 of the Insurance Code is amended to read:

10083. (a) The offer of coverage required by Section 10081 may be made prior to, concurrent with, or within 60 days following the issuance or renewal of a residential property insurance policy. If the offer of coverage is mailed to the named insured or applicant, it shall be mailed to the mailing address shown on the policy of residential property insurance or on the application. The offer of earthquake coverage shall contain the following language in at least 10-point boldface type:

YOUR POLICY DOES NOT PROVIDE COVERAGE AGAINST THE PERIL OF EARTHQUAKE.

CALIFORNIA LAW REQUIRES THAT EARTHQUAKE COVERAGE BE OFFERED TO YOU AT YOUR OPTION.

WARNING: THESE COVERAGES MAY DIFFER SUBSTANTIALLY FROM AND PROVIDE LESS PROTECTION THAN THE COVERAGE PROVIDED BY YOUR HOMEOWNERS' INSURANCE POLICY. THERE ARE EXCLUSIONS AND LIMITATIONS SUCH AS OUTBUILDINGS, SWIMMING POOLS, MASONRY FENCES, AND MASONRY CHIMNEYS. THIS DISCLOSURE FORM CONTAINS ONLY A GENERAL DESCRIPTION OF COVERAGES AND IS NOT PART OF YOUR EARTHQUAKE INSURANCE POLICY. ONLY THE SPECIFIC PROVISIONS OF YOUR POLICY WILL DETERMINE WHETHER A PARTICULAR LOSS IS COVERED AND, IF SO, THE AMOUNT PAYABLE.

THE COVERAGE, SUBJECT TO POLICY PROVISIONS, MAY BE PURCHASED AT ADDITIONAL COST ON THE FOLLOWING TERMS:

(A) AMOUNT OF DWELLING COVERAGE: ____

(B) APPLICABLE DEDUCTIBLE: ____ IF YOUR LOSS IS BELOW THIS AMOUNT, YOU MAY NOT RECEIVE ANY PAYMENT FROM YOUR COVERAGE.

YOUR INSURANCE COMPANY OR AGENT WILL PROVIDE WRITTEN NOTICE AS TO HOW THE DEDUCTIBLE APPLIES TO THE MARKET VALUE

OF YOUR COVERAGE, THE INSURED VALUE OF YOUR COVERAGE, OR THE REPLACEMENT VALUE OF YOUR COVERAGE.

(C) CONTENTS COVERAGE: ____

IF YOUR LOSS DOES NOT EXCEED THE DEDUCTIBLE FOR THE DWELLING, YOU WILL NOT RECEIVE ANY PAYMENT FOR THIS COVERAGE.

YOUR INSURANCE COMPANY OR AGENT WILL PROVIDE WRITTEN NOTICE AS TO HOW THE DEDUCTIBLE APPLIES TO THE AMOUNT YOU RECEIVE PURSUANT TO THIS COVERAGE.

(D) ADDITIONAL LIVING EXPENSES: ____

(E) RATE OR PREMIUM: ____

YOU MUST ASK THE COMPANY TO ADD EARTHQUAKE COVERAGE WITHIN 30 DAYS FROM THE DATE OF MAILING OF THIS NOTICE OR IT SHALL BE CONCLUSIVELY PRESUMED THAT YOU HAVE NOT ACCEPTED THIS OFFER.

THIS COVERAGE SHALL BE EFFECTIVE ON THE DAY YOUR ACCEPTANCE OF THIS OFFER IS RECEIVED BY US.

When the insurer, agent, or broker establishes delivery of the disclosure form by obtaining the signature of the applicant or insured, or when an insurer, agent, or broker provides the applicant with the disclosure form and the applicant does not return a signed acknowledgment of receipt within 60 days of the date it was provided, there shall be a conclusive presumption that the insurer, agent, or broker has complied with the disclosure requirements of this section.

(b) The offer may contain additional provisions not in conflict with or in derogation of the foregoing.

(c) Use of the language prescribed by this section shall constitute compliance with the requirements of Section 10081 by an insurer subject thereto.

SEC. 79. Section 10089.40 of the Insurance Code is amended to read:

10089.40. (a) Rates established by the authority shall be actuarially sound and shall not be excessive,

inadequate, or unfairly discriminatory. Rates shall be established based on the best available scientific information for assessing the risk of earthquake loss. Factors the board shall consider in adopting rates include, but are not limited to, the following:

(1) Location of the insured property and its proximity to earthquake faults and to other geological factors that affect the risk of earthquake or damage from earthquake.

(2) The soil type on which the insured dwelling is built.

(3) Construction type and features of the insured dwelling.

(4) Age of the insured dwelling.

(5) The presence of earthquake hazard reduction factors, including those set forth in subdivision (a) of Section 10089.2.

(b) The classification system established by the board shall not be adjusted or tempered in any way to provide rates lower than are justified for classifications that present a high risk of loss or higher than are justified for classifications that present a low risk of loss.

(c) Policyholders who have retrofitted their homes to withstand earthquake shake damage according to standards and to the extent set by the board shall enjoy a premium discount or credit of not less than 5 percent on the authority-issued policy of residential earthquake coverage, as long as the discount or credit is determined actuarially sound by the authority.

(d) All rates shall be approved by the commissioner prior to their use.

SEC. 80. Section 10089.7 of the Insurance Code, as added by Chapter 848 of the Statutes of 1995, is amended and renumbered to read:

10089.70. The department shall establish a pilot program for the mediation of the disputes between insured complainants and insurers arising out of the Northridge earthquake of 1994 or any subsequent earthquake. The pilot program shall apply only to personal lines of insurance related to residential coverage. The goal of the pilot program shall be to favorably resolve a statistically significant number of

disputes sent to mediation under the program. This chapter does not apply to any dispute that turns on a question of major insurance coverage or a purely legal interpretation, or disputes involving the actions of an agent or broker in which the insurer is not alleged to have been responsible for the conduct, or any complaint the commissioner finds to be frivolous, or any dispute in which a party is alleged to have committed fraud.

SEC. 81. Section 10089.7 of the Insurance Code, as added by Chapter 944 of the Statutes of 1995, is amended to read:

10089.7. (a) The authority shall be governed by a three-member governing board consisting of the Governor, the Treasurer, and the Insurance Commissioner, each of whom may name designees to serve as board members in their place. The Speaker of the Assembly and the Chairperson of the Senate Committee on Rules shall serve as nonvoting, ex officio members of the board, and may name designees to serve in their place.

(b) The board shall be advised by an advisory panel whose members shall be appointed by the commissioner, except as provided in this subdivision. The advisory panel shall consist of four members who represent insurance companies that are licensed to transact fire insurance in the state, two licensed insurance agents, one seismologist, one person expert in construction requirements and building codes, and two members of the public not connected with the insurance industry. In addition, the Governor, the Speaker of the Assembly, and the Chairperson of the Senate Committee on Rules each may appoint one member of the public not connected with the insurance industry. Panel members shall serve for two-year terms, which may be staggered for administrative convenience, and panel members may be reappointed. The commissioner shall be a nonvoting, ex officio member of the panel and shall be entitled to attend all panel meetings, either in person or by representative.

(c) The board shall have the power to conduct the affairs of the authority and may perform all acts necessary

or convenient in the exercise of that power. Without limitation, the board may: (1) employ or contract with officers and employees to administer the authority; (2) retain outside actuarial, geological, and other professionals; (3) enter into other obligations relating to the operation of the authority; (4) invest the moneys in the California Earthquake Authority Fund; (5) obtain reinsurance and financing for the authority as authorized by this chapter; (6) contract with participating insurers to service the policies of basic residential earthquake insurance issued by the authority; (7) issue bonds payable from and secured by a pledge of the authority of all or any part of the revenues of the authority to finance the activities authorized by this chapter and sell those bonds at public or private sale in the form and on those terms and conditions as the Treasurer shall approve; (8) pledge all or any part of the revenues of the authority to secure bonds and any repayment or reimbursement obligations of the authority to any provider of insurance or a guarantee of liquidity or credit facility entered into to provide for the payment of debt service on any bond of the authority; (9) employ and compensate bond counsel, financial consultants, and other advisers determined necessary by the Treasurer in connection with the issuance and sale of any bonds; (10) issue or obtain from any department or agency of the United States or of this state, or any private company, any insurance or guarantee of liquidity or credit facility determined to be appropriate by the Treasurer to provide for the payment of debt service on any bond of the authority; (11) engage the commissioner to collect revenues of the authority; (12) issue bonds to refund or purchase or otherwise acquire bonds on terms and conditions as the Treasurer shall approve; and (13) perform all acts that relate to the function and purpose of the authority, whether or not specifically designated in this chapter.

(d) The authority shall reimburse board and panel members for their reasonable expenses incurred in attending meetings and conducting the business of the authority.

(e) (1) There shall be no civil or criminal liability in a private capacity, on account of any act performed or omitted or obligation entered into in an official capacity, when done or omitted in good faith and without intent to defraud, on the part of the board, the panel, or any member of either, or on the part of any officer, employee, or agent of the authority.

(2) No licensed insurer shall have any antitrust civil or criminal liability under the Cartwright Act (Part 2 (commencing with Section 16600) of Division 7 of the Business and Professions Code) by reason of its activities conducted in compliance with this chapter. Further, the California Earthquake Authority shall be deemed a joint arrangement established by statute to ensure the availability of insurance pursuant to subdivision (b) of Section 1861.03.

(f) The Attorney General, in his or her discretion, shall provide a representative of his or her office to attend and act as antitrust counsel at all meetings of the panel. The Attorney General shall be compensated for legal service rendered in the manner specified in Section 11044 of the Government Code.

(g) The authority may sue or be sued and may employ or contract with that staff and those professionals the board deems necessary for its efficient administration.

(h) The authority may contract for the services of a chief executive officer, a chief financial officer, and an operations manager, and may contract for the services of reinsurance intermediaries, financial market underwriters, modeling firms, a computer firm, an actuary, an insurance claims consultant, counsel, and private money managers. These contracts shall not be subject to otherwise applicable provisions of the Government Code or the Public Contract Code and, for those purposes, the authority shall not be considered a state agency or other public entity. Other employees of the authority shall be subject to civil service provisions.

(i) Members of the board and panel, and their designees, and the chief executive officer, the chief financial officer, and the operations manager of the

authority shall be required to file statements of economic interests with the Fair Political Practices Commission. The appointing authorities for members and designees of the board and panel shall, when making appointments, avoid appointing persons with conflicts of interest. Section 87406 of the Government Code, the Milton Marks Postgovernment Employment Restrictions Act of 1990, shall apply to the authority. Members of the panel shall be deemed to be designated employees for the purpose of that act. In addition, no person who is employed as a regular or contract employee of the authority shall, upon leaving the employment of the authority, seek, accept, or enter into employment or a consulting or other contractual arrangement for a period of one year with any employer or entity that entered into an agreement with the authority during the time the employee was employed by the authority.

(j) 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) applies to meetings of the board and the panel.

SEC. 82. Section 10603 of the Insurance Code is amended to read:

10603. (a) On or before April 1, 1975, the commissioner shall promulgate a standard supplemental disclosure form for all disability insurance policies. Upon the appropriate disclosure form as prescribed by the commissioner, each insurer shall provide, in easily understood language and in a uniform, clearly organized manner, as prescribed and required by the commissioner, such summary information about each disability insurance policy offered by the insurer as the commissioner finds is necessary to provide for full and fair disclosure of the provisions of the policy.

(b) Nothing in this section shall preclude the disclosure form from being included with the evidence of coverage or certificate of coverage or policy.

SEC. 83. Section 10604 of the Insurance Code is amended to read:

10604. The disclosure form shall include the following information, in concise and specific terms, relative to the disability insurance policy:

(a) The applicable category or categories of coverage provided by the policy, from among the following:

(1) Basic hospital expense coverage.

(2) Basic medical-surgical expense coverage.

(3) Hospital confinement indemnity coverage.

(4) Major medical expense coverage.

(5) Disability income protection coverage.

(6) Accident only coverage.

(7) Specified disease or specified accident coverage.

(8) Any other categories as the commissioner may prescribe.

(b) The principal benefits and coverage of the disability insurance policy.

(c) The exceptions, reductions, and limitations that apply to the policy.

(d) A summary, including a citation of the relevant contractual provisions, of the process used to authorize or deny payments for services under the coverage provided by the policy. This subdivision applies only to policies of disability insurance that cover hospital, medical, or surgical expenses.

(e) The full premium cost of the policy.

(f) Any copayment, coinsurance, or deductible requirements that may be incurred by the insured or his or her family in obtaining coverage under the policy.

(g) The terms under which the policy may be renewed by the insured, including any reservation by the insurer of any right to change premiums.

(h) A statement that the disclosure form is a summary only, and that the policy itself should be consulted to determine governing contractual provisions.

SEC. 84. Section 12376 of the Insurance Code is amended to read:

12376. (a) If an underwritten title company is placed into bankruptcy, receivership, or conservatorship by the commissioner and there is a shortage in a subescrow or an escrow account, as defined in subdivision (f) of Section

12413.1, each title insurer operating under an underwriting agreement with the underwritten title company at the time of conservatorship, bankruptcy, or receivership shall be liable for any shortage that may exist in an escrow or subescrow account.

(b) If, during the six months prior to establishment of a conservatorship, bankruptcy, or receivership under subdivision (a), the underwritten title company was authorized by underwriting agreements to issue title policies for more than one title insurer, the liability of each title insurer is determined by multiplying the amount of the total shortage, as set forth in subdivision (a), by the percentage of the underwritten title company's business attributable to each title insurer during the 12-month period preceding the establishment of the conservatorship, bankruptcy, or receivership. These calculations shall result in 100 percent of the shortage being proportionately allotted to each title insurer authorized to issue title policies in the last six months preceding the underwritten title company being placed into bankruptcy, receivership, or conservatorship.

(c) Once the department, conservator, liquidator, receiver, or bankruptcy trustee determines the shortage in the escrow and subescrow accounts pursuant to this section, the title insurer having liability under this section shall deposit its proportionate share directly into an account established solely for the reimbursement to escrow accountholders within 90 days of written notification by the department, conservator, liquidator, receiver, or bankruptcy trustee. Pursuant to subdivision (a) of Section 12377, this contribution shall not be considered as part of the estate.

(d) Nothing in this section relieves a person of liability under any other provision of law that he or she may have for a shortage as set forth in subdivision (a). A title insurer, on becoming liable for a shortage as set forth in this section, is entitled to enforce every available remedy, or bring any cause of action that would have been available to a person compensated by the title insurer.

(e) A title insurer who compensates an escrow accountholder for shortages pursuant to this section shall be entitled to make claims for reimbursement, proportionate to its contribution pursuant to subdivision (b), from the estate in conservatorship, liquidation, bankruptcy, or receivership as a preferred claimant under paragraph (4) of subdivision (a) of Section 1033.

SEC. 85. Section 626.10 of the Penal Code is amended to read:

626.10. (a) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, knife having a blade longer than $2^1/_2$ inches, folding knife with a blade that locks into place, a razor with an unguarded blade, a taser, or a stun gun, as defined in subdivision (a) of Section 244.5, any instrument that expels a metallic projectile such as a BB or a pellet, through the force of air pressure, CO_2 pressure, or spring action, or any spot marker gun, upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison.

(b) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of

his or her duties, who brings or possesses any dirk, dagger, ice pick, or knife having a fixed blade longer than $2^1/_2$ inches upon the grounds of, or within, any private university, the University of California, the California State University, or the California Community Colleges is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison.

(c) Subdivisions (a) and (b) do not apply to any person who brings or possesses a knife having a blade longer than $2^1/_2$ inches or a razor with an unguarded blade upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college at the direction of a faculty member of the private university, state university, or community college, or a certificated or classified employee of the school for use in a private university, state university, community college, or school-sponsored activity or class.

(d) Subdivisions (a) and (b) do not apply to any person who brings or possesses an ice pick, a knife having a blade longer than $2^1/_2$ inches, or a razor with an unguarded blade upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college for a lawful purpose within the scope of the person's employment.

(e) Subdivision (b) does not apply to any person who brings or possesses an ice pick or a knife having a fixed blade longer than $2^1/_2$ inches upon the grounds of, or within, any private university, state university, or community college for lawful use in or around a residence or residential facility located upon those grounds or for lawful use in food preparation or consumption.

(f) Subdivision (a) does not apply to any person who brings an instrument that expels a metallic projectile such as a BB or a pellet, through the force of air pressure, CO_2 pressure, or spring action, or any spot marker gun upon the grounds of, or within, a public or private school

providing instruction in kindergarten or any of grades 1 to 12, inclusive, if the person has the written permission of the school principal or his or her designee.

(g) Any certificated or classified employee or school peace officer of a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, may seize any of the weapons described in subdivision (a), and any certificated or classified employee or school peace officer of any private university, state university, or community college may seize any of the weapons described in subdivision (b), from the possession of any person upon the grounds of, or within, the school if he or she knows, or has reasonable cause to know, the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.

(h) As used in this section, ''dirk'' or ''dagger'' means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death.

SEC. 86. Section 11113 of the Penal Code is amended and renumbered to read:

11109. Each coroner promptly shall furnish the Department of Justice with copies of fingerprints on standardized eight-inch by eight-inch cards, and descriptions and other identifying data, including date and place of death, of all deceased persons whose deaths are in classifications requiring inquiry by the coroner where the coroner is not satisfied with the decedent's identification. When it is not physically possible to furnish prints of the 10 fingers, prints or partial prints of any fingers, with other identifying data, shall be forwarded by the coroner to the department.

In all cases where there is a criminal record on file in the department for the decedent, the department shall notify the Federal Bureau of Investigation, and each California sheriff and chief of police in whose jurisdiction the decedent has been arrested, of the date and place of death of the decedent.

SEC. 87. Section 4551.3 of the Public Resources Code is amended to read:

4551.3. (a) A sustained yield plan that is prepared and approved in accordance with rules and regulations adopted by the board pursuant to Section 4551, including Article 6.75 (commencing with Section 1091.1) of Subchapter 7 of Chapter 4 of Division 1.5 of Title 14 of the California Code of Regulations, shall be effective for a period of no more than 10 years.

(b) As part of the continuing monitoring process for an approved sustained yield plan, as described in subdivision (a), the department shall hold a public hearing on the plan if requested by an interested party who submits, in writing, a request based on substantial evidence of potential noncompliance with any of the following:

(1) The terms and conditions of the original sustained yield plan approval.

(2) The applicable provisions of the rules or regulations adopted by the board that were in effect on the date the sustained yield plan was originally approved.

(3) Other requirements that have been imposed on the sustained yield plan by operation of law.

(c) The request shall identify specific issues in the plan to be addressed at the public hearing. To be considered, a request shall be made to the department within six months after the midpoint of the effective term of a sustained yield plan described in subdivision (a). The department shall hold the public hearing within 120 days after the date of the close of the six-month request period. A sustained yield plan shall be effective for the remainder of its term unless the director makes written findings, based on a preponderance of evidence, that implementation of the sustained yield plan is not in compliance with any material provision of paragraph (1), (2), or (3) of subdivision (b) .

(d) If a public hearing is required, the director shall provide at least 30 days' notice to the plan submitter and the public and shall provide for a record of the hearing, pursuant to regulations adopted by the board.

SEC. 88. Section 21083.8 of the Public Resources Code, as added by Section 2 of Chapter 842 of the Statutes of 1994, is repealed.

SEC. 89. Section 30514 of the Public Resources Code is amended to read:

30514. (a) A certified local coastal program and all local implementing ordinances, regulations, and other actions may be amended by the appropriate local government, but no such amendment shall take effect until it has been certified by the commission.

(b) Any proposed amendments to a certified local coastal program shall be submitted to, and processed by, the commission in accordance with the applicable procedures and time limits specified in Sections 30512 and 30513, except that the commission shall make no determination as to whether a proposed amendment raises a substantial issue as to conformity with the policies of Chapter 3 (commencing with Section 30200) as would otherwise be required by Section 30512. In no event shall there be more than three of these submittals of proposed amendments in any calendar year. However, there are no limitations on the number of amendments included in each of the three submittals.

(c) The commission, by regulation, shall establish a procedure whereby proposed amendments to a certified local coastal program may be reviewed and designated by the executive director of the commission as being minor in nature or as requiring rapid and expeditious action. That procedure shall include provisions authorizing local governments to propose amendments to the executive director for that review and designation. Proposed amendments that are designated as being minor in nature or as requiring rapid and expeditious action shall not be subject to subdivision (b) or Sections 30512 and 30513 and shall take effect on the 10th working day after designation. Amendments that allow changes in uses shall not be so designated.

(d) (1) The executive director may determine that a proposed local coastal program amendment is de minimis if the executive director determines that a proposed

amendment would have no impact, either individually or cumulatively, on coastal resources, is consistent with the policies of Chapter 3 (commencing with Section 30200), and meets the following criteria:

(A) The local government, at least 21 days prior to the date of submitting the proposed amendment to the executive director, has provided public notice, and provided a copy to the commission, that specifies the dates and places where comments will be accepted on the proposed amendment, contains a brief description of the proposed amendment, and states the address where copies of the proposed amendment are available for public review, by one of the following procedures:

(i) Publication, not fewer times than required by Section 6061 of the Government Code, in a newspaper of general circulation in the area affected by the proposed amendment. If more than one area will be affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas.

(ii) Posting of the notice by the local government both onsite and offsite in the area affected by the proposed amendment.

(iii) Direct mailing to the owners and occupants of contiguous property shown on the latest equalized assessment roll.

(B) The proposed amendment does not propose any change in land use or water uses or any change in the allowable use of property.

(2) At the time that the local government submits the proposed amendment to the executive director, the local government shall also submit to the executive director any public comments that were received during the comment period provided pursuant to subparagraph (A) of paragraph (1).

(3) (A) The executive director shall make a determination as to whether the proposed amendment is de minimis within 10 working days of the date of submittal by the local government. If the proposed amendment is determined to be de minimis, the

proposed amendment shall be noticed in the agenda of the next regularly scheduled meeting of the commission, in accordance with Section 11125 of the Government Code, and any public comments forwarded by the local government shall be made available to the members of the commission.

(B) If three members of the commission object to the executive director's determination that the proposed amendment is de minimis, the proposed amendment shall be set for public hearing in accordance with the procedures specified in subdivision (b), or as specified in subdivision (c) if applicable, as determined by the executive director, or, at the request of the local government, returned to the local government. If set for public hearing under subdivision (b), the time requirements set by Sections 30512 and 30513 shall commence from the date on which the objection to the de minimis designation was made.

(C) If three or more members of the commission do not object to the de minimis determination, the de minimis local coastal program amendment shall become part of the certified local coastal program 10 days after the date of the commission meeting.

(4) The commission, after a noticed public hearing, may adopt guidelines to implement this subdivision, which shall be exempt from review by the Office of Administrative Law and from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The commission shall file any guidelines adopted pursuant to this paragraph with the Office of Administrative Law.

(e) For purposes of this section, ''amendment of a certified local coastal program'' includes, but is not limited to, any action by a local government that authorizes the use of a parcel of land other than a use that is designated in the certified local coastal program as a permitted use of the parcel.

SEC. 90. Section 739.3 of the Public Utilities Code, as added by Chapter 767 of the Statutes of 1994, is amended and renumbered to read:

739.4. (a) Nothing in Section 739 shall prohibit the development of experimental electrical residential rate schedules where the energy component of the rate charged to the customers paying the experimental rate decreases as consumption increases, if the utility demonstrates and the commission finds that the consumption pattern of those participating customers causes the energy costs of the utility to decrease as consumption increases. Revenues forgone from participating customers as a result of the experimental rate schedule shall not be recovered from other customers.

(b) This section applies only within extreme climatic zones 15 and 16, as defined by the State Energy Resources Conservation and Development Commission, that are located within the service territory of the Southern California Edison Company, and only for residential customers who purchase and install high-efficiency heating or cooling equipment for whom the Southern California Edison Company demonstrates and the commission finds that the consumption pattern of those participating customers causes the energy costs of the utility to decrease as consumption increases.

(c) Nothing in this section shall cause any changes to the baseline quantities or rates established for these climatic zones.

(d) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 91. Section 2889.5 of the Public Utilities Code is amended to read:

2889.5. (a) No telephone corporation, or any person, firm, or corporation representing a telephone corporation, shall make any change or authorize a different telephone corporation to make any change in the provider of any telephone service for which competition has been authorized of a telephone subscriber until all of the following steps have been completed:

(1) If a subscriber is solicited by telephone or by some other method, other than by contact in person, by a telephone corporation or its independent representative, other than an employee of the telephone corporation, the corporation or its representative shall do all of the following:

(A) Thoroughly inform the subscriber of the nature and extent of the service being offered.

(B) Specifically establish whether the subscriber intends to make any change in his or her telephone corporation and explain any charges associated with that change, and verify the subscriber's decision through one of the following means:

(i) Where a representative is acting on behalf of the corporation, a followup call by the telephone corporation, or a representative of the telephone corporation who does not receive a commission for that sale, shall be made to verify the subscriber's intent to change his or her telephone corporation.

(ii) Mail to the subscriber an information package seeking confirmation of his or her change in the telephone corporation and describing the new service, including a postage prepaid postcard that the customer can use to deny, cancel, or confirm a service order, as soon as possible, wait 14 days after the information package is mailed before making the change in the telephone corporation, and make the change only if the subscriber does not cancel the change.

(iii) Verify the subscriber's change in his or her telephone corporation by obtaining the subscriber's signature on a document fully explaining the nature and extent of the action. The document shall be a separate document whose sole purpose is to explain the nature and extent of the action.

(iv) Obtain the subscriber's authorization through an electronic means that takes the information, including the calling number, and confirms the change to which the subscriber has given his or her consent.

(C) Retain a record of the verification of the sale for at least one year. These records shall be made available to the subscriber or the commission upon request.

(2) If the subscriber seeks to make a change in his or her telephone corporation in person, the telephone corporation or its representative shall do all of the following:

(A) Thoroughly inform the subscriber of the nature and extent of the service being offered.

(B) Specifically establish whether the subscriber intends to make any change in his or her telephone corporation, and explain any charges associated with that change.

(C) Obtain the subscriber's signature on a document that fully explains the nature and extent of the action. The subscriber, by his or her signature on the document, shall indicate a full understanding of the relationship being established with the telephone corporation.

(D) Furnish the subscriber with a copy of the signed document.

(b) When a written customer solicitation or other document contains a letter of agency authorizing a change in service provider in combination with other information including, but not limited to, inducements to subscribers to purchase service, the solicitation shall include a separate document whose sole purpose is to explain the nature and extent of the action.

(c) If any part of a mailing to a prospective customer is in language other than English, any written authorization contained in the mailing shall be sent to the same prospective customer in the same language.

(d) If a residential subscriber or a business that has not signed an authorization notifies the telephone corporation within 90 days that he or she does not wish to change telephone corporations, the subscriber shall be switched back to his or her former telephone corporation at the expense of the telephone corporation that initiated the change.

(e) For purposes of this section, competitive services are those services where customers have the ability to presubscribe to a provider.

SEC. 92. Section 5387.5 of the Public Utilities Code, as added by Chapter 109 of the Statutes of 1994, is amended and renumbered to read:

5390. The commission shall fund the costs of administering the special identification license plate program required by Section 5385.6 of this code and Section 5011.5 of the Vehicle Code, including the costs of the Department of Motor Vehicles, from the Public Utilities Commission Transportation Reimbursement Account.

The commission shall maintain a prudent level of fund balance in the account in any future year. The commission shall consider recovering the costs of this program from the limousine operators when the fund balance is drawn below a prudent level of reserve.

SEC. 93. Section 75.60 of the Revenue and Taxation Code is amended to read:

75.60. (a) Notwithstanding any other provision of law, the board of supervisors of an eligible county, upon the adoption of a method identifying the actual administrative costs associated with the supplemental assessment roll, may direct the county auditor to allocate to the county, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) and prior to the allocation made pursuant to Section 75.70, an amount equal to the actual administrative costs, but not to exceed 5 percent of the revenues that have been collected on or after January 1, 1987, due to the assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter, regardless of the date those costs are incurred.

(b) For purposes of this section:

(1) ‘‘Actual administrative costs’’ includes only those direct costs for administration, data processing, collection, and appeal that are incurred by county auditors, assessors, and tax collectors. ‘‘Actual

administrative costs'' also includes those indirect costs for administration, data processing, collections, and appeal that are incurred by county auditors, assessors, and tax collectors and are allowed by state and federal audit standards pursuant to the A-87 Cost Allocation Program.

(2) The State Board of Equalization shall certify a county as an eligible county only if both of the following conditions are determined to exist:

(A) The average assessment level in the county is at least 95 percent of the assessment level required by statute, as determined by the board's most recent survey of that county performed pursuant to Section 15640 of the Government Code.

(B) The sum of the absolute values of the differences from the statutorily required assessment level described in subparagraph (A) does not exceed 7.5 percent of the total amount of the county's statutorily required assessed value, as determined pursuant to the board's survey described in subparagraph (A).

SEC. 94. 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 or 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), or Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), 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), or Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), 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 any of the following criteria are applicable:

(A) Twenty percent or more of the occupants of the property are lower income households whose rent does not exceed that prescribed by Section 50053 of the Health and Safety Code.

(B) 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.

(C) 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.

(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) Certify and ensure that there is a deed restriction, agreement, 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.

(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. 95. Section 2503.2 of the Revenue and Taxation Code is amended to read:

2503.2. (a) The tax collector for any city, county, or city and county may, in his or her discretion, accept electronic funds transfers in payment of any tax or assessment, or on a redemption.

(b) The tax collector for any city, county, or city and county may, in his or her discretion, require any taxpayer, or any paying agent of a taxpayer or taxpayers, who makes an aggregate payment of one hundred thousand dollars

($100,000) or more on the two most recent regular installments on the secured roll or on the one installment of the most recent unsecured tax roll, to make subsequent payments by electronic funds transfer.

(c) Any taxpayer or paying agent making payment by electronic funds transfer shall provide any supporting documentation and electronic information as requested by the tax collector. An electronic funds transfer made pursuant to this section shall be made to the bank account designated by the tax collector.

(d) Any costs incurred by the tax collector as a result of the acceptance of electronic funds transfers pursuant to this section shall be considered administrative costs of tax collection, except that if for any reason the electronic funds transfer is not completed, those costs shall be recovered as provided in subdivision (g).

(e) The acceptance of an electronic funds transfer shall constitute payment of a tax, assessment, or redemption as of the date of acceptance when, but not before, the transfer has been completed. An electronic funds transfer is completed by acceptance by the bank designated by the tax collector of the payment specified by the originator's payment order.

(f) If an electronic funds transfer is not accepted for any reason, any record of payment entered on any official record indicating the acceptance of that transfer shall be canceled, and the tax or assessment shall be a lien as if no payment has been attempted. When a cancellation of a record of payment is made, the canceling officer shall record the cancellation on the record that contained the notation of payment, and immediately shall cause a written notice of cancellation to be sent to the person attempting the electronic funds transfer.

(g) Upon notice of nonacceptance of an electronic funds transfer, the tax collector may charge the person who attempted the electronic funds transfer a fee not to exceed the costs of processing the transfer, providing notice of nonacceptance to that person, and making required cancellations on the tax roll. The amount of any fee charged pursuant to this subdivision shall be set by the

governing body of the relevant city, county, or city and county, and may be added to the tax bill and collected in the same manner as costs recovered pursuant to Section 2621.

SEC. 96. Section 2611.6 of the Revenue and Taxation Code is amended to read:

2611.6. The following information shall be included in each county tax bill or in a separate statement accompanying the bill:

(a) The full value of locally assessed property, including assessments made for irrigation district purposes in accordance with Section 26625.1 of the Water Code.

(b) The tax rate required by Article XIII A of the California Constitution.

(c) The rate or dollar amount of taxes levied in excess of the 1-percent limitation to pay for voter-approved indebtedness incurred before July 1, 1978, or bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986.

(d) The amount of any special taxes and special assessments levied.

(e) The amount of any tax rate reduction pursuant to Section 100, with the notation: ‘‘Tax reduction by (name of jurisdiction).’’

(f) The amount of any exemptions. Exemptions reimbursable by the state shall be shown separately .

(g) The total taxes due on the property covered by the bill.

(h) Instructions on tendering payment, including the name and mailing address of the tax collector.

(i) Information specifying all of the following:

(1) That if the taxpayer disagrees with the assessed value as shown on the tax bill, the taxpayer has the right to an informal assessment review by contacting the assessor’s office.

(2) That if the taxpayer and the assessor are unable to agree on a proper assessed value pursuant to an informal assessment review, the taxpayer has the right to file an

application for reduction in assessment for the following year with the county board of equalization or the assessment appeals board, as applicable, during the period from July 2 to September 15, inclusive.

(3) The address of the clerk of the county board of equalization or the assessment appeals board, as applicable, at which forms for an application for reduction in assessment may be obtained.

SEC. 97. Section 3698.5 of the Revenue and Taxation Code is amended to read:

3698.5. (a) Except as provided in Section 3698.7, the minimum price at which property may be offered for sale pursuant to this chapter shall be an amount not less than the total amount necessary to redeem, plus costs. For purposes of this subdivision:

(1) The ''total amount necessary to redeem'' is the sum of the following:

(A) The amount of defaulted taxes.

(B) Delinquent penalties and costs.

(C) Redemption penalties.

(D) A redemption fee.

(2) ''Costs'' are those amounts described in subdivisions (a) and (b) of Section 4112, Sections 4672, 4672.1, 4672.2, and 4673, and subdivision (b) of Section 4673.1.

(b) This section shall not apply to property or interests that qualify for sale in accordance with the provisions of subdivisions (b) and (c) of Section 3692.

(c) Where property or property interests have been offered for sale at least once and no acceptable bids therefor have been received, the tax collector may, in his or her discretion and with the approval of the board of supervisors, offer that property or those interests at the next scheduled sale at a minimum price that the tax collector deems appropriate.

SEC. 98. Section 3698.7 of the Revenue and Taxation Code is amended to read:

3698.7. (a) With respect to property for which a property tax welfare exemption has been granted and which has become tax defaulted, the minimum price at

which the property may be offered for sale pursuant to this chapter shall be the higher of the following:

(1) Fifty percent of the fair market value of the property. For the purposes of this paragraph, ‘‘fair market value’’ means the amount as defined in Section 110 as determined pursuant to an appraisal of the property by the county assessor within one year immediately preceding the date of the public auction. From the proceeds of the sale, there shall be distributed to the county general fund an amount to reimburse the county for the cost of appraising the property. The value of the property as determined by the assessor pursuant to an appraisal shall be conclusively presumed to be the fair market value of the property for the purpose of determining the minimum price at which the property may be offered for sale.

(2) The total amount necessary to redeem, plus costs. For purposes of this paragraph:

(A) The ‘‘total amount necessary to redeem’’ is the sum of the following:

(i) The amount of defaulted taxes.

(ii) Delinquent penalties and costs.

(iii) Redemption penalties.

(iv) A redemption fee.

(B) ‘‘Costs’’ are those amounts described in subdivisions (a) and (b) of Section 4112, Sections 4672, 4672.1, 4672.2, and 4673, and subdivision (b) of Section 4673.1.

(b) This section shall not apply to property or interests that qualify for sale in accordance with the provisions of subdivisions (b) and (c) of Section 3692.

(c) Where property or property interests have been offered for sale at least once and no acceptable bids therefor have been received, the tax collector may, in his or her discretion and with the approval of the board of supervisors, offer that property or those interests at the next scheduled sale at a minimum price that the tax collector deems appropriate.

SEC. 99. Section 6202.5 of the Revenue and Taxation Code is amended to read:

6202.5. Any retailer, other than a nonprofit zoological society as defined in subdivision (c) of Section 6010.50, that stores, uses, or otherwise consumes in this state endangered or threatened animal or plant species, as defined in subdivision (b) of Section 6010.50, acquired through a trade or exchange with a nonprofit zoological society, shall be liable for the use tax.

SEC. 100. Section 6359 of the Revenue and Taxation Code is amended to read:

6359. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, food products for human consumption.

(b) For the purposes of this section, ''food products'' include all of the following:

(1) Cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, candy, gum, confectionery, coffee and coffee substitutes, tea, and cocoa and cocoa products.

(2) Milk and milk products, milkshakes, malted milks, and any other similar type beverages that are composed at least in part of milk or a milk product and that require the use of milk or a milk product in their preparation.

(3) All fruit juices, vegetable juices, and other beverages, whether liquid or frozen, including bottled water, but excluding spirituous, malt, or vinous liquors or carbonated beverages.

(c) For purposes of this section, ''food products'' do not include medicines and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

(d) None of the exemptions in this section apply to any of the following:

(1) When the food products are served as meals on or off the premises of the retailer.

(2) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether

provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others.

(3) When the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though those products are sold on a ‘‘take out’’ or ‘‘to go’’ order and are actually packaged or wrapped and taken from the premises of the retailer.

(4) When the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments, marinas, campgrounds, and recreational vehicle parks.

(5) When the food products are sold through a vending machine.

(6) When the food products sold are furnished in a form suitable for consumption on the seller’s premises, and both of the following apply:

(A) Over 80 percent of the seller’s gross receipts are from the sale of food products.

(B) Over 80 percent of the seller’s retail sales of food products are sales subject to tax pursuant to paragraph (1), (2), (3), or (7).

(7) When the food products are sold as hot prepared food products.

(e) ‘‘Hot prepared food products,’’ for the purposes of paragraph (7) of subdivision (d), include a combination of hot and cold food items or components where a single price has been established for the combination and the food products are sold in combination, such as a hot meal, a hot specialty dish or serving, a hot sandwich, or a hot pizza, including any cold components or side items. Paragraph (7) of subdivision (d) does not apply to a sale for a separate price of bakery goods or beverages (other than bouillon, consommé, or soup), or where the food product is purchased cold or frozen; ‘‘hot prepared food products’’ means those products, items, or components that have been prepared for sale in a heated condition

and that are sold at any temperature that is higher than the air temperature of the room or place where they are sold.

(f) Notwithstanding paragraph (6) of subdivision (d), if the seller elects to separately account for sales of food products specified in subdivision (b), then the gross receipts from the sale of those food products shall be exempt under subdivision (a), provided that the separate accounting is fully documented in the seller's records. However, if the seller's records do not reflect the separate accounting of the gross receipts from sales of nontaxable food products, the seller's election under this subdivision shall be revoked.

SEC. 101. The heading of Chapter 2.92 (commencing with Section 7286.50) of Part 1.7 of Division 2 of the Revenue and Taxation Code is amended to read:

CHAPTER 2.92. FORT BRAGG TRANSACTIONS AND USE TAX

SEC. 102. Section 17233 of the Revenue and Taxation Code is amended to read:

17233. (a) There shall be allowed as a deduction the amount of net interest received by the taxpayer in payment of indebtedness incurred on or after May 1, 1992, of a person or entity engaged in trade or business located in the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code).

(b) No deduction shall be allowed under subdivision (a) unless at the time the indebtedness is incurred each of the following requirements are met:

(1) The trade or business is located solely within the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code).

(2) The indebtedness is incurred solely in connection with activity within the Los Angeles Revitalization Zone.

(3) The taxpayer has no equity or other ownership interest in the debtor.

(c) This section shall be inoperative on the first day of the taxable year beginning on or after the determination date, and each taxable year thereafter, with respect to the

taxpayer's business activities within a geographic area that is excluded from the map pursuant to Section 7102 of the Government Code, or an excluded area determined pursuant to Section 7104 of the Government Code. The determination date is the earlier of the first effective date of a determination under subdivision (c) of Section 7102 of the Government Code occurring after December 1, 1994, or the first effective date of an exclusion of an area from the amended Los Angeles Revitalization Zone under Section 7104 of the Government Code.

(d) This section shall remain in effect only until December 1, 1998, and as of that date is repealed.

SEC. 103. Section 17266 of the Revenue and Taxation Code is amended to read:

17266. (a) A taxpayer may elect to treat the cost of any Section 17266 property as an expense that is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the taxpayer places the Section 17266 property in service.

(b) (1) An election made under this section for any taxable year shall meet both of the following requirements:

(A) Specify the items of Section 17266 property to which the election applies and the cost of each of those items that is to be taken into account under subdivision (a).

(B) Be made on the taxpayer's original return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specifications contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) For purposes of this section:

(1) ''Taxpayer'' means a person or entity engaged in a trade or business within the Los Angeles Revitalization Zone designated pursuant to Section 7102 of the Government Code.

(2) ''Section 17266 property'' means any recovery property that is all of the following:

(A) Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code).

(B) Purchased and placed in service by the taxpayer on or after September 1, 1992, and before the zone expiration date.

(C) Used exclusively in a trade or business conducted within the Los Angeles Revitalization Zone designated pursuant to Section 7102 of the Government Code.

(3) ''Purchase'' means any acquisition of property, but only if both of the following apply:

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or 707(b) of the Internal Revenue Code (but, in applying Sections 267(b) and 267(c) of the Internal Revenue Code for purposes of this section, Section 267(c)(4) of the Internal Revenue Code shall be treated as providing that the family of an individual shall include only his or her spouse, ancestors, and lineal descendants).

(B) The basis of the property in the hands of the person acquiring it is not determined by either of the following:

(i) In whole or in part by reference to the adjusted basis of the property in the hands of the person from whom acquired.

(ii) Under Section 1014 of the Internal Revenue Code, relating to the basis of the property acquired from a decedent.

(4) ''Zone expiration date'' means the date the Los Angeles Revitalization Zone designation expires, is repealed, or becomes inoperative pursuant to Section 7102, 7103, or 7104 of the Government Code.

(d) For purposes of this section, the cost of the property does not include that portion of the basis of the property that is determined by reference to the basis of other property held at any time by the person acquiring the property.

(e) This section does not apply to estates and trusts.

(f) This section does not apply to any property described in Section 168(f) of the Internal Revenue

Code, relating to property to which Section 168 of the Internal Revenue Code does not apply.

(g) This section applies only to Section 17266 property that is used by the taxpayer exclusively in a trade or business conducted in the Los Angeles Revitalization Zone.

(h) Any amount deducted under subdivision (a) with respect to Section 17266 property that ceases to be used in the taxpayer's trade or business within the Los Angeles Revitalization Zone at any time before the close of the second taxable year after the property was placed in service shall be included in income in the taxable year in which the property ceases to be so used.

(i) This section shall be inoperative on the first day of the taxable year beginning on or after the determination date, and each taxable year thereafter, with respect to the taxpayer's business activities within a geographic area that is excluded from the map pursuant to Section 7102 of the Government Code, or an excluded area determined pursuant to Section 7104 of the Government Code. The determination date is the earlier of the first effective date of a determination under subdivision (c) of Section 7102 of the Government Code occurring after December 1, 1994, or the first effective date of an exclusion of an area from the amended Los Angeles Revitalization Zone under Section 7104 of the Government Code.

(j) This section shall remain in effect only until December 1, 1998, and as of that date is repealed.

SEC. 104. Section 23051.5 of the Revenue and Taxation Code is amended to read:

23051.5. (a) (1) Unless otherwise specifically provided, the terms ''Internal Revenue Code,'' ''Internal Revenue Code of 1954,'' or ''Internal Revenue Code of 1986,'' for purposes of this part, mean Title 26 of the United States Code, including all amendments thereto, as enacted on the specified date for the applicable taxable year as defined in paragraph (1) of subdivision (a) of Section 17024.5, except that for purposes of this part, ''income year'' shall be substituted for ''taxable year'' throughout that section.

(2) Unless otherwise specifically provided, for federal laws enacted on or after January 1, 1987, and on or before the specified date for the income year, uncodified provisions that relate to provisions of the Internal Revenue Code that are incorporated for purposes of this part shall apply to the same income years as the incorporated provisions.

(3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle H (Repeal of Expired or Obsolete Provisions) of the Revenue Reconciliation Act of 1990 (Public Law 101-508) modified numerous provisions of the Internal Revenue Code and provisions of prior federal acts, some of which are incorporated by reference into this part. Unless otherwise provided, the provisions described in the preceding sentence, to the extent that they modify provisions that are incorporated into this part, are declaratory of existing law and shall be applied in the same manner and for the same periods as specified in the Revenue Reconciliation Act of 1990.

(b) Unless otherwise specifically provided, when applying the Internal Revenue Code for purposes of this part, a reference to any of the following shall not apply for purposes of this part:

(1) Domestic International Sales Corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(2) Foreign Sales Corporations (FSC), as defined in Section 922(a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.

(7) Foreign income taxes and foreign income tax credits.

(8) Federal tax credits and carryovers of federal tax credits.

(c) (1) The provisions contained in Sections 41 to 44, inclusive, and Section 172 of the Tax Reform Act of 1984 (Public Law 98-369) relating to treatment of debt instruments shall not apply for income years beginning before January 1, 1987.

(2) The provisions contained in Public Law 99-121 relating to the treatment of debt instruments shall not be applicable for income years beginning before January 1, 1987.

(3) For income years beginning on and after January 1, 1987, the provisions referred to by paragraphs (1) and (2) shall apply for purposes of this part in the same manner and with respect to the same obligations as the federal provisions, except as otherwise provided in this part.

(d) When applying the Internal Revenue Code for purposes of this part, regulations issued by ''the secretary,'' in effect as of the specified effective date of the Internal Revenue Code sections referred to in paragraph (1) of subdivision (a) of Section 17024.5, shall apply to the extent that they do not conflict with this part or with regulations issued by the Franchise Tax Board.

(e) Whenever this part allows a taxpayer to make an election, the following rules shall apply:

(1) A proper election filed with the Internal Revenue Service in accordance with the Internal Revenue Code or regulations issued by ''the secretary'' shall be deemed to be a proper election for purposes of this part, unless otherwise expressly provided in this part or in regulations issued by the Franchise Tax Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(3) To obtain treatment other than that elected for federal purposes, a separate election shall be filed with the Franchise Tax Board at the time and in the manner that may be required by the Franchise Tax Board.

(f) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (e) shall apply to that application or consent.

(g) When applying the Internal Revenue Code for purposes of determining the statute of limitations under this part, any reference to a period of three years shall be modified to mean four years for purposes of this part.

(h) When applying, for purposes of this part, any section of the Internal Revenue Code or any applicable regulation thereunder, all of the following shall apply:

(1) For purposes of Chapter 2 (commencing with Section 23101), Chapter 2.5 (commencing with Section 23400), and Chapter 3 (commencing with Section 23501), the term ‘‘taxable income’’ shall mean ‘‘net income.’’

(2) For purposes of Article 2 (commencing with Section 23731) of Chapter 4, the term ‘‘taxable income’’ shall mean ‘‘unrelated business taxable income,’’ as defined by Section 23732.

(3) Any reference to ‘‘subtitle,’’ ‘‘Chapter 1,’’ or ‘‘chapter’’ shall mean this part.

(4) The provisions of Section 7806 of the Internal Revenue Code relating to construction of title shall apply.

(5) Any provision of the Internal Revenue Code that becomes operative on or after the specified date for that income year shall become operative on the same date for purposes of this part.

(6) Any provision of the Internal Revenue Code that becomes inoperative on or after the specified date for that income year shall become inoperative on the same date for purposes of this part.

(7) Due account shall be made for differences in federal and state terminology, effective dates, substitution of ‘‘income year’’ for ‘‘taxable year’’ when appropriate, substitution of ‘‘Franchise Tax Board’’ for ‘‘secretary’’ when appropriate, and other obvious differences.

(8) Any provision of the Internal Revenue Code that refers to a ‘‘corporation’’ shall, when applicable for purposes of this part, include a ‘‘bank,’’ as defined by Section 23039.

(i) Any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

SEC. 105. Section 23622 of the Revenue and Taxation Code is amended to read:

23622. (a) There shall be allowed as a credit against the ''tax'' (as defined by Section 23036) an amount equal to the sum of each of the following:

(1) Fifty percent for qualified wages in the first year of employment.

(2) Forty percent for qualified wages in the second year of employment.

(3) Thirty percent for qualified wages in the third year of employment.

(4) Twenty percent for qualified wages in the fourth year of employment.

(5) Ten percent for qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) ''Qualified wages'' means the wages paid or incurred by the employer during the income year to qualified disadvantaged individuals. ''Qualified wages'' means that portion of hourly wages that does not exceed 150 percent of the minimum wage.

(2) ''Qualified years one through five wages'' means, with respect to any individual, qualified wages received during the 60-month period beginning with the day the individual commences employment within an enterprise zone.

(3) ''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.

(c) For purposes of this section:

(1) ''Qualified disadvantaged individual'' means an individual—

(A) Who is a qualified employee within the meaning of subdivision (d).

(B) Who is hired by the employer after the designation of the area in which services were performed as an enterprise zone (under Section 7073 of the Government Code).

(C) Who is any of the following:

(i) An individual who is eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.) and who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act.

(ii) Any individual who is eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) 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) Any individual who is eligible as determined by the Employment Development Department under the federal Targeted Jobs Tax Credit Program as long as that program is in effect.

(2) Priority shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible under the federal Targeted Jobs Tax Credit Program.

(d) For purposes of this section, ''qualified employee'' means an individual—

(1) At least 90 percent of whose services for the taxpayer during the income year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone, and

(2) Who performs at least 50 percent of his or her services for the taxpayer during the income year in an enterprise zone.

(e) The taxpayer shall do both of the following:

(1) Obtain from either the Employment Development Department or the local county or city Job Training Partnership Act administrative entity or the local county GAIN office or social services agency, as appropriate, a certification that provides that a qualified individual meets the eligibility requirements specified in subparagraph (C) of paragraph (1) of subdivision (c).

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(f) (1) For purposes of this section, all employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single employer. In that case, 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. 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—

(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 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) 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 (g)) 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.

(g) (1) If the employment of any employee 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 income year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that income year and all prior income years attributable to qualified wages paid or incurred with respect to that employee.

(2) (A) Paragraph (1) does 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 and unable 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 under the applicable unemployment compensation provisions that the termination was due to the misconduct 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) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the employee continues to be employed by the acquiring corporation, or

(ii) By reason of 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.

(h) Rules similar to the rules provided in subsections (e) and (h) of Section 46 of the Internal Revenue Code shall apply in the case of either of the following:

(1) An organization to which Section 593 of the Internal Revenue Code applies.

(2) A regulated investment company or a real estate investment trust subject to taxation under this part.

(i) For purposes of this section, ''enterprise zone'' means an area for which designation as an enterprise zone is in effect under Section 7073 of the Government Code.

(j) The credit shall be reduced by the credit allowed under Section 23621. The credit also shall 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.

(k) In the case where the credit allowed under this section exceeds the ''tax,'' the excess may be carried over to reduce the ''tax'' in the following year, and succeeding years if necessary, for the number of years in which the designation of an enterprise zone under Section 7073 of the Government Code is operative, or 15 income years, if longer, until the credit has been exhausted.

(*l*) The amount of the credit allowed by this section shall not in any year exceed the amount of tax that would be imposed on the income attributed to business activities of the taxpayer within the enterprise zone (as defined in Section 7073 of the Government Code). The amount of that attributed income shall be determined in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section as follows:

(1) For income years beginning on or after January 1, 1991, and ending on or before December 31, 1996, income shall be apportioned to the enterprise zone by multiplying total income from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(2) ''The enterprise zone'' shall be substituted for ''this state.''

SEC. 106. Section 24356.4 of the Revenue and Taxation Code is amended to read:

24356.4. (a) A taxpayer may elect to treat the cost of any Section 24356.4 property as an expense that is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the income year in which the taxpayer places the Section 24356.4 property in service.

(b) (1) An election made under this section for any income year shall meet both of the following requirements:

(A) Specify the items of Section 24356.4 property to which the election applies and the cost of each of those items that is to be taken into account under subdivision (a).

(B) Be made on the taxpayer's original return of the tax imposed by this part for the income year.

(2) Any election made under this section, and any specifications contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) For purposes of this section:

(1) ''Taxpayer'' means a bank or corporation engaged in a trade or business within the Los Angeles Revitalization Zone designated pursuant to Section 7102 of the Government Code.

(2) ''Section 24356.4 property'' means any recovery property that is all of the following:

(A) Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code).

(B) Purchased and placed in service by the taxpayer on or after September 1, 1992, and before the zone expiration date.

(C) Used exclusively in a trade or business conducted within the Los Angeles Revitalization Zone designated pursuant to Section 7102 of the Government Code.

(3) ''Purchase'' means any acquisition of property, but only if all of the following apply:

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or 707(b) of the

Internal Revenue Code (but, in applying Sections 267(b) and 267(c) of the Internal Revenue Code, Section 267(c)(4) of the Internal Revenue Code shall be treated as providing that the family of an individual shall include only his or her spouse, ancestors, and lineal descendants).

(B) The property is not acquired by one member of an affiliated group from another member of the same affiliated group.

(C) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of the property in the hands of the person from whom acquired.

(4) ''Zone expiration date'' means the date the Los Angeles Revitalization Zone designation expires, is repealed, or becomes inoperative pursuant to Section 7102, 7103, or 7104 of the Government Code.

(d) This section does not apply to any property described in Section 168(f) of the Internal Revenue Code, relating to property to which Section 168 of the Internal Revenue Code does not apply.

(e) This section applies only to Section 24356.4 property that is used by the taxpayer exclusively in a trade or business conducted in the Los Angeles Revitalization Zone.

(f) Any amount deducted under subdivision (a) with respect to Section 24356.4 property that ceases to be used in the taxpayer's trade or business within the Los Angeles Revitalization Zone at any time before the close of the second income year after the property was placed in service shall be included in income in the income year in which property ceases to be so used.

(g) This section shall be inoperative on the first day of the income year beginning on or after the determination date, and each income year thereafter, with respect to the taxpayer's business activities within a geographic area that is excluded from the map pursuant to Section 7102 of the Government Code, or an excluded area determined pursuant to Section 7104 of the Government Code. The determination date is the earlier of the first effective date of a determination under subdivision (c) of Section 7102

of the Government Code occurring after December 1, 1994, or the first effective date of an exclusion of an area from the amended Los Angeles Revitalization Zone under Section 7104 of the Government Code.

(h) This section shall remain in effect only until December 1, 1998, and as of that date is repealed.

SEC. 107. Section 24385 of the Revenue and Taxation Code is amended to read:

24385. (a) There shall be allowed as a deduction the amount of net interest received by the taxpayer in payment of indebtedness incurred on or after May 1, 1992, of a person or entity engaged in trade or business located in the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code).

(b) No deduction shall be allowed under subdivision (a) unless at the time the indebtedness is incurred each of the following requirements are met:

(1) The trade or business is located solely within the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code).

(2) The indebtedness is incurred solely in connection with activity within the Los Angeles Revitalization Zone.

(3) The taxpayer has no equity or other ownership interest in the debtor.

(c) This section shall be inoperative on the first day of the income year beginning on or after the determination date, and each income year thereafter, with respect to the taxpayer's business activities within a geographic area that is excluded from the map pursuant to Section 7102 of the Government Code, or an excluded area determined pursuant to Section 7104 of the Government Code. The determination date is the earlier of the first effective date of a determination under subdivision (c) of Section 7102 of the Government Code occurring after December 1, 1994, or the first effective date of an exclusion of an area from the amended Los Angeles Revitalization Zone under Section 7104 of the Government Code.

(d) This section shall remain in effect only until December 1, 1998, and as of that date is repealed.

SEC. 108. Section 60706.1 of the Revenue and Taxation Code is amended to read:

60706.1. In addition to the fine or imprisonment, or both, each person convicted under Section 60706 shall pay, in the court's discretion, up to two dollars ($2) for each gallon of diesel fuel, or portion thereof, knowingly removed, entered, blended, or delivered into a fuel tank, or possessed, kept, stored, or retained for the purpose of removal or removed, or offered for removal, or entry, or entered, or for sale, or actually sold, or offered for sale, or for the purpose of use, or actually used, or for the purpose of delivery into a fuel tank, or actually delivered into a fuel tank, or offered for delivery into a fuel tank, in violation of Section 60706, as determined by the court. Proceeds of the assessed penalty shall be distributed to the treasurer of the county in which the action was brought. After reimbursing the prosecuting agency for its costs of prosecution, and after deducting the county's reasonable costs of administration, the remaining proceeds shall be distributed to the Motor Vehicle Fuel Account in the Transportation Tax Fund. Funds distributed pursuant to this section to the Motor Vehicle Fuel Account shall be available, upon appropriation by the Legislature, to pay administrative costs of the board to enforce this part.

SEC. 109. Section 60707.1 of the Revenue and Taxation Code is amended to read:

60707.1. In addition to the fine or imprisonment, or both, each person convicted under Section 60707 shall pay, in the court's discretion, up to two dollars ($2) for each gallon of diesel fuel, or portion thereof, knowingly removed, entered, blended, or delivered into a fuel tank, or possessed, kept, stored, or retained for the purpose of removal or removed, or offered for removal, or entry, or entered, or for the purpose of sale, or actually sold, or offered for sale, or for the purpose of use, or actually used, or delivery into a fuel tank, or delivered into a fuel tank, or offered for delivery into a fuel tank, in violation of Section 60707, as determined by the court. Proceeds of the assessed penalty shall be distributed to the treasurer

of the county in which the action was brought. After reimbursing the prosecuting agency for its costs of prosecution, and after deducting the county's reasonable costs of administration, the remaining proceeds shall be distributed to the Motor Vehicle Fuel Account in the Transportation Tax Fund. Funds distributed pursuant to this section to the Motor Vehicle Fuel Account shall be available, upon appropriation by the Legislature, to pay administrative costs of the board to enforce this part.

SEC. 110. Section 10218.5 of the Unemployment Insurance Code is amended to read:

10218.5. (a) This chapter shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 2002, deletes or extends that date.

(b) The panel may enter into contracts that permit employment training through June 30, 2002. However, no contract shall have a termination date that extends beyond December 31, 2002.

(c) In the event a later enacted statute does not extend the January 1, 2002, repeal date of this chapter, the panel shall enter into an agreement with another state agency, to be selected by the Governor, that shall act on behalf of the panel for the sole purpose of contract administration, which shall include, but is not limited to, monitoring performance, generating amendments to downsize the contracts, closing out contracts, auditing contracts, and making payment for any contracts that extend beyond January 1, 2002.

(d) Any agency acting on behalf of the panel pursuant to this section may seek a budget appropriation or augmentation for both the administration of the program and payment to contractors.

SEC. 111. Section 15037.1 of the Unemployment Insurance Code is amended to read:

15037.1. (a) The State Council shall be responsible for developing an education and job training report card program to assess the accomplishments of California's work force preparation system.

(1) A subcommittee of the State Council shall be established for this purpose.

(2) The subcommittee shall be comprised of three private sector members of the State Council, the director of the department, the Superintendent of Public Instruction, the Chancellor of the California Community Colleges, or their designees, and representatives of programs that are to be measured under the report card program.

(3) The subcommittee shall be responsible for designing and implementing, or contracting with an operating entity for the implementation of, a system that can compile, maintain, and disseminate information on the performance of providers, programs, and the overall work force preparation system.

(b) By January 1, 2001, the subcommittee or an operating entity under contract to the subcommittee shall operate a comprehensive performance-based accountability system that matches the social security numbers of former participants in state education and training programs with information in files of state and federal agencies that maintain employment and educational records and identifies the occupations of those former participants whose social security numbers are found in employment records.

(c) This system shall measure the performance of state and federally funded education and training programs. Programs to be measured may include programs in receipt of funds from the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, the Job Opportunities and Basic Skills program, the Food Stamp Employment and Training program, the Wagner Peyser Act, the Employment Training Panel, adult education programs as defined by paragraph (9) of subdivision (b) of Section 10521, vocational education programs, and certificated community college programs.

(d) Job training and education providers receiving funding identified in subdivision (c) shall report to the subcommittee or an operating entity under contract to the subcommittee, as the case may be, on participant

social security numbers and economic and demographic characteristics, including, but not limited to, age, gender, race or ethnicity, and education achievement. The State Council shall establish the acceptable format and timeframes for data submission.

(e) The system shall be designed to measure factors such as:

(1) Amount and source of funding.

(2) Program entrance and successful completion rates.

(3) Employment and wage information for one and three years after completion of training.

(4) The relationship of training to employment.

(5) Academic achievement for one and three years after completion of training.

(6) Achievement of industry skill standard certifications, where they exist.

(7) Return on public investment.

(f) Based upon the information compiled pursuant to this section, the subcommittee or an operating entity under contract to the subcommittee, as the case may be, shall, by December 31, 1997, and each December 31 thereafter, do all of the following:

(1) Prepare and disseminate report cards for all training and education providers in receipt of funds included in the tracking system.

(2) Prepare and disseminate local and statewide report cards that measure the outcomes of the individual programs that operate as part of the work force development system.

(3) Prepare and disseminate a state report card that measures the performance of the entire system of work force preparation and the effectiveness of the system in meeting employers' needs for educated and trained workers and the clients' needs for improving their economic well-being.

(g) The State Council shall develop objective performance standards emphasizing the principles of continuous improvement for the programs covered under this section, and a system of sanctions and

incentives to encourage performance that meet these standards.

(h) The State Council shall explore the feasibility of including the following persons in this system:

(1) Attendees at private postsecondary institutions.

(2) Recipients of federal student loans.

(3) Recipients of Pell grants.

(4) Pupils in grades 11 and 12.

(5) Students enrolled in any community college, California State University, or University of California program.

(i) The sole purpose of this section is to assess the performance of state and federal employment and training providers and programs in preparing Californians for the work force. Collection and use of social security numbers pursuant to this section shall be consistent with the requirements of Section 7 of the federal Privacy Act of 1974 (P.L. 93-579) and Section 405(c)(2)(C) of Title 42 of the United States Code. Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, or any other provision of law, the social security number of any person obtained pursuant to this section is not a public record, and shall not be disclosed except for the purpose of this section. Information obtained pursuant to this section shall not be sold or distributed to any entity without prior consent from the individual, or his or her parent or guardian, with respect to whom the information is gathered. This subdivision does not prohibit the exchange of information with other governmental departments and agencies, both federal and state, that are concerned with the administration of work force development programs. Neither the subcommittee nor an operating entity under contract to the subcommittee, as the case may be, may make public any information that could identify an individual or his or her employer.

(j) An education and training program that requires information gathered by the education and job training report card program shall use the report card program

and shall not initiate automated matching of records in duplication of methods already in place as a result of the report card program.

(k) Funding for the development and maintenance of the education and job training report card program shall be made available on a shared basis by the programs the report card program is measuring, to the extent authorized by federal and state law. The subcommittee, or the operating entity under contract to the subcommittee, shall have the authority to assess each of the programs with an appropriate share of the costs of the report card program. Administrative funds currently used for program followup activities for the identified programs shall be redirected for this purpose, if authorized by federal law.

(*l*) The state council shall apply for any federal waivers that may be necessary to implement this section.

SEC. 112. Section 415 of the Vehicle Code is amended to read:

415. (a) A ''motor vehicle'' is a vehicle that is self-propelled.

(b) ''Motor vehicle'' does not include a self-propelled wheelchair, invalid tricycle, or motorized quadricycle when operated by a person who, by reason of physical disability, is otherwise unable to move about as a pedestrian.

SEC. 113. Section 672 of the Vehicle Code is amended to read:

672. (a) ''Vehicle manufacturer'' is any person who produces from raw materials or new basic components a vehicle of a type subject to registration under this code, or off-highway motorcycles subject to identification under this code, or who permanently alters, for purposes of retail sales, new commercial vehicles by converting the vehicles into housecars that display the insignia of approval required by Section 18056 of the Health and Safety Code and any regulations issued pursuant thereto by the Department of Housing and Community Development. As used in this section, ''permanently

alters'' does not include the permanent attachment of a camper to a vehicle.

(b) A vehicle manufacturer who produces a vehicle of a type subject to registration that consists of used or reconditioned parts, for the purposes of the code, is a remanufacturer, as defined in Section 507.8.

(c) Unless a vehicle manufacturer either grants franchises to franchisees in this state, or issues vehicle warranties directly to franchisees in this state or consumers in this state, the manufacturer shall have an established place of business or a representative in this state.

(d) The scope and application of this section are limited to Division 2 (commencing with Section 1500) and Division 5 (commencing with Section 11100).

SEC. 114. Section 1656.2 of the Vehicle Code is amended to read:

1656.2. The department shall prepare and publish a printed summary describing the penalties for noncompliance with Section 16000, which shall be included with each motor vehicle registration, registration renewal, and transfer of registration and with each driver's license and license renewal. The printed summary may contain, but is not limited to, the following wording:

''IMPORTANT FACTS ABOUT ENFORCEMENT OF CALIFORNIA'S COMPULSORY FINANCIAL RESPONSIBILITY LAW

The Robbins-McAlister Financial Responsibility Act requires every driver to maintain proof of valid automobile liability insurance, bond, cash deposit, or self-insurance which has been approved by the Department of Motor Vehicles.

You must provide proof of financial responsibility after you are cited by a peace officer for a traffic violation. The act requires that you provide the officer with the name of your insurer and the policy

identification number. Your insurer will provide written evidence of this number. The back of your vehicle registration form contains a space for writing this information. Failure to prove your financial responsibility can result in fines of up to two hundred forty dollars ($240) and loss of your driver's license. Falsification of proof can result in fines of up to five hundred dollars ($500) or 30 days in jail, or both.

Under existing law, if you are involved in an accident that results in damages over five hundred dollars ($500) or in any injury or fatality, you must file a report of the accident with the Department of Motor Vehicles within 10 days of the accident. If you fail to file a report or fail to provide evidence of financial responsibility on the report, your driving privilege will be suspended for one year. Your suspension notice will notify you of the department's action and of your right to a hearing. Your suspension notice will also inform you that if you request a hearing, it must be conducted within 30 days of your written request, and that a decision is to be rendered within 15 days of the conclusion of the hearing.''

SEC. 115. Section 1675 of the Vehicle Code is amended to read:

1675. (a) The director shall establish standards and develop criteria for the approval of driver improvement courses specifically designed for the safe driving needs of drivers who are 55 years of age or older, which shall be known as the mature driver improvement course.

(b) The curriculum for the course provided for in subdivision (a) shall include, but is not limited to, all of the following components:

(1) How impairment of visual and audio perception affects driving performance and how to compensate for that impairment.

(2) The effects of fatigue, medications, and alcohol on driving performance, when experienced alone or in combination, and precautionary measures to prevent or offset ill effects.

(3) Updates on rules of the road and equipment, including, but not limited to, safety belts and safe and efficient driving techniques under present day road and traffic conditions.

(4) How to plan travel time and select routes for safety and efficiency.

(5) How to make crucial decisions in dangerous, hazardous, and unforeseen situations.

(c) Each mature driver improvement course shall include not less than 400 minutes of instruction, and shall not exceed 25 students per single day of instruction or 30 students per two days of instruction.

(d) Upon satisfactory completion of the mature driver improvement course, participants shall receive and retain a certificate provided by the department, awarded and distributed by the course provider, which shall be suitable evidence of satisfactory course completion, and eligibility for three years, from the date of completion, for the mature driver vehicle liability insurance premium reduction pursuant to Section 11628.3 of the Insurance Code.

(e) The course provider shall report to the department, upon enrollment, the name of each participant and the person's driver's license number. The course provider shall also transmit a copy of each certificate distributed to a participant to the department.

(f) The certificate may be renewed every three years from the date of completion by successfully completing a subsequent mature driver improvement course.

(g) For the purposes of this section, and Sections 1676 and 1677, ''course provider'' means any person offering a mature driver improvement course approved by the department pursuant to subdivision (a) of this section.

SEC. 116. Section 1810 of the Vehicle Code is amended to read:

1810. (a) Except as provided in Sections 1806.5, 1808.2, 1808.4, 1808.5, 1808.7, and 1808.8, the department may permit inspection of or sell, or both, information from its records concerning the registration of any vehicle or information from the files of drivers' licenses

at a charge sufficient to pay the actual cost to the department for providing the inspection or sale of the information, including, but not limited to, costs incurred by the department in carrying out subdivision (b), the charge for the information to be determined by the director. The department may sell stamps or coupons in appropriate denominations for the convenient enforcement of this section. The stamps or coupons may be used to accompany requests for information in lieu of cash, but otherwise shall be nonredeemable and shall be canceled by the department upon granting the request for information. This section does not apply to statistical information of the type previously compiled and distributed by the department.

(b) With respect to the inspection or sale of information concerning the registration of any vehicle or of information from the files of drivers' licenses, the department shall, by regulation, establish administrative procedures under which any person making a request for that information shall be required to identify himself or herself and state the reason for making the request. The procedures shall provide for the verification of the name and address of the person making a request for the information, and the department may require the person to produce that information as it determines is necessary in order to ensure that the name and address of the person are his or her true name and address. The procedures may provide for a 10-day delay in the release of the requested information. The procedures shall also provide for notification to the person to whom the information primarily relates, as to what information was provided and to whom it was provided. The department shall, by regulation, establish a reasonable period of time for which a record of all the foregoing shall be maintained.

The procedures required by this subdivision do not apply to any governmental entity, any person who has applied for and has been issued a requester code by the department or any court of competent jurisdiction.

(c) With respect to the inspection or sale of information from the files of drivers' licenses, the department may require both the full name of the driver and either the driver's license number or date of birth as identifying points of the record, except that the department may disclose a record without two identifying points if the department determines that the public interest in disclosure outweighs the public interest in personal privacy.

(d) With respect to the inspection or sale of information from the files of drivers' licenses, certificates of ownership, and registration cards, the department shall not, for a fee or otherwise, provide photocopies to or allow copying by the public.

SEC. 117. Section 4655 of the Vehicle Code is amended to read:

4655. The department shall submit a final report to the Legislature on the voluntary common registration renewal date study on or before July 1, 1984. The final report shall include, but not be limited to, a summary of the department's findings and recommendations.

SEC. 118. Section 5011.5 of the Vehicle Code is amended to read:

5011.5. Every limousine operated by a charter-party carrier, as defined by subdivision (h) of Section 5371.4 of the Public Utilities Code, shall display a special identification license plate issued pursuant to Section 5385.6 of that code.

This section shall become operative on July 1, 1995.

SEC. 119. Section 5070 of the Vehicle Code is amended to read:

5070. (a) The department, in consultation with the American Heritage Rodeo Foundation, shall design and make available for issuance pursuant to Section 5060 special interest license plates depicting a significant historical feature of California or the American West that may be issued in a combination of numbers or letters, or both, as requested by the applicant for the plates. Any person described in Section 5101 may, upon payment of

the additional fees set forth in subdivision (b), apply for and be issued a set of special interest license plates.

(b) In addition to the regular fees for an original registration or renewal of registration, the following additional fees shall be paid for the issuance, renewal, retention, or transfer of the special interest license plates authorized pursuant to this section:

(1) For the original issuance of the plates, fifty dollars ($50).

(2) For a renewal of registration of the plates, or the retention of the plates if renewal is not required, forty dollars ($40).

(3) For transfer of the plates to another vehicle, fifteen dollars ($15).

(4) For each substitute replacement plate, thirty-five dollars ($35).

(5) In addition, for the issuance of an environmental license plate, as defined in Section 5103, the additional fees prescribed in Sections 5106 and 5108, which shall be deposited in the Environmental License Plate Fund.

(c) Except as provided in paragraph (5) of subdivision (b), all fees collected under this section shall, after deduction of the department's costs in administering this section, be deposited in the American Heritage Rodeo Foundation License Plate Account, which is hereby created in the General Fund. The funds in the account shall be used by the American Heritage Rodeo Foundation, upon appropriation by the Legislature, to educate the public about the ethnic American West and to preserve important cultural and historical artifacts and features of California and the American West.

SEC. 120. Section 8200 of the Vehicle Code is amended to read:

8200. ''Registrant,'' for purposes of this article, means any person issued apportioned fleet registration pursuant to Article 4 (commencing with Section 8050).

SEC. 121. Section 9252 of the Vehicle Code is amended to read:

9252. (a) In addition to the registration fee specified in Section 9250 and any weight fee, there shall be paid a

service fee of ten dollars ($10) for the registration within this state of every vehicle purchased new outside this state or previously registered outside this state. If the vehicle has been registered and operated in this state during the same registration year in which application for registration is made, a fee of six dollars ($6) shall be paid.

(b) This section does not apply to vehicles registered as fleet vehicles under Article 4 (commencing with Section 8050) of Chapter 4, except upon application for a certificate of ownership.

SEC. 122. Section 11216.2 of the Vehicle Code is amended to read:

11216.2. (a) Any license issued to the owner or operator of a traffic violator school under this chapter shall be automatically suspended for 30 days by the department if the department has been notified that more than one final determination has been made that the traffic violator school has violated a student's rights under the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101, et seq.) or any other federal or state law prohibiting discrimination against individuals with disabilities. The final determination shall be made by a federal or state court of competent jurisdiction or an appropriate federal or state administrative agency, including, but not limited to, the Department of Fair Employment and Housing, or any combination thereof.

For the purpose of this subdivision, ''final determination'' means that no further appeal of a determination can be taken to any court because the time period for the appeal has expired.

(b) If a traffic violator school subject to suspension under this section is operated by a traffic school operator licensed pursuant to Section 11202.5 who is operating other traffic schools, the licenses of the owners of those traffic schools operated by that traffic school operator also shall be suspended for the 30-day period.

SEC. 123. Section 13378 of the Vehicle Code is amended to read:

13378. (a) Any applicant for, or holder of, a tow truck driver certificate who has received a notice of denial or

revocation, may, within 15 days of the mailing of the notice, submit to the department a written request for a hearing. Failure to request a hearing, in writing, within 15 days is a waiver of the right to a hearing.

(b) Upon receipt by the department of the hearing request, the department may stay the action until a hearing is conducted and the final decision is made by the hearing officer. The department shall not stay the action when there is reasonable cause to believe that the stay would pose a threat to a member of the motoring public who may require the services of the tow truck driver in question.

(c) An applicant for, or a holder of, a tow truck driver certificate, whose certificate has been denied or revoked, is not entitled to a hearing whenever the action by the department is made mandatory by this article or any other applicable law or regulation.

(d) Upon receipt of a request for a hearing, and when the requesting party is entitled to a hearing under this article, the department shall appoint a hearing officer to conduct a hearing in accordance with Section 14112.

SEC. 124. Section 17302 of the Vehicle Code is amended to read:

17302. The driver, or the owner and driver, jointly, as the case may be, are also liable for all damages that any highway or bridge sustains as the result of any operation, driving, or moving of any vehicle that exceeds any of the limitations imposed by Division 15 (commencing with Section 35000), Chapter 1 (commencing with Section 29000) of Division 13, Section 21461 with respect to a sign erected under Section 35655, and Sections 21712 and 23114 even though the vehicle is exempted from the limitations by Section 35001, 35104, 35105, 35106, 35108, 35250, 35400, 35414, or 36615.

SEC. 125. Section 21114.5 of the Vehicle Code is amended to read:

21114.5. Notwithstanding Section 21663 or any other provision of this code, local authorities may, by ordinance, authorize the operation of electric carts by physically disabled persons, by persons 50 years of age or older, or,

while in the course of their employment, by employees of the United States Postal Service, state and local governmental agencies, or utility companies, on public sidewalks. Any ordinance shall, however, contain provisions requiring any disabled person or person 50 years of age or older who owns or leases an electric cart to apply to the local authority for a permit and an identification sticker to so operate the cart, and requiring the person to affix the sticker to the cart in order to operate it on the sidewalk. The permit and sticker shall become invalid if the person ceases to operate, own, or lease the cart.

This section does not apply to devices described in subdivision (b) of Section 415.

SEC. 126. Section 21663 of the Vehicle Code is amended to read:

21663. Except as expressly permitted pursuant to this code, including Sections 21100.4 and 21114.5, no person shall operate or move a motor vehicle upon a sidewalk except as may be necessary to enter or leave adjacent property.

SEC. 127. Section 22507.9 of the Vehicle Code is amended to read:

22507.9. Local authorities may establish a special enforcement unit for the sole purpose of providing adequate enforcement of Section 22507.8 and local ordinances and resolutions adopted pursuant to Section 22511.7.

Local authorities may establish recruitment and employment guidelines that encourage and enable employment of qualified disabled persons in these special enforcement units.

Members of the special enforcement unit may issue notices of parking violation for violations of Section 22507.8 and local ordinances adopted pursuant to Section 22511.7. Members of the special enforcement unit shall not be peace officers and shall not make arrests in the course of their official duties, but shall wear distinctive uniforms and badges while on duty. A two-way radio unit, which may utilize police frequencies or citizens' band,

may be issued by the local authority to each member of the special enforcement unit for use while on duty.

The local authority may pay the cost of uniforms and badges for the special enforcement unit, and may provide daily cleaning of the uniforms. Additionally, the local authority may provide motorized wheelchairs for use by members of the special unit while on duty, including batteries and necessary recharging thereof. Any motorized wheelchair used by a member of the special enforcement unit while on duty shall be equipped with a single headlamp in the front and a single stoplamp in the rear.

Members of the special enforcement unit may be paid an hourly wage without the compensatory benefits provided other permanent and temporary employees, but shall be entitled to applicable workers' compensation benefits as provided by law. Insurance provided by the local authority for disability or liability of a member of the special enforcement unit shall be the same as for other employees performing similar duties.

Nothing in this section precludes a local authority from using regular full-time employees to enforce this chapter and ordinances adopted pursuant thereto.

This section applies to all counties and cities, including every charter city and city and county.

SEC. 128. Section 22512 of the Vehicle Code is amended to read:

22512. Except as otherwise indicated in subdivision (b), none of the following provisions shall apply to the driver or owner of any service vehicle owned or operated by or for or operated under contract with a utility or public utility, whether privately, municipally, or publicly owned, used in the construction, operation, removal, or repair of utility or public utility property or facilities, if warning devices are displayed and when the vehicle is stopped, standing, or parked at the site of work involving the construction, operation, removal, or repair of the utility or public utility property or facilities upon, in, over, under, or adjacent to a highway, bicycle lane, bikeway, or bicycle path or trail, or of a vehicle, whether privately,

municipally, or publicly owned, if warning devices are displayed and when the vehicle is engaged in authorized work on the highway, bicycle lane, bikeway, or bicycle path or trail:

(a) Sections 21112, 21211, 21707, 21708, 22507.6, 24605, 25253, 25300, 27700, and 27907.

(b) This chapter, except Sections 22507, 22509, 22515, and 22517.

(c) Chapter 10 (commencing with Section 22650).

SEC. 129. Section 22851.1 of the Vehicle Code is amended to read:

22851.1. (a) If the vehicle is impounded pursuant to subdivision (i) of Section 22651 and not released as provided in that subdivision, the vehicle may be sold pursuant to this chapter to satisfy the liens specified in Section 22851 and in subdivision (b) of this section.

(b) A local authority impounding a vehicle pursuant to subdivision (i) of Section 22651 shall have a lien dependent upon possession by the keeper of the garage for satisfaction of bail for all outstanding notices of parking violation issued by the local authority for the vehicle, when the conditions specified in subdivision (c) have been met. This lien shall be subordinate in priority to the lien established by Section 22851, and the proceeds of any sale shall be applied accordingly. Consistent with this order of priority, the term ‘‘lien,’’ as used in this article and in Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code, includes a lien imposed by this subdivision. In any action brought to perfect the lien, where required by subdivision (d) of Section 22851.8 of this code, or by subdivision (d) of Section 3071 or subdivision (d) of Section 3072 of the Civil Code, it shall be a defense to the recovery of bail that the owner of the vehicle at the time of impoundment was not the owner of the vehicle at the time of the parking offense.

(c) A lien shall exist for bail with respect to parking violations for which no person has answered the charge in the notice of parking violation given, or filed an

affidavit of nonownership pursuant to and within the time specified in subdivision (b) of Section 41103.

SEC. 130. Section 23197 of the Vehicle Code is amended to read:

23197. (a) Except as provided in subdivision (c), an order to pay any fine, restitution, or assessment, imposed as a condition of the grant of probation or as part of a judgment of conditional sentence for a violation of Section 23152 or 23153, may be enforced in the same manner provided for the enforcement of money judgments.

(b) A willful failure to pay any fine, restitution, or assessment during the term of probation is a violation of the terms and conditions of probation.

(c) If an order to pay a fine as a condition of probation is stayed, a writ of execution shall not be issued, and any failure to pay the fine is not willful, until the stay is removed.

SEC. 131. Section 23203 of the Vehicle Code is amended to read:

23203. (a) If a person's privilege to operate a motor vehicle is restricted by a court pursuant to this article, the court shall clearly mark the restriction and the dates of the restriction on each of that person's operator's licenses and promptly notify the Department of Motor Vehicles of the terms of the restriction in a manner prescribed by the department. The department shall place that restriction on the person's records in the department and enter the restriction on any license subsequently issued by the department to that person during the period of the restriction.

(b) If the court removes a restriction before the end of the previously specified term, the court shall so mark the person's operator's license in a manner prescribed by the department and promptly notify the department of the removal of the restriction.

(c) If a person is placed on probation pursuant to this article, the court shall promptly notify the Department of Motor Vehicles of the probation and probationary term and conditions in a manner prescribed by the

department. The department shall place the fact of probation and the probationary term and conditions on the person's records in the department.

SEC. 132. Section 25110 of the Vehicle Code is amended to read:

25110. (a) The following vehicles may be equipped with utility flood or loading lamps mounted on the rear, and sides, that project a white light illuminating an area to the side or rear of the vehicle for a distance not to exceed 75 feet at the level of the roadway:

(1) Tow trucks that are used to tow disabled vehicles may display utility floodlights, but only during the period of preparation for towing at the location from which a disabled vehicle is to be towed.

(2) Ambulances used to respond to emergency calls may display utility flood and loading lights, but only at the scene of an emergency or while loading or unloading patients.

(3) Firefighting equipment designed and operated exclusively as such may display utility floodlamps only at the scene of an emergency.

(4) Vehicles used by law enforcement agencies or organizations engaged in the detoxification of alcoholics may display utility flood or loading lights when loading or unloading persons under the influence of intoxicants for transportation to detoxification centers or places of incarceration.

(5) Vehicles used by law enforcement agencies for mobile blood alcohol testing, drug evaluation, or field sobriety testing .

(6) Vehicles used by publicly or privately owned public utilities may display utility flood or loading lights when engaged in emergency roadside repair of electric, gas, telephone, telegraph, water, or sewer facilities.

(b) Lamps permitted under subdivision (a) shall not be lighted during darkness, except while the vehicle is parked, nor project any glaring light into the eyes of an approaching driver.

SEC. 133. Section 25802 of the Vehicle Code is amended to read:

25802. Sections 24002, 24005, 24012, 24250, 24251, 24400 to 24404, inclusive, 24600 to 24604, inclusive, 24606 to 24610, inclusive, Article 4 (commencing with Section 24800), Article 5 (commencing with Section 24950), Article 6 (commencing with Section 25100), Article 9 (commencing with Section 25350), Article 11 (commencing with Section 25450), and Article 13 (commencing with Section 25650) of Chapter 2 of this division, Chapter 3 (commencing with Section 26301), Chapter 4 (commencing with Section 26700), and Chapter 5 (commencing with Section 27000) of this division, and Chapter 2 (commencing with Section 29200), Chapter 3 (commencing with Section 29800), Chapter 4 (commencing with Section 30800), and Chapter 5 (commencing with Section 31301) of Division 13 do not apply to logging vehicles or any vehicle of a type subject to registration under this code that is not designed, used, or maintained for the transportation of persons or property and that is operated or moved over a highway only incidentally ; but any such vehicle shall be subject to Sections 2800, 2806, 24004, 25260, 25803, 25950, 25952, 26457, 27454, 27602, 31500, and 40150, and to Article 12 (commencing with Section 25500) of Chapter 2 of this division.

SEC. 134. Section 27207 of the Vehicle Code is amended to read:

27207. No motor vehicle with a gross vehicle weight rating of more than 10,000 pounds and equipped with an engine speed governor shall produce a sound level exceeding 88 dbA, measured on an open site at a distance of 50 feet from the longitudinal centerline of the vehicle, when its engine is accelerated from idle with wide open throttle to governed speed with the vehicle stationary, transmission in neutral, and clutch, if any, engaged. Test procedures for compliance with this section shall be established by the department, taking into consideration the procedures of the United States Department of Transportation. The procedures may provide for measuring at other distances, in which case the measurement shall be corrected so as to provide for

measurements equivalent to the noise limit established by this section measured at 50 feet.

SEC. 135. Section 32050 of the Vehicle Code is amended to read:

32050. (a) Prior to the transport of anhydrous hydrazine, methylhydrazine, dimethylhydrazine, Aerozine 50, fuming nitric acid, liquid fluorine, or nitrogen tetroxide in bulk packaging, except when that packaging contains only residue, outside the confines of a facility where that material was used or stored, or prior to the delivery of that bulk material to a carrier for transport, each carrier shall provide advance notification, in writing, of the shipment, to the department, which, in turn, shall notify the sheriff of each county and police chief of each city in which is located the proposed route. Notification shall be made through the Department of Justice's California Law Enforcement Telecommunications System. The sheriffs and police chiefs shall, in turn, make timely notification to the fire chiefs within their respective jurisdictions through a mutually agreed upon communications system.

(b) Subdivision (a) applies only to the extent that it does not conflict with federal law.

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

(1) ''Bulk packaging'' has the same meaning as defined in Section 171.8 of Title 49 of the Code of Federal Regulations.

(2) ''Fire chief'' means the fire chief of each county and city fire department and the fire chief of each fire protection district serving a population greater than 15,000 in which is located the proposed route. This paragraph does not apply to any fire chief of a fire department or fire protection district that is composed of 50 percent or more volunteer firefighters.

(3) ''Residue'' has the same meaning as defined in Section 171.8 of Title 49 of the Code of Federal Regulations.

SEC. 136. Section 33002 of the Vehicle Code is amended to read:

33002. (a) Prior to the transport of any hazardous radioactive materials containing cargoes of commercially produced, spent radioactive fuel outside the confines of a facility where that material was used or stored, or prior to the delivery of these materials to a carrier for transport, each carrier shall provide advance notification, in writing, of the shipment to the Department of the California Highway Patrol, which, in turn, shall notify all of the following persons:

(1) The fire chiefs of each city and county fire department and the fire chiefs of each fire protection district serving a population greater than 15,000, which city, county, or fire protection district is located along the proposed route. The Department of the California Highway Patrol, however, shall notify only those fire chiefs who have requested, in writing, to be so notified. A fire chief may revoke this request, in writing, at any time.

This paragraph does not apply to any fire chief of a fire department or fire protection district that is composed of 50 percent or more volunteer firefighters.

(2) The police chiefs of each city where surface transportation would occur along the proposed route.

(b) Subdivision (a) applies only to the extent that it does not conflict with federal law.

(c) Each advance notification shall contain the following information:

(1) The name, address, and telephone number of the shipper, carrier, and receiver of the shipment.

(2) If the shipment originates within California, the point of origin of the shipment and the 48-hour period during which departure of the shipment is estimated to occur, the destination of the shipment within California, and the 48-hour period during which the shipment is estimated to arrive.

(3) If the shipment originates outside of California, the point of origin of the shipment and the 48-hour period during which the shipment is estimated to arrive at state boundaries, the destination of the shipment within

California, and the 48-hour period during which the shipment is estimated to arrive.

(4) A telephone number and address for current shipment information.

(d) The Department of the California Highway Patrol shall design a standard notification form to include all of the information specified in subdivision (c) and shall make these forms available by April 1, 1984.

(e) The notification is required to reach the Department of the California Highway Patrol at least 72 hours before the beginning of the 48-hour period during which departure of the shipment is estimated to occur, and the Department of the California Highway Patrol shall notify the fire chiefs who have requested notification and the police chiefs specified in subdivision (a) at least 36 hours before the beginning of this 48-hour period. A copy of the notification shall be retained by the Department of the California Highway Patrol for three years.

(f) The carrier shall also notify, by telephone or telegram, the Department of the California Highway Patrol if there are any changes in the scheduling of a shipment, in the routes to be used for a shipment, or any cancellation of a shipment. The Department of the California Highway Patrol shall, in turn, notify the fire chiefs who have requested notification and the police chiefs specified in subdivision (a) who would be affected by these changes in the scheduling of a shipment, in the routes to be used for a shipment, or the cancellation of a shipment. The Department of the California Highway Patrol shall maintain for three years a record of each telegram and telephonic notification.

(g) Any person or agency that receives any information pursuant to this section shall not disseminate or reveal this information to any other person, state agency, city, county, or local agency unless the person or agency determines that disseminating or revealing this information is necessary to protect the public health and safety or the environment.

(h) The Governor shall appoint the fire chiefs eligible to request notification, as specified in paragraph (1) of subdivision (a), as the designated representatives of the Governor pursuant to paragraph (1) of subsection (c) of Section 73.21 of Title 10 of the Code of Federal Regulations for the purpose of receiving information classified as safeguards information pursuant to Part 73 of Title 10 of the Code of Federal Regulations.

(i) Any carrier who violates this section, in addition to any penalty provided by law, is subject to a civil penalty of not more than five hundred dollars ($500) for each violation. For purposes of this section, each day of a continuing violation is a separate and distinct violation.

When establishing the amount of civil liability pursuant to this subdivision, the court shall consider, in addition to other relevant circumstances, the following:

(1) The extent of the harm caused by the violation.

(2) The persistence of the violation.

(3) The number of prior violations by the same violator.

(4) The deterrent value of the penalty based on the financial resources of the violator.

SEC. 137. Section 35782 of the Vehicle Code is amended to read:

35782. (a) The Department of Transportation or a local authority may issue or withhold the permit at its discretion, or, if the permit is issued, do any of the following when necessary to protect against injury to the road, foundations, surfaces, or structures:

(1) Limit the number of trips.

(2) Establish seasonal or other time limitations within which the vehicle or vehicles described may be operated on the highways indicated.

(3) Otherwise limit or prescribe conditions of operation of the vehicle.

(b) The Department of Transportation or a local authority may not require the posting of a bond as a condition of the issuance of a permit, except that a requirement of extra insurance or other financial security may be imposed as a condition for a permit for unusually

large or heavy loads that pose a substantial risk to public facilities.

(c) Except as provided in subdivision (b), the Department of Transportation or a local authority may not require proof of financial responsibility in an amount greater than that required for compliance with Section 16500.5 as a condition of the permit, and shall accept evidence of financial responsibility that complies with Section 16020.

SEC. 138. Section 35790 of the Vehicle Code is amended to read:

35790. (a) The Department of Transportation or local authorities with respect to highways under their respective jurisdictions may, upon application in writing and if good cause appears, issue a special or annual permit in writing authorizing the applicant to move any manufactured home in excess of the maximum width but not exceeding 14 feet in total width, exclusive of lights and devices provided for in Sections 35109 and 35110, upon any highway under the jurisdiction of the party granting the permit.

(b) A public agency, in the exercise of its discretion in granting permits for the movement of overwidth manufactured homes, and in considering the individual circumstances of each case, may use merchandising or relocation of residence as a basis for movement for good cause.

(c) (1) The application for a special permit shall specifically describe the manufactured home to be moved and the particular highways over which the permit to operate is requested.

(2) The application for an annual permit shall specifically describe the power unit to be used to tow the overwidth manufactured homes and the particular highways over which the permit to operate is requested. The annual permit shall be subject to all of the conditions of this section and any additional conditions imposed by the public agency.

(d) The Department of Transportation or local authority may establish seasonal or other time limitations

within which a manufactured home may be moved on the highways indicated, and may require an undertaking or other security as it deems necessary to protect the highways and bridges from injury or to provide indemnity for any injury resulting from the operation.

(e) Permits for the movement of manufactured homes under this section shall not be issued except to transporters or licensed manufacturers and dealers and only under the following conditions:

(1) The manufactured home for which the permit is issued shall comply with Sections 35550 and 35551.

(2) In the case of a permit issued on an individual or repetitive trip basis, the applicant has first received the approval of a city or county if the trip will include movement on streets or highways under the jurisdiction of the city or county. The application for such a permit shall indicate the complete route of the proposed move and shall specify all cities and counties that have approved the move. This paragraph shall not be construed to require the Department of Transportation to verify the information provided by an applicant with respect to movement on streets or highways under local jurisdiction.

(3) It is a violation of any permit, which is issued by the Department of Transportation and authorizes a move only on a state highway, for that move to be extended to a street or highway under the jurisdiction of a city or county unless the move has been approved by the city or county.

(f) The Department of Transportation, in cooperation with the Department of the California Highway Patrol, or the local authority may establish additional reasonable permit regulations as they may deem necessary in the interest of public safety, which regulations shall be consistent with this section.

(g) Every permit, the consent form or forms as required by Section 18099.5 of the Health and Safety Code, and a copy of the tax clearance certificate, certificate of origin, or dealer’s notice of transfer, when the certificate or notice is required to be issued, shall be

carried in the manufactured home or power unit to which it refers and shall be open to inspection by any peace officer or traffic officer, any authorized agent of the Department of Transportation, or any other officer or employee charged with the care and protection of the highways.

(h) It is unlawful for any person to violate any of the terms or conditions of any permit.

SEC. 139. Section 36505 of the Vehicle Code is amended to read:

36505. Farm tractors as defined in Section 36015, and trailers displaying an identification plate, as provided for in Section 36115 or 36130, when operated during darkness shall not be exempted from the provisions of Sections 24400 and 25100.

SEC. 140. Section 38010 of the Vehicle Code is amended to read:

38010. (a) Except as otherwise provided in subdivision (b), every motor vehicle specified in Section 38012 that is not registered under this code because it is to be operated or used exclusively off the highways, except as provided in this division, shall be issued and display an identification plate or device issued by the department.

(b) Subdivision (a) does not apply to any of the following:

(1) Motor vehicles specifically exempted from registration under this code, including, but not limited to, motor vehicles exempted pursuant to Sections 4006, 4010, 4012, 4013, 4015, 4018, and 4019.

(2) Implements of husbandry.

(3) Motor vehicles owned by the state, or any county, city, district, or political subdivision of the state, or the United States.

(4) Motor vehicles owned or operated by, or operated under contract with a utility, whether privately or publicly owned, when used as specified in Section 22512.

(5) Special construction equipment described in Section 565, regardless of whether the motor vehicles are used in connection with highway or railroad work.

(6) A motor vehicle owned or operated by a nonresident of this state, whether or not the vehicle is identified or registered in a foreign jurisdiction. For the purposes of this paragraph, a person who holds a valid driver's license issued by a foreign jurisdiction shall be presumed to be such a nonresident.

(7) Commercial vehicles weighing more than 6,000 pounds unladen.

(8) Any motorcycle manufactured in the year 1942 or prior to that year.

(9) Four-wheeled motor vehicles operated solely in organized racing or competitive events upon a closed course when those events are conducted under the auspices of a recognized sanctioning body or by permit issued by the local governmental authority having jurisdiction.

SEC. 141. Section 38080 of the Vehicle Code is amended to read:

38080. (a) The department may authorize, under Section 4456, dealers licensed under Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 to use numbered copies of the report-of-sale form and corresponding temporary identification devices upon off-highway motor vehicles subject to identification that they sell.

(b) Off-highway motor vehicles subject to identification that are purchased from dealers not required to be licensed under Article 1 (commencing with Section 11700) of Chapter 4 of Division 5, or that are specially constructed by the owner or owners, may be operated off-highway, as provided by this division, without an identification plate or device or identification certificate, provided a receipt or other suitable device issued by the department is displayed upon the vehicle evidencing an application has been made and appropriate fees paid pursuant to this division, until the identification plate or device and identification certificate are received from the department.

SEC. 142. Section 40000.7 of the Vehicle Code is amended to read:

40000.7. A violation of any of the following provisions is a misdemeanor, and not an infraction:

(a) Section 2416, relating to regulations for emergency vehicles.

(b) Section 2800, relating to failure to obey an officer's lawful order or submit to a lawful inspection.

(c) Section 2800.1, relating to fleeing from a peace officer.

(d) Section 2801, relating to failure to obey a firefighter's lawful order.

(e) Section 2803, relating to unlawful vehicle or load.

(f) Section 2813, relating to stopping for inspection.

(g) Subdivisions (b) and (c) of Section 4461 and subdivisions (b) and (c) of Section 4463, relating to disabled person placards.

(h) Section 4462.5, relating to deceptive or false evidence of vehicle registration.

(i) Section 4463.5, relating to deceptive or facsimile license plates.

(j) Section 5500, relating to the surrender of registration documents and license plates before dismantling may begin.

(k) Section 5753, relating to delivery of certificates of ownership and registration when committed by a dealer or any person while a dealer within the preceding 12 months.

(*l*) Section 5901, relating to dealers and lessor-retailers giving notice.

(m) Section 5901.1, relating to lessors giving notice and failure to pay fee.

(n) Section 8802, relating to the return of canceled, suspended, or revoked certificates of ownership, registration cards, or license plates, when committed by any person with intent to defraud.

(o) Section 8803, relating to return of canceled, suspended, or revoked documents and license plates of a dealer, manufacturer, remanufacturer, transporter, dismantler, or salesman.

SEC. 143. Section 40513 of the Vehicle Code is amended to read:

40513. (a) Whenever written notice to appear has been prepared, delivered, and filed with the court, an exact and legible duplicate copy of the notice when filed with the magistrate, in lieu of a verified complaint, shall constitute a complaint to which the defendant may plead ‘‘guilty’’ or ‘‘nolo contendere.’’

If, however, the defendant violates his promise to appear in court or does not deposit lawful bail, or pleads other than ‘‘guilty’’ or ‘‘nolo contendere’’ to the offense charged, a complaint shall be filed which shall conform to the provisions of Chapter 2 (commencing with Section 948) of Title 5, Part 2 of the Penal Code, and which shall be deemed to be an original complaint, and thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by him and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

(b) Notwithstanding subdivision (a), whenever the written notice to appear has been prepared on a form approved by the Judicial Council, an exact and legible duplicate copy of the notice when filed with the magistrate shall constitute a complaint to which the defendant may enter a plea and, if the notice to appear is verified, upon which a warrant may be issued. If the notice to appear is not verified, the defendant may, at the time of arraignment, request that a verified complaint be filed.

SEC. 144. Section 40802 of the Vehicle Code, as amended by Section 1 of Chapter 315 of the Statutes of 1995, is amended to read:

40802. (a) A ‘‘speed trap’’ is either of the following:

(1) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

(2) A particular section of a highway with a prima facie speed limit provided by this code or by local ordinance pursuant to paragraph (1) of subdivision (b) of Section

22352, or established pursuant to Section 22354, 22357, 22358, or 22358.3, which speed limit is not justified by an engineering and traffic survey conducted within five years prior to the date of the alleged violation, and where enforcement involves the use of radar or other electronic devices that measure the speed of moving objects.

This paragraph does not apply to either of the following:

(A) Local streets and roads, as defined in subdivision (b).

(B) Chase Avenue in the City of El Cajon.

(b) For purposes of this section, local streets and roads shall be defined by the latest functional usage and federal-aid system maps as submitted to the Federal Highway Administration. When these maps have not been submitted, the following definition shall be used: A local street or road primarily provides access to abutting residential property and meets the following three conditions:

(1) Roadway width of not more than 40 feet.

(2) Not more than one-half mile of uninterrupted length. Interruptions include official traffic control devices as defined in Section 445.

(3) Not more than one traffic lane in each direction.

(c) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 1999, deletes or extends that date.

SEC. 145. Section 40802 of the Vehicle Code, as added by Section 2 of Chapter 315 of the Statutes of 1995, is amended to read:

40802. (a) A ''speed trap'' is either of the following:

(1) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

(2) A particular section of a highway with a prima facie speed limit provided by this code or by local ordinance pursuant to paragraph (1) of subdivision (b) of Section

22352, or established pursuant to Section 22354, 22357, 22358, or 22358.3, which speed limit is not justified by an engineering and traffic survey conducted within five years prior to the date of the alleged violation, and where enforcement involves the use of radar or other electronic devices that measure the speed of moving objects. This paragraph does not apply to local streets and roads.

(b) For purposes of this section, local streets and roads shall be defined by the latest functional usage and federal-aid system maps as submitted to the Federal Highway Administration. When these maps have not been submitted, the following definition shall be used: A local street or road primarily provides access to abutting residential property and shall meet the following three conditions:

(1) Roadway width of not more than 40 feet.

(2) Not more than one-half mile of uninterrupted length. Interruptions shall include official traffic control devices as defined in Section 445.

(3) Not more than one traffic lane in each direction.

(c) This section shall become operative on January 1, 1999.

SEC. 146. Section 40802.5 of the Vehicle Code is amended to read:

40802.5. (a) The City Council of the City of Santee may authorize, by majority vote, the use of radar for enforcement of speed limits on Mast Boulevard in that city. Notwithstanding paragraph (2) of subdivision (a) of Section 40802, that use of radar does not constitute a speed trap for the purposes of this article.

(b) The City of Santee shall make all efforts to facilitate and expedite the traffic flow on Mast Boulevard in that city.

(c) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 1999, deletes or extends that date.

SEC. 147. Section 40803 of the Vehicle Code is amended to read:

40803. (a) No evidence as to the speed of a vehicle upon a highway shall be admitted in any court upon the trial of any person in any prosecution under this code upon a charge involving the speed of a vehicle when the evidence is based upon or obtained from or by the maintenance or use of a speedtrap.

(b) In any prosecution under this code of a charge involving the speed of a vehicle, where enforcement involves the use of radar or other electronic devices which measure the speed of moving objects, the prosecution shall establish, as part of its prima facie case, that the evidence or testimony presented is not based upon a speedtrap as defined in paragraph (2) of subdivision (a) of Section 40802.

(c) When a traffic and engineering survey is required pursuant to paragraph (2) of subdivision (a) of Section 40802, evidence that a traffic and engineering survey has been conducted within five years of the date of the alleged violation or evidence that the offense was committed on a local street or road as defined in paragraph (2) of subdivision (a) of Section 40802 shall constitute a prima facie case that the evidence or testimony is not based upon a speedtrap as defined in paragraph (2) of subdivision (a) of Section 40802.

SEC. 148. Section 40901 of the Vehicle Code is amended to read:

40901. (a) A court, pursuant to this section, may by rule provide for the trial of any alleged infraction involving a violation of this code or any local ordinance adopted pursuant to this code.

(b) The rules governing the trials may provide for testimony and other relevant evidence to be introduced in the form of a notice to appear issued pursuant to Section 40500 and, notwithstanding Division 10 (commencing with Section 1200) of the Evidence Code, a business record or receipt.

(c) Prior to the entry of a waiver of constitutional right pursuant to any rules adopted under this section, the court shall inform the defendant in writing of the nature of the proceedings and of his or her right to confront and

cross-examine witnesses, to subpoena witnesses on his or her behalf, and to hire counsel at his or her own expense. The court shall ascertain that the defendant knowingly and voluntarily waives his or her right to be confronted by the witnesses against him or her, to subpoena witnesses in his or her behalf, and to hire counsel on his or her behalf before proceeding.

(d) In any jurisdiction with a non-English speaking population exceeding 5 percent of the total population of the jurisdiction in any one language, a written explanation of the procedures and rights under this section shall be available in that language.

(e) Except as set forth above, nothing contained herein shall be interpreted to permit the submission of evidence other than in accordance with the law, nor to prevent courts from adopting other rules to provide for trials in accordance with the law.

SEC. 149. Section 42003 of the Vehicle Code is amended to read:

42003. (a) A judgment that a person convicted of an infraction be punished by a fine may also provide for the payment to be made within a specified time or in specified installments. A judgment granting a defendant time to pay the fine shall order that, if the defendant fails to pay the fine or any installment thereof on the date that it is due, he or she shall appear in court on that date for further proceedings. Willful violation of the order is punishable as contempt.

(b) A judgment that a person convicted of any other violation of this code be punished by a fine may also order, adjudge, and decree that the person be imprisoned until the fine is satisfied. In all of these cases, the judgment shall specify the extent of the imprisonment, which shall not exceed one day for every thirty dollars ($30) of the fine, nor extend in this case beyond the term for which the defendant might be sentenced to imprisonment for the offense of which he or she was convicted.

(c) In any case when a person appears before a traffic referee or judge of the municipal court or superior court for adjudication of a violation of this code, the court, upon

request of the defendant, shall take into account any amount that the defendant is ordered to pay in fines, assessments, and restitution, and shall make a determination of the ability of the defendant to pay all or a portion of the reasonable cost of probation, fines, and restitution, or any combination thereof, and of conducting the presentence investigation and preparing the presentence report made pursuant to Section 1203 of the Penal Code, if applicable. The reasonable cost of these services and of probation shall not exceed the amount determined to be the actual average cost thereof. The court shall order the defendant to appear before a county officer designated by the court to make an inquiry into the ability of the defendant to pay all or a portion of those costs or the court or traffic referee may make this determination at a hearing. At that hearing, the defendant shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, to confront and cross-examine adverse witnesses, to disclosure of the evidence against him or her, and to a written statement of the findings of the court or the county officer. If the court determines that the defendant has the ability to pay all or part of the costs, the court shall set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability; or, with the consent of a defendant who is placed on probation, the court shall order the probation officer to set the amount of payment, which shall not exceed the maximum amount set by the court, and the manner in which the payment shall be made to the county. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

The court may hold additional hearings during the probationary period. If practicable, the court or the probation officer shall order payments to be made on a

monthly basis. Execution may be issued on the order in the same manner as a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

A payment schedule for reimbursement of the costs of presentence investigation based on income shall be developed by the probation department of each county and approved by the presiding judges of the municipal and superior courts.

(d) The term ‘‘ability to pay’’ means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of conducting the presentence investigation, preparing the presentence report, and probation, and includes, but is not limited to, all of the following regarding the defendant:

(1) Present financial position.

(2) Reasonably discernible future financial position. In no event shall the court consider a period of more than six months from the date of the hearing for purposes of determining reasonably discernible future financial position.

(3) Likelihood that the defendant will be able to obtain employment within the six-month period from the date of the hearing.

(4) Any other factors that may bear upon the defendant’s financial capability to reimburse the county for the costs.

(e) At any time during the pendency of the judgment rendered according to the terms of this section, a defendant against whom a judgment has been rendered may petition the rendering court to modify or vacate its previous judgment on the grounds of a change of circumstances with regard to the defendant’s ability to pay the judgment. The court shall advise the defendant of this right at the time of rendering of the judgment.

SEC. 150. Section 42230 of the Vehicle Code is amended to read:

42230. Whenever any application made under this code is accompanied by any fee, except an application for an occupational license accompanied by a fee as specified

in Section 9262, 9262.5, 11309, or 11820, or an application for a duplicate driver's license, as required by law, and the application is refused or rejected, the fees shall be returned to the applicant, except that, whenever any application is made for the first set of special plates under subdivision (a) of Section 9262 and the application is refused or rejected, the fee for the special plates only shall be returned to the applicant or, when application is made for the first set of special plates under subdivision (1) of Section 9264 and the application is refused or rejected, the fee for the special plates shall be returned to the applicant.

SEC. 151. Section 10610.2 of the Water Code is amended to read:

10610.2. The Legislature finds and declares as follows:

(a) The waters of the state are a limited and renewable resource subject to ever-increasing demands.

(b) The conservation and efficient use of urban water supplies are of statewide concern; however, the planning for that use and the implementation of those plans can best be accomplished at the local level.

(c) A long-term, reliable supply of water is essential to protect the productivity of California's businesses and economic climate.

(d) As part of its long-range planning activities, every urban water supplier should make every effort to ensure the appropriate level of reliability in its water service sufficient to meet the needs of its various categories of customers during normal, dry, and multiple dry water years.

(e) This part is intended to provide assistance to water agencies in carrying out their long-term resource planning responsibilities to ensure adequate water supplies to meet existing and future demands for water.

SEC. 152. Section 10635 of the Water Code, as added by Chapter 854 of the Statutes of 1995, is amended to read:

10635. (a) Every urban water supplier shall include, as part of its urban water management plan, an assessment of the reliability of its water service to its customers during normal, dry, and multiple dry water

years. This water supply and demand assessment shall compare the total water supply sources available to the water supplier with the total projected water use over the next 20 years, in five-year increments, for a normal water year, a single dry water year, and multiple dry water years. The water service reliability assessment shall be based upon the information compiled pursuant to Section 10631, including available data from state, regional, or local agency population projections within the service area of the urban water supplier.

(b) The urban water supplier shall provide that portion of its urban water management plan prepared pursuant to this article to any city or county within which it provides water supplies no later than 60 days after the submission of its urban water management plan.

(c) Nothing in this article is intended to create a right or entitlement to water service or any specific level of water service.

(d) Nothing in this article is intended to change existing law concerning an urban water supplier's obligation to provide water service to its existing customers or to any potential future customers.

SEC. 153. Section 10913 of the Water Code is amended to read:

10913. A project, for purposes of this part, means any of the following activities for which an application has been submitted to a city or county:

(a) A proposed residential development of more than 500 dwelling units.

(b) A proposed shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space.

(c) A proposed commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space.

(d) A proposed hotel or motel, or both, having more than 500 rooms.

(e) A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of

land, or having more than 650,000 square feet of floor area.

(f) A mixed-use project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500-dwelling-unit project.

SEC. 154. Section 13274 of the Water Code is amended to read:

13274. (a) (1) The state board or a regional board, upon receipt of applications for waste discharge requirements for discharges of dewatered, treated, or chemically fixed sewage sludge and other biological solids, shall prescribe general waste discharge requirements for that sludge and those other solids. General waste discharge requirements shall replace individual waste discharge requirements for sewage sludge and other biological solids, and their prescription shall be considered to be a ministerial action.

(2) The general waste discharge requirements shall set minimum standards for agronomic applications of sewage sludge and other biological solids and the use of that sludge and those other solids as a soil amendment or fertilizer in agriculture, forestry, and surface mining reclamation, and may permit the transportation of that sludge and those other solids and the use of that sludge and those other solids at more than one site. The requirements shall include provisions to mitigate significant environmental impacts, potential soil erosion, odors, the degradation of surface water quality or fish or wildlife habitat, the accidental release of hazardous substances, and any potential hazard to the public health or safety.

(b) The state board or a regional board, in prescribing general waste discharge requirements pursuant to this section, shall comply with Division 13 (commencing with Section 21000) of the Public Resources Code and guidelines adopted pursuant to that division, and shall consult with the State Air Resources Board, the Department of Food and Agriculture, and the California Integrated Waste Management Board.

(c) The state board or a regional board may charge a reasonable fee to cover the costs incurred by the board in the administration of the application process relating to the general waste discharge requirements prescribed pursuant to this section.

(d) Notwithstanding any other provision of law, except as specified in subdivisions (f) to (i), inclusive, general waste discharge requirements prescribed by a regional board pursuant to this section supersede regulations adopted by any other state agency to regulate sewage sludge and other biological solids applied directly to agricultural lands at agronomic rates.

(e) The state board or a regional board shall review general waste discharge requirements for possible amendment upon the request of any state agency, including, but not limited to, the Department of Food and Agriculture and the State Department of Health Services, if the board determines that the request is based on new information.

(f) Nothing in this section is intended to affect the jurisdiction of the California Integrated Waste Management Board to regulate the handling of sewage sludge or other biological solids for composting, deposit in a landfill, or other use.

(g) Nothing in this section is intended to affect the jurisdiction of the State Air Resources Board or an air pollution control district or air quality management district to regulate the handling of sewage sludge or other biological solids for incineration.

(h) Nothing in this section is intended to affect the jurisdiction of the Department of Food and Agriculture Code in enforcing Sections 14591 and 14631 of the Food and Agriculture Code and any regulations adopted pursuant to those sections, regarding the handling of sewage sludge and other biological solids sold or used as fertilizer or as a soil amendment.

(i) Nothing in this section restricts the authority of a local government agency to regulate the application of sewage sludge and other biological solids to land within the jurisdiction of that agency, including, but not limited

to, the planning authority of the Delta Protection Commission, the resource management plan of which is required to be implemented by local government general plans.

SEC. 155. Section 21267 of the Water Code, as added by Chapter 449 of the Statutes of 1995, is amended and renumbered to read:

71267. This chapter shall remain operative only until July 1, 1999, and as of January 1, 2000, is repealed, unless a later enacted statute, that is enacted on or before January 1, 2000, deletes or extends the dates upon which the chapter becomes inoperative and is repealed.

SEC. 156. Section 35281 of the Water Code is amended to read:

35281. The board of directors of the district may, by a four-fifths vote, at any time, establish two divisions, or later establish new boundaries for the two divisions, within the district in accordance with this chapter. If the board decides to establish divisions or new boundaries for established divisions, all of the following apply:

(a) (1) The board of directors shall by resolution divide the district into two divisions.

(2) Notwithstanding Sections 35026 and 35027, one division shall be comprised of approximately 60 percent of the acreage of the district and the other division shall be comprised of approximately 40 percent of the acreage of the district.

(b) The division comprised of approximately 40 percent of the acreage of the district shall have two directors. The division comprised of approximately 60 percent of the acreage of the district shall have three directors.

(c) Each director shall be a holder of title to land within the division represented by that director, or the legal representative of the holder of title to land within that division . If a corporation holds title to land, the president of the corporation may serve as a director, or the board of directors of the corporation may select other

persons who may serve as directors if written notice is provided to the district.

(d) After approving the establishment of two divisions or establishment of new boundaries for the two divisions, the board shall, by resolution, not less than 120 days prior to the next general district election, designate which division shall elect directors at that election to succeed the directors whose terms then expire. The remaining division shall elect directors at the general district election next following that election.

SEC. 157. Section 35282 of the Water Code is amended to read:

35282. Nothing in this chapter shall be construed as requiring the board to act by a four-fifths vote on any matter except as expressly provided in this chapter.

SEC. 158. The heading of Article 4.05 (commencing with Section 14139.05) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code is amended and renumbered to read:

Article 4.3. Long-Term Care Integration Pilot Program

SEC. 159. Section 5 of Chapter 52 of the Statutes of 1941 is amended to read:

Sec. 5. General District Elections. A general district election shall be held therein on the first Tuesday after the first Monday in November of each even-numbered year. At each such election members of the board of directors, equal in number to the members whose terms on the board are expiring upon the qualification of their successors, shall be elected for the term of four years each and until each of their successors have been elected and have qualified for that office. All such elections shall be noticed, held, the returns thereof canvassed, and the results thereof declared in the manner prescribed by law for general municipal elections in general law cities and by the general laws so far as applicable; provided, however, that the powers and duties vested in governing bodies and city clerks, respectively, of general law cities,

shall be vested in the board of directors and secretary thereof of the district.

At least 10 days prior to the date that candidates may be nominated for the office of director, the board shall publish in a newspaper of general circulation, which is circulated in the district, a notice stating the manner in which candidates may be nominated, the last date on which nominations for director will be accepted, and that, if not more than one person is nominated for each open office of director, directors will be appointed by the board of supervisors pursuant to this section.

If, on the 54th day prior to the day fixed for the district general election, only one person has been nominated for each office of the board of directors to be filled at that election, or no one has been nominated for that office, and if on the 44th day prior to the day fixed for the election, a petition signed by 5 percent of the qualified electors in the district, requesting that the district general election be held, has not been presented to the board of directors of the district, the board of directors shall by resolution entered in its minutes order that an election shall not be held and shall immediately request that the Board of Supervisors of the County of Monterey, at a regular or special meeting held prior to the day fixed for the election, appoint, and the board of supervisors shall thereupon appoint, to the office or offices the person or persons, if any, who have been nominated. If no person has been nominated for any office, the board of supervisors shall appoint any qualified person to the office prior to the date when the election would have been held. The person appointed shall qualify and take office and serve exactly as if elected at a district general election.

In these instances, notices shall be posted in three public places in the district at least 10 days before the date fixed for the election, stating that no election is to be held and that the board of supervisors will appoint or has appointed a person or persons to serve for the ensuing term on the board of directors.

SEC. 160. Section 3 of Chapter 981 of the Statutes of 1995 is amended to read:

Sec. 3. (a) Section 4 of this act is enacted for the purpose of assisting local law enforcement in controlling prostitution-related activities and to minimize the adverse effect these activities have upon local communities.

(b) The Legislature finds and determines that loitering for the purposes of engaging in a prostitution offense constitutes a public nuisance which, if left unabated, adversely affects a community's image, public safety, and residential and business development, and tends to encourage further criminal activity. Furthermore, prostitution-related activities consume an inordinate amount of limited law enforcement resources.

SEC. 161. Any section of any act enacted by the Legislature during the 1996 calendar year that takes effect on or before January 1, 1997, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, 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 1996 calendar year and takes effect on or before January 1, 1997, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

Approved _____, 1996

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Governor