

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1317

Introduced by Assembly Member Frazier

February 22, 2013

~~An act relating to state government.~~ *An act to amend Sections 30, 31, 101, 130, 149, 205, 1000, 8501, 8502, 8520, 8520.2, 8525, 8674, 8676, 10004, 10005, 10050, 10053, 10147, 10149, 10151.5, 10166.07, 10176.1, 10231.2, 10232.1, 10232.2, 10235.5, 10236.2, 10249.3, 10249.8, 10249.9, 10471, 10471.1, 10472, 11003.4, 11010, 11010.8, 11011, 11012, 11225, 11232, 11301, 11302, 11310, 11313, 19826, 19861, 19864, 19872, and 19881 of, and to repeal Sections 11313.2 and 19881.5 of, the Business and Professions Code, to amend Sections 912, 1675, 1798.3, 2985, 5240, and 5400 of the Civil Code, to amend Section 1218 of the Code of Civil Procedure, to amend Sections 14010, 14060.6, 25005, 28033, 29200 29503, 31004, and 31210 of, and to repeal Sections 25600, 25601, 25602, and 25603 of, the Corporations Code, to amend Sections 17444, 22001, 32282, 32282.5, 35296, 51264, 51266, 51266.5, 51269, 66210, 71095, and 94600 of the Education Code, to amend Sections 298 and 17520 of the Family Code, to amend Sections 125, 320, 2003, 4805.055, 4970, 5104, 5106, 12003, 14003, 14200.1, 14200.2, 17002, 17312, 17423.1, 18002, 18002.5, 22005, 23001, 30002, 30005, 31055, 50003, and 50702 of, to amend the heading of Chapter 3 (commencing with Section 300) of Division 1 of, to amend the heading of Article 2 (commencing with Section 320) of Chapter 3 of Division 1 of, and to repeal and add Sections 321, 351, and 371 of, the Financial Code, to amend Sections 1389, 2301, 3862, and 3863 of the Fish and Game Code, to amend Sections 3806, 4101.4, and 58509 of, and to repeal Section 11451.5 of, the Food and Agricultural Code, to amend Sections 179.7, 955.1, 3101, 3102, 6253.4,*

6254, 6254.23, 6276.26, 6276.38, 7465, 8550, 8570.5, 8574.17, 8574.20, 8574.21, 8574.22, 8575, 8584.1, 8585, 8585.05, 8585.1, 8585.2, 8585.5, 8585.7, 8586, 8587.7, 8588, 8588.1, 8588.2, 8588.3, 8588.5, 8588.7, 8588.10, 8588.11, 8588.15, 8589, 8589.1, 8589.2, 8589.5, 8589.6, 8589.7, 8589.9, 8589.10, 8589.11, 8589.12, 8589.13, 8589.14, 8589.15, 8589.16, 8589.17, 8589.18, 8589.19, 8589.20, 8589.21, 8590.1, 8590.2, 8590.3, 8590.4, 8591, 8592.1, 8592.5, 8592.7, 8593, 8593.1, 8593.2, 8593.6, 8596, 8599, 8600, 8607, 8607.2, 8608, 8610, 8610.3, 8610.5, 8612, 8613, 8614, 8639, 8649, 8651, 8657, 8657.5, 8670.20, 8670.25.5, 8670.26, 8670.64, 8680.7, 8682, 8682.2, 8682.6, 8682.8, 8682.9, 8685, 8685.2, 8685.4, 8685.6, 8685.8, 8686.2, 8686.3, 8686.4, 8686.8, 8687, 8687.2, 8687.4, 8687.7, 8692, 8696.5, 8697, 8697.5, 8711, 8840, 8841, 8844, 8870.4, 8870.7, 8870.71, 8871.3, 8871.4, 8876.7, 8878.52, 8878.90, 8878.100, 8878.125, 8879.7, 8879.23, 8879.27, 8879.50, 8879.53, 8879.57, 8879.58, 8879.59, 8879.60, 8879.61, 8886, 11018.5, 11126, 11340.2, 11534, 11541, 11542, 11546, 11546.2, 11546.3, 11546.4, 11546.5, 11546.6, 11549, 11549.3, 11549.4, 11552, 12012.90, 12463.1, 12804.7, 13901, 13903, 13975.1, 13976, 13978.2, 13978.4, 13984, 13995.20, 13995.30, 13995.40, 13995.42, 13995.43, 13995.44, 13995.45, 13995.50, 13995.51, 13995.53, 13995.54, 13995.55, 13995.56, 13995.60, 13995.63, 13995.64, 13995.65, 13995.68, 13995.69, 13995.71, 13995.72, 13995.73, 13995.74, 13995.75, 13995.77, 13995.82, 13995.83, 13995.84, 13995.102, 13995.110, 13995.116, 14001, 14002.5, 14031.8, 14070, 14087, 14500, 14520, 14601, 14669.21, 14998.2, 15251, 15253, 15254, 15275, 15277, 15363.61, 15363.62, 15363.63, 15700, 15957, 16304.9, 18521, 19844.5, 20002, 26614, 51018, 53108.5, 53126.5, 53630.5, 54238.3, 63021, 63021.5, 65080.1, 65302, 65302.6, 66427.1, 66452.17, 66503, 66521, 66540.5, 66540.32, 91550, and 99503 of, to add Sections 12803.2, 12813.5, and 19815.25 to, to repeal Section 65037.1 of, and to repeal and add Section 13975 of, the Government Code, to amend Sections 32, 33, 50, 50.1, 50.2, 81.8, 85.2, and 1150 of, to add Section 30.5 to, and to repeal Sections 31 and 65.4 of, the Harbors and Navigation Code, to amend Sections 1596.867, 1797.132, 1797.150, 1797.151, 1797.152, 1797.153, 11998.1, 13071, 13073, 13140.5, 13143.9, 18603, 18901, 18917.5, 18920, 18922, 25169.7, 25197.2, 25210.6, 25270.8, 25299.1, 25359.4, 25404.3, 25501, 25502, 25503, 25503.1, 25503.3, 25503.4, 25503.5, 25503.9, 25505.2, 25507, 25507.1, 25509, 25517.5, 25520, 25531.2, 25545, 35805, 50093, 50150, 50151, 50153, 50154, 50452, 50462, 50661.5, 50900, 51005, 51614, 51624, 53524, 101080.2,

105215, 114650, 114655, 114660, 114790, 114820, 115280, 115295, 115340, 124174.2, and 130055 of, to amend the heading of Article 2 (commencing with Section 114660) of Chapter 4 of Part 9 of Division 104 of, the Health and Safety Code, to amend Sections 12406.5, 12414.31, 16020, and 16030 of the Insurance Code, to amend Sections 3211.91 and 4350 of the Labor Code, to amend Section 433.5 of the Military and Veterans Code, to amend Sections 273.82, 326.3, 326.5, 830.3, 830.11, 999c, 999j, 999k, 999n, 999p, 999r, 999s, 999v, 999x, 999y, 1174.2, 1191.21, 6241, 11160, 11160.1, 11161.2, 11171, 11174.34, 11501, 11502, 11504, 13100.1, 13800, 13820, 13821, 13823.2, 13823.3, 13823.4, 13823.5, 13823.6, 13823.9, 13823.12, 13823.13, 13823.15, 13823.16, 13823.17, 13825, 13826.62, 13830, 13833, 13835.2, 13835.6, 13835.7, 13835.10, 13836, 13836.1, 13843, 13844, 13846, 13847, 13847.2, 13851, 13854, 13861, 13864, 13881, 13897.2, 13897.3, 13901, 14111, 14112, 14113, 14117, 14118, 14119, 14120, 14121, and 14140 of the Penal Code, to amend Sections 12101, 12103, 12104, 12105, 12120, and 12121 of the Public Contract Code, to amend Sections 715, 2802, 2803, 2811, 2814, 2815, 3233, 5075.8, 5099.12, 10002, 25402.9, 25701, 25943, 29735, 30169, 30301, 36300, 40400, 42703, 43035, and 75121 of the Public Resources Code, to amend Sections 783, 883, 2774.5, 2872.5, 2892, 2892.1, 7551.1, 7551.3, 7661, 7662, 7663, 7665.1, 7665.2, 7665.3, 7665.4, 7673, 7718, 99212, 99243, 131242, 161003, 185020, and 185035 of the Public Utilities Code, to amend Sections 97.2, 19528, 41030, 41031, 41032, 41136.1, 41137, 41137.1, 41138, 41139, 41140, 41141, and 41142 of the Revenue and Taxation Code, to add Section 22.5 to the Streets and Highways Code, to amend Sections 165, 1500, 1505, 1808.51, 2100, 2109, 2901, 2902, 5066, 9706, 23112.5, and 34061 of the Vehicle Code, to amend Sections 128, 6025.6, 11910, 11910.1, 12994, 13271, 13272, and 79522 of the Water Code, and to amend Sections 1789, 9101, 9625, 14085.54, 18275.5, 18277, 18278, and 18278.5 of the Welfare and Institutions Code, relating to state government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1317, as amended, Frazier. ~~Governor's Reorganization Plan No. 2 of 2012.~~ State government operations.

Existing law and the Governor's Reorganization Plan No. 2, effective July 3, 2012, and operative July 1, 2013, assigns and reorganizes the

functions of state government among executive officers and agencies by creating the following general agency structure in the executive branch: Business, Consumer Services and Housing; Government Operations; Corrections and Rehabilitation; Labor and Workforce Development; California Health and Human Services; Environmental Protection; Natural Resources; and Transportation.

This bill would enact the statutory changes necessary to reflect the changes in law made by the Governor’s Reorganization Plan No. 2, and would also make additional conforming name changes to properly reflect the assignment and reorganization of the functions of state government among the newly established executive officers and agencies.

This bill would reallocate certain duties of abolished state entities and officers to established state entities and officers, including, but not limited to, reallocating specified duties of the abolished Business, Transportation and Housing Agency and its secretary to the created Transportation Agency and its Secretary of Transportation, and the duties of the abolished Commissioner of Corporations to the Commissioner of Business Oversight, as specified.

This bill would become operative, like the Governor’s Reorganization Plan No. 2, on July 1, 2013, except as specifically provided.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law and the Governor’s Reorganization Plan No. 2 of 2012 (GRP 2), as of July 1, 2013, among other things, reorganizes state government into the following agencies: Business, Consumer Services and Housing, Government Operations, Corrections and Rehabilitation, Labor and Workforce Development, California Health and Human Services, Environmental Protection, Natural Resources, and Transportation.~~

~~This bill would state the intent of the Legislature to enact legislation to codify the provisions of GRP 2 and make technical conforming changes.~~

~~Vote: majority ²/₃. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.~~

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

- 1 SECTION 1. Section 30 of the Business and Professions Code
- 2 is amended to read:

1 30. (a) Notwithstanding any other ~~provision of law~~, any board,
2 as defined in Section 22, and the State Bar and the ~~Department of~~
3 ~~Real Estate Bureau of Real Estate~~ shall at the time of issuance of
4 the license require that the licensee provide its federal employer
5 identification number, if the licensee is a partnership, or his or her
6 social security number for all others.

7 (b) Any licensee failing to provide the federal identification
8 number or social security number shall be reported by the licensing
9 board to the Franchise Tax Board and, if failing to provide after
10 notification pursuant to paragraph (1) of subdivision (b) of Section
11 19528 of the Revenue and Taxation Code, shall be subject to the
12 penalty provided in paragraph (2) of subdivision (b) of Section
13 19528 of the Revenue and Taxation Code.

14 (c) In addition to the penalty specified in subdivision (b), a
15 licensing board may not process any application for an original
16 license unless the applicant or licensee provides its federal
17 employer identification number or social security number where
18 requested on the application.

19 (d) A licensing board shall, upon request of the Franchise Tax
20 Board, furnish to the Franchise Tax Board the following
21 information with respect to every licensee:

22 (1) Name.

23 (2) Address or addresses of record.

24 (3) Federal employer identification number if the entity is a
25 partnership or social security number for all others.

26 (4) Type of license.

27 (5) Effective date of license or a renewal.

28 (6) Expiration date of license.

29 (7) Whether license is active or inactive, if known.

30 (8) Whether license is new or a renewal.

31 (e) For the purposes of this section:

32 (1) "Licensee" means any entity, other than a corporation,
33 authorized by a license, certificate, registration, or other means to
34 engage in a business or profession regulated by this code or referred
35 to in Section 1000 or 3600.

36 (2) "License" includes a certificate, registration, or any other
37 authorization needed to engage in a business or profession
38 regulated by this code or referred to in Section 1000 or 3600.

1 (3) “Licensing board” means any board, as defined in Section
2 22, the State Bar, and the ~~Department of Real Estate~~ *Bureau of*
3 *Real Estate*.

4 (f) The reports required under this section shall be filed on
5 magnetic media or in other machine-readable form, according to
6 standards furnished by the Franchise Tax Board.

7 (g) Licensing boards shall provide to the Franchise Tax Board
8 the information required by this section at a time that the Franchise
9 Tax Board may require.

10 (h) Notwithstanding Chapter 3.5 (commencing with Section
11 6250) of Division 7 of Title 1 of the Government Code, the social
12 security number and federal employer identification number
13 furnished pursuant to this section shall not be deemed to be a public
14 record and shall not be open to the public for inspection.

15 (i) Any deputy, agent, clerk, officer, or employee of any
16 licensing board described in subdivision (a), or any former officer
17 or employee or other individual who in the course of his or her
18 employment or duty has or has had access to the information
19 required to be furnished under this section, may not disclose or
20 make known in any manner that information, except as provided
21 in this section to the Franchise Tax Board or as provided in
22 subdivision (k).

23 (j) It is the intent of the Legislature in enacting this section to
24 utilize the social security account number or federal employer
25 identification number for the purpose of establishing the
26 identification of persons affected by state tax laws and for purposes
27 of compliance with Section 17520 of the Family Code and, to that
28 end, the information furnished pursuant to this section shall be
29 used exclusively for those purposes.

30 (k) If the board utilizes a national examination to issue a license,
31 and if a reciprocity agreement or comity exists between the State
32 of California and the state requesting release of the social security
33 number, any deputy, agent, clerk, officer, or employee of any
34 licensing board described in subdivision (a) may release a social
35 security number to an examination or licensing entity, only for the
36 purpose of verification of licensure or examination status.

37 (l) For the purposes of enforcement of Section 17520 of the
38 Family Code, and notwithstanding any other provision of law, any
39 board, as defined in Section 22, and the State Bar and the
40 ~~Department of Real Estate~~ *Bureau of Real Estate* shall at the time

1 of issuance of the license require that each licensee provide the
2 social security number of each individual listed on the license and
3 any person who qualifies the license. For the purposes of this
4 subdivision, “licensee” means any entity that is issued a license
5 by any board, as defined in Section 22, the State Bar, the
6 ~~Department of Real Estate Bureau of Real Estate~~, and the
7 Department of Motor Vehicles.

8 *SEC. 2. Section 31 of the Business and Professions Code is*
9 *amended to read:*

10 31. (a) As used in this section, “board” means any entity listed
11 in Section 101, the entities referred to in Sections 1000 and 3600,
12 the State Bar, the ~~Department of Real Estate Bureau of Real Estate~~,
13 and any other state agency that issues a license, certificate, or
14 registration authorizing a person to engage in a business or
15 profession.

16 (b) Each applicant for the issuance or renewal of a license,
17 certificate, registration, or other means to engage in a business or
18 profession regulated by a board who is not in compliance with a
19 judgment or order for support shall be subject to Section 17520 of
20 the Family Code.

21 (c) “Compliance with a judgment or order for support” has the
22 meaning given in paragraph (4) of subdivision (a) of Section 17520
23 of the Family Code.

24 (d) Each licensee or applicant whose name appears on a list of
25 the 500 largest tax delinquencies pursuant to Section 7063 or 19195
26 of the Revenue and Taxation Code shall be subject to Section
27 494.5.

28 (e) Each application for a new license or renewal of a license
29 shall indicate on the application that the law allows the State Board
30 of Equalization and the Franchise Tax Board to share taxpayer
31 information with a board and requires the licensee to pay his or
32 her state tax obligation and that his or her license may be suspended
33 if the state tax obligation is not paid.

34 (f) For purposes of this section, “tax obligation” means the tax
35 imposed under, or in accordance with, Part 1 (commencing with
36 Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6
37 (commencing with Section 7251), Part 1.7 (commencing with
38 Section 7280), Part 10 (commencing with Section 17001), or Part
39 11 (commencing with Section 23001) of Division 2 of the Revenue
40 and Taxation Code.

1 SEC. 3. Section 101 of the Business and Professions Code is
2 amended to read:

3 101. The department is comprised of *the following*:

- 4 (a) The Dental Board of California.
- 5 (b) The Medical Board of California.
- 6 (c) The State Board of Optometry.
- 7 (d) The California State Board of Pharmacy.
- 8 (e) The Veterinary Medical Board.
- 9 (f) The California Board of Accountancy.
- 10 (g) The California Architects Board.
- 11 (h) The Bureau of Barbering and Cosmetology.
- 12 (i) The Board for Professional Engineers and Land Surveyors.
- 13 (j) The Contractors' State License Board.
- 14 (k) The Bureau for Private Postsecondary Education.
- 15 (l) The Bureau of Electronic and Appliance Repair, Home
16 Furnishings, and Thermal Insulation.
- 17 (m) The Board of Registered Nursing.
- 18 (n) The Board of Behavioral Sciences.
- 19 (o) The State Athletic Commission.
- 20 (p) The Cemetery and Funeral Bureau.
- 21 (q) The State Board of Guide Dogs for the Blind.
- 22 (r) The Bureau of Security and Investigative Services.
- 23 (s) The Court Reporters Board of California.
- 24 (t) The Board of Vocational Nursing and Psychiatric
25 Technicians.
- 26 (u) The Landscape Architects Technical Committee.
- 27 (v) The Division of Investigation.
- 28 (w) The Bureau of Automotive Repair.
- 29 (x) The Respiratory Care Board of California.
- 30 (y) The Acupuncture Board.
- 31 (z) The Board of Psychology.
- 32 (aa) The California Board of Podiatric Medicine.
- 33 (ab) The Physical Therapy Board of California.
- 34 (ac) The Arbitration Review Program.
- 35 (ad) The Physician Assistant Committee.
- 36 (ae) The Speech-Language Pathology and Audiology Board.
- 37 (af) The California Board of Occupational Therapy.
- 38 (ag) The Osteopathic Medical Board of California.
- 39 (ah) The Naturopathic Medicine Committee.
- 40 (ai) The Dental Hygiene Committee of California.

- 1 (aj) The Professional Fiduciaries Bureau.
- 2 (ak) *The State Board of Chiropractic Examiners.*
- 3 (al) *The Bureau of Real Estate.*
- 4 (am) *The Bureau of Real Estate Appraisers.*
- 5 (an) *The Structural Pest Control Board.*
- 6 ~~(ak)~~
- 7 (ao) Any other boards, offices, or officers subject to its
- 8 jurisdiction by law.
- 9 *SEC. 4. Section 130 of the Business and Professions Code is*
- 10 *amended to read:*
- 11 130. (a) Notwithstanding any other provision of law, the term
- 12 of office of any member of an agency designated in subdivision
- 13 (b) shall be for a term of four years expiring on June 1.
- 14 (b) Subdivision (a) applies to the following boards or
- 15 committees:
- 16 (1) The Medical Board of California.
- 17 (2) The California Board of Podiatric Medicine.
- 18 (3) The Physical Therapy Board of California.
- 19 (4) The Board of Registered Nursing, except as provided in
- 20 subdivision (c) of Section 2703.
- 21 (5) The Board of Vocational Nursing and Psychiatric
- 22 Technicians.
- 23 (6) The State Board of Optometry.
- 24 (7) The California State Board of Pharmacy.
- 25 (8) The Veterinary Medical Board.
- 26 (9) The California Architects Board.
- 27 (10) The Landscape Architect Technical Committee.
- 28 (11) The Board for Professional Engineers and Land Surveyors.
- 29 (12) The Contractors' State License Board.
- 30 (13) The State Board of Guide Dogs for the Blind.
- 31 (14) The Board of Behavioral Sciences.
- 32 (15) The Court Reporters Board of California.
- 33 (16) The State Athletic Commission.
- 34 (17) The Osteopathic Medical Board of California.
- 35 (18) The Respiratory Care Board of California.
- 36 (19) The Acupuncture Board.
- 37 (20) The Board of Psychology.
- 38 (21) *The Structural Pest Control Board.*
- 39 *SEC. 5. Section 149 of the Business and Professions Code is*
- 40 *amended to read:*

1 149. (a) If, upon investigation, an agency designated in
2 subdivision (e) has probable cause to believe that a person is
3 advertising in a telephone directory with respect to the offering or
4 performance of services, without being properly licensed by or
5 registered with the agency to offer or perform those services, the
6 agency may issue a citation under Section 148 containing an order
7 of correction that requires the violator to do both of the following:

8 (1) Cease the unlawful advertising.

9 (2) Notify the telephone company furnishing services to the
10 violator to disconnect the telephone service furnished to any
11 telephone number contained in the unlawful advertising.

12 (b) This action is stayed if the person to whom a citation is
13 issued under subdivision (a) notifies the agency in writing that he
14 or she intends to contest the citation. The agency shall afford an
15 opportunity for a hearing, as specified in Section 125.9.

16 (c) If the person to whom a citation and order of correction is
17 issued under subdivision (a) fails to comply with the order of
18 correction after that order is final, the agency shall inform the
19 Public Utilities Commission of the violation and the Public Utilities
20 Commission shall require the telephone corporation furnishing
21 services to that person to disconnect the telephone service furnished
22 to any telephone number contained in the unlawful advertising.

23 (d) The good faith compliance by a telephone corporation with
24 an order of the Public Utilities Commission to terminate service
25 issued pursuant to this section shall constitute a complete defense
26 to any civil or criminal action brought against the telephone
27 corporation arising from the termination of service.

28 (e) Subdivision (a) shall apply to the following boards, bureaus,
29 committees, commissions, or programs:

30 (1) The Bureau of Barbering and Cosmetology.

31 (2) The Cemetery and Funeral Bureau.

32 (3) The Veterinary Medical Board.

33 (4) The Landscape Architects Technical Committee.

34 (5) The California Board of Podiatric Medicine.

35 (6) The Respiratory Care Board of California.

36 (7) The Bureau of Electronic and Appliance Repair, Home
37 Furnishings, and Thermal Insulation.

38 (8) The Bureau of Security and Investigative Services.

39 (9) The Bureau of Automotive Repair.

40 (10) The California Architects Board.

- 1 (11) The Speech-Language Pathology and Audiology Board.
- 2 (12) The Board for Professional Engineers and Land Surveyors.
- 3 (13) The Board of Behavioral Sciences.
- 4 (14) The Structural Pest Control Board ~~within the Department~~
- 5 ~~of Pesticide Regulation.~~
- 6 (15) The Acupuncture Board.
- 7 (16) The Board of Psychology.
- 8 (17) The California Board of Accountancy.
- 9 (18) The Naturopathic Medicine Committee.
- 10 (19) The Physical Therapy Board of California.
- 11 (20) The Bureau for Private Postsecondary Education.
- 12 *SEC. 6. Section 205 of the Business and Professions Code is*
- 13 *amended to read:*
- 14 205. (a) There is in the State Treasury the Professions and
- 15 Vocations Fund. The fund shall consist of the following special
- 16 funds:
- 17 (1) Accountancy Fund.
- 18 (2) California Architects Board Fund.
- 19 (3) Athletic Commission Fund.
- 20 (4) Barbering and Cosmetology Contingent Fund.
- 21 (5) Cemetery Fund.
- 22 (6) Contractors' License Fund.
- 23 (7) State Dentistry Fund.
- 24 (8) State Funeral Directors and Embalmers Fund.
- 25 (9) Guide Dogs for the Blind Fund.
- 26 (10) Home Furnishings and Thermal Insulation Fund.
- 27 (11) California Architects Board-Landscape Architects Fund.
- 28 (12) Contingent Fund of the Medical Board of California.
- 29 (13) Optometry Fund.
- 30 (14) Pharmacy Board Contingent Fund.
- 31 (15) Physical Therapy Fund.
- 32 (16) Private Investigator Fund.
- 33 (17) Professional Engineer's and Land Surveyor's Fund.
- 34 (18) Consumer Affairs Fund.
- 35 (19) Behavioral Sciences Fund.
- 36 (20) Licensed Midwifery Fund.
- 37 (21) Court Reporters' Fund.
- 38 (22) Veterinary Medical Board Contingent Fund.
- 39 (23) Vocational Nurses Account of the Vocational Nursing and
- 40 Psychiatric Technicians Fund.

- 1 (24) Electronic and Appliance Repair Fund.
- 2 (25) Geology and Geophysics Account of the Professional
- 3 Engineer’s and Land Surveyor’s Fund.
- 4 (26) Dispensing Opticians Fund.
- 5 (27) Acupuncture Fund.
- 6 (28) Physician Assistant Fund.
- 7 (29) Board of Podiatric Medicine Fund.
- 8 (30) Psychology Fund.
- 9 (31) Respiratory Care Fund.
- 10 (32) Speech-Language Pathology and Audiology and Hearing
- 11 Aid Dispensers Fund.
- 12 (33) Board of Registered Nursing Fund.
- 13 (34) Psychiatric Technician Examiners Account of the
- 14 Vocational Nursing and Psychiatric Technicians Fund.
- 15 (35) Animal Health Technician Examining Committee Fund.
- 16 (36) State Dental Hygiene Fund.
- 17 (37) State Dental Assistant Fund.
- 18 (38) *Structural Pest Control Fund.*
- 19 (39) *Structural Pest Control Eradication and Enforcement Fund.*
- 20 (40) *Structural Pest Control Research Fund.*
- 21 (b) For accounting and recordkeeping purposes, the Professions
- 22 and Vocations Fund shall be deemed to be a single special fund,
- 23 and each of the several special funds therein shall constitute and
- 24 be deemed to be a separate account in the Professions and
- 25 Vocations Fund. Each account or fund shall be available for
- 26 expenditure only for the purposes as are now or may hereafter be
- 27 provided by law.
- 28 *SEC. 7. Section 1000 of the Business and Professions Code is*
- 29 *amended to read:*
- 30 1000. (a) The law governing practitioners of chiropractic is
- 31 found in an initiative act entitled “An act prescribing the terms
- 32 upon which licenses may be issued to practitioners of chiropractic,
- 33 creating the State Board of Chiropractic Examiners and declaring
- 34 its powers and duties, prescribing penalties for violation hereof,
- 35 and repealing all acts and parts of acts inconsistent herewith,”
- 36 adopted by the electors November 7, 1922.
- 37 (b) *The State Board of Chiropractic Examiners is within the*
- 38 *Department of Consumer Affairs.*
- 39 *SEC. 8. Section 8501 of the Business and Professions Code is*
- 40 *amended to read:*

1 8501. “Director” refers to the Director of ~~Pesticide Regulation~~
2 *Consumer Affairs*.

3 *SEC. 9. Section 8502 of the Business and Professions Code is*
4 *amended to read:*

5 8502. “Board” refers to the Structural Pest Control Board within
6 the Department of ~~Pesticide Regulation~~ *Consumer Affairs*.

7 *SEC. 10. Section 8520 of the Business and Professions Code*
8 *is amended to read:*

9 8520. (a) There is in the Department of ~~Pesticide Regulation~~
10 *Consumer Affairs* a Structural Pest Control Board, which consists
11 of seven members.

12 (b) Subject to the jurisdiction conferred upon the director by
13 Division 6 (commencing with Section 11401) of the ~~Food and~~
14 ~~Agricultural Code 1~~ (commencing with Section 100), the board is
15 vested with the power to and shall administer the provisions of
16 this chapter.

17 (c) It is the intent of the Legislature that consumer protection
18 is the primary mission of the board.

19 (d) This section shall remain in effect only until January 1, 2015,
20 and as of that date is repealed, unless a later enacted statute, that
21 is enacted before January 1, 2015, deletes or extends that date. The
22 repeal of this section renders the board subject to the review
23 required by Division 1.2 (commencing with Section 473).

24 *SEC. 11. Section 8520.2 of the Business and Professions Code*
25 *is amended to read:*

26 8520.2. (a) The Structural Pest Control Board is hereby
27 transferred from the jurisdiction of the Department of ~~Consumer~~
28 ~~Affairs~~ *Pesticide Regulation* and placed under the jurisdiction of
29 the Department of ~~Pesticide Regulation~~ *Consumer Affairs*.

30 (b) The registrar of the board under the jurisdiction of the
31 Department of ~~Consumer Affairs~~ *Pesticide Regulation* shall remain
32 as the registrar of the board under the jurisdiction of the
33 Department of ~~Pesticide Regulation~~ *Consumer Affairs*.

34 (c) The members appointed to the board while under the
35 jurisdiction of the Department of ~~Consumer Affairs~~ *Pesticide*
36 *Regulation* shall remain as members of the board under the
37 jurisdiction of the Department of ~~Pesticide Regulation~~ *Consumer*
38 *Affairs*.

39 (d) All employees of the board under the jurisdiction of the
40 Department of ~~Consumer Affairs~~ *Pesticide Regulation* are hereby

1 transferred to the board under the jurisdiction of the Department
 2 of ~~Pesticide Regulation~~ *Consumer Affairs*.

3 (e) The duties, powers, purposes, responsibilities, and
 4 jurisdictions of the board under the jurisdiction of the Department
 5 of ~~Consumer Affairs~~ *Pesticide Regulation* shall remain with the
 6 board under the jurisdiction of the Department of ~~Pesticide~~
 7 ~~Regulation~~ *Consumer Affairs*.

8 (f) For the performance of the duties and the exercise of the
 9 powers vested in the board under this chapter, the board shall have
 10 possession and control of all records, papers, offices, equipment,
 11 supplies, or other property, real or personal, held for the benefit
 12 or use by the board formerly within the jurisdiction of the
 13 Department of ~~Consumer Affairs~~ *Pesticide Regulation*.

14 (g) Any reference to the board in this chapter or in any other
 15 provision of law or regulation shall be construed as a reference to
 16 the board under the jurisdiction of the Department of ~~Pesticide~~
 17 ~~Regulation~~ *Consumer Affairs*.

18 *SEC. 12. Section 8525 of the Business and Professions Code*
 19 *is amended to read:*

20 8525. (a) The board, subject to the approval of the director,
 21 may, in accordance with Chapter 3.5 (commencing with Section
 22 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
 23 adopt, amend, repeal, and enforce reasonably necessary rules and
 24 regulations relating to the practice of pest control and its various
 25 branches as established by Section 8560 and the administration of
 26 this chapter.

27 (b) *The board shall consult with the Department of Pesticide*
 28 *Regulation when developing or adopting regulations that may*
 29 *affect the Department of Pesticide Regulation or a county*
 30 *agricultural commissioner’s responsibilities pursuant to Division*
 31 *7 (commencing with Section 12500) of the Food and Agricultural*
 32 *Code.*

33 *SEC. 13. Section 8674 of the Business and Professions Code*
 34 *is amended to read:*

35 8674. The fees prescribed by this chapter are the following:

- 36 (a) A duplicate license fee of not more than two dollars (\$2).
- 37 (b) A fee for filing a change of name of a licensee of not more
 38 than two dollars (\$2).
- 39 (c) An operator’s examination fee of not more than twenty-five
 40 dollars (\$25).

- 1 (d) An operator's license fee of not more than one hundred fifty
2 dollars (\$150).
- 3 (e) An operator's license renewal fee of not more than one
4 hundred fifty dollars (\$150).
- 5 (f) A company registration fee of not more than one hundred
6 twenty dollars (\$120).
- 7 (g) A branch office registration fee of not more than sixty dollars
8 (\$60).
- 9 (h) A field representative's examination fee of not more than
10 fifteen dollars (\$15).
- 11 (i) A field representative's license fee of not more than forty-five
12 dollars (\$45).
- 13 (j) A field representative's license renewal fee of not more than
14 forty-five dollars (\$45).
- 15 (k) An applicator's examination fee of not more than fifteen
16 dollars (\$15).
- 17 (l) An applicator's license fee of not more than fifty dollars
18 (\$50).
- 19 (m) An applicator's license renewal fee of not more than fifty
20 dollars (\$50).
- 21 (n) An activity form fee, per property address, of not more than
22 three dollars (\$3).
- 23 (o) A fee for certifying a copy of an activity form of not more
24 than three dollars (\$3).
- 25 (p) A fee for filing a change of a registered company's name,
26 principal office address, or branch office address, qualifying
27 manager, or the names of a registered company's officers, or bond
28 or insurance of not more than twenty-five dollars (\$25) for each
29 change.
- 30 (q) A fee for approval of continuing education providers of not
31 more than fifty dollars (\$50).
- 32 (r) A pesticide use report filing fee of not more than five dollars
33 (\$5) for each pesticide use report or combination of use reports
34 representing a registered structural pest control company's total
35 county pesticide use for the month.
- 36 (s) A fee for approval of continuing education courses of not
37 more than twenty-five dollars (\$25).
- 38 (t) (1) Any person who pays a fee pursuant to subdivision (r)
39 shall, in addition, pay a fee of two dollars (\$2) for each pesticide
40 use stamp purchased from the board. Notwithstanding any other

1 provision of law, the fee established pursuant to this subdivision
2 shall be deposited with a bank or other depository approved by
3 the Department of Finance and designated by the Research
4 Advisory Panel or into the Structural Pest Control Research Fund
5 that is hereby continued in existence and continuously appropriated
6 to be used only for structural pest control research. If the Research
7 Advisory Panel designates that the fees be deposited in an account
8 other than the Structural Pest Control Research Fund, any moneys
9 in the fund shall be transferred to the designated account.

10 (2) Prior to the deposit of any funds, the depository shall enter
11 into an agreement with the Department of ~~Pesticide Regulation~~
12 *Consumer Affairs* that includes, but is not limited to, all of the
13 following requirements:

14 (A) The depository shall serve as custodian for the safekeeping
15 of the funds.

16 (B) Funds deposited in the designated account shall be
17 encumbered solely for the exclusive purpose of implementing and
18 continuing the program for which they were collected.

19 (C) Funds deposited in the designated account shall be subject
20 to an audit at least once every two years by an auditor selected by
21 the Director of ~~Pesticide Regulation~~ *Consumer Affairs*. A copy of
22 the audit shall be provided to the director within 30 days of
23 completion of the audit.

24 (D) The Department of ~~Pesticide Regulation~~ *Consumer Affairs*
25 shall be reimbursed for all expenses it incurs that are reasonably
26 related to implementing and continuing the program for which the
27 funds were collected in accordance with the agreement.

28 (E) A reserve in an amount sufficient to pay for costs arising
29 from unanticipated occurrences associated with administration of
30 the program shall be maintained in the designated account.

31 (3) A charge for administrative expenses of the board in an
32 amount not to exceed 5 percent of the amount collected and
33 deposited in the Structural Pest Control Research Fund may be
34 assessed against the fund. The charge shall be limited to expenses
35 directly related to the administration of the fund.

36 (4) The board shall, by regulation, establish a five-member
37 research advisory panel including, but not limited to,
38 representatives from each of the following: (A) the Structural Pest
39 Control Board, (B) the structural pest control industry, (C) the
40 Department of Pesticide Regulation, and (D) the University of

1 California. The panel, or other entity designated by the board, shall
2 solicit on behalf of the board all requests for proposals and present
3 to the panel all proposals that meet the criteria established by the
4 panel. The panel shall review the proposals and recommend to the
5 board which proposals to accept. The recommendations shall be
6 accepted upon a two-thirds vote of the board. The board shall direct
7 the panel, or other entity designated by the board, to prepare and
8 issue the research contracts and authorize the transfer of funds
9 from the Structural Pest Control Research Fund to the applicants
10 whose proposals were accepted by the board.

11 (5) A charge for requests for proposals, contracts, and
12 monitoring of contracted research shall not exceed 5 percent of
13 the research funds available each year and shall be paid from the
14 Structural Pest Control Research Fund.

15 *SEC. 14. Section 8676 of the Business and Professions Code*
16 *is amended to read:*

17 8676. The Department of ~~Pesticide Regulation~~ *Consumer*
18 *Affairs* shall receive and account for all moneys collected under
19 this chapter at the end of each month, and shall pay it into the
20 Treasury to the credit of the Structural Pest Control Fund, which
21 is hereby continued in existence.

22 The moneys in this fund shall be expended for the pro rata cost
23 of administration of the Department of ~~Pesticide Regulation~~
24 *Consumer Affairs* and for the purpose of carrying out the provisions
25 of this chapter.

26 *SEC. 15. Section 10004 of the Business and Professions Code*
27 *is amended to read:*

28 10004. “~~Department~~” “*Bureau*” means the ~~Department~~ *Bureau*
29 of Real Estate in the ~~Business, Transportation and Housing Agency~~
30 *Department of Consumer Affairs*.

31 *SEC. 16. Section 10005 of the Business and Professions Code*
32 *is amended to read:*

33 10005. Whenever the terms “*bureau,*” “*division,*”
34 “*department,*” “*Department of Real Estate,*” “*State Real Estate*
35 *Division,*” or “*Real Estate Division*” are used in this division, they
36 mean the ~~Department~~ *Bureau* of Real Estate.

37 Whenever the terms “*Department of Real Estate,*” “*State Real*
38 *Estate Division*” *Division,*” or “*Real Estate Division*” are used in
39 any other law, they mean the ~~Department~~ *Bureau* of Real Estate.

1 *SEC. 17. Section 10050 of the Business and Professions Code*
2 *is amended to read:*

3 10050. (a) There is in the ~~Business and Transportation Agency~~
4 ~~Department of Consumer Affairs~~ a ~~Department~~ Bureau of Real
5 Estate, the chief officer of which ~~department~~ bureau is named the
6 Real Estate Commissioner.

7 It

8 (b) It shall be the principal responsibility of the commissioner
9 to enforce all laws in this part (commencing with Section 10000)
10 and Chapter 1 (commencing with Section 11000) of Part 2 of this
11 division in a manner ~~which~~ *that* achieves the maximum protection
12 for the purchasers of real property and those persons dealing with
13 real estate licensees.

14 (c) *Wherever the term “commissioner” is used in this division,*
15 *it means the Real Estate Commissioner.*

16 *SEC. 18. Section 10053 of the Business and Professions Code*
17 *is amended to read:*

18 10053. The commissioner shall receive an annual salary as
19 provided in Chapter 6 (commencing with Section 11550) of Part
20 1 of Division 3 of Title 2 of the Government Code, to be paid
21 monthly out of the State Treasury upon a warrant of the Controller,
22 and shall be allowed his *or her* actual and necessary expenses in
23 the discharge of his *or her* duties.

24 *SEC. 19. Section 10147 of the Business and Professions Code*
25 *is amended to read:*

26 10147. (a) On or before January 1, 1993, the Seismic Safety
27 Commission shall develop, adopt, and publish a Commercial
28 Property Owner’s Guide to Earthquake Safety for distribution to
29 licensees for purposes of Section 2079.9 of the Civil Code and,
30 upon request, to any member of the general public.

31 (b) In developing the guide, the Seismic Safety Commission
32 shall consult with the ~~California Emergency Management Agency~~
33 ~~Office of Emergency Services~~, the Division of Mines and Geology
34 of the Department of Conservation, the ~~Department of Real Estate~~
35 ~~Bureau of Real Estate~~, and other interested agencies and persons.

36 (c) The commission shall, to the extent possible, rely on
37 currently available data to develop the guide. To the extent
38 necessary, the commission may contract for the development and
39 production of the guide. The commission shall update the contents
40 of the guide whenever it determines that information within the

1 guide is sufficiently inaccurate or incomplete so as to reduce the
2 effectiveness of the guide. The commission shall charge a fee to
3 cover the costs of production, distribution, development, and
4 updating the guide.

5 (d) The guide shall include, but need not be limited to, all of
6 the following:

7 (1) Maps and information on geologic and seismic hazard
8 conditions in the state.

9 (2) Explanations of typical structural and nonstructural
10 earthquake hazards.

11 (3) Recommendations for mitigating the hazards of an
12 earthquake, including references and explanations of what
13 constitutes “adequate wall anchorage” as defined in Section 8893.1
14 of the Government Code.

15 (4) A statement that there are no guarantees of safety or damage
16 prevention that can be made with respect to a major earthquake
17 and that only precautions, such as retrofitting, can be taken to
18 reduce the risk of various types of earthquake damage. For purposes
19 of preparing the statement, the commission shall confer with
20 insurers and design professional associations.

21 (5) Notice of the obligation to post a sign as required by Section
22 8875.8 of the Government Code.

23 *SEC. 20. Section 10149 of the Business and Professions Code*
24 *is amended to read:*

25 10149. (a) On or before July 1, 1992, the Seismic Safety
26 Commission shall develop, adopt, and publish a Homeowner’s
27 Guide to Earthquake Safety for distribution to licensees for
28 purposes of Section 2079.8 of the Civil Code and, upon request,
29 to any member of the general public.

30 (b) In developing the guide, the Seismic Safety Commission
31 shall consult with the ~~California Emergency Management Agency~~
32 *Office of Emergency Services*, the Division of Mines and Geology
33 of the Department of Conservation, the ~~Department of Real Estate~~
34 *Bureau of Real Estate*, and other interested agencies and persons.

35 (c) The commission shall, to the extent possible, rely on
36 currently available data to develop the guide. To the extent
37 necessary, the commission may contract for the development and
38 production of the guide. The commission shall update the contents
39 of the guide whenever it determines that information within the
40 guide is sufficiently inaccurate or incomplete so as to reduce the

1 effectiveness of the guide. The commission shall charge a fee to
2 cover the costs of production, distribution, development, and
3 updating the guide.

4 (d) The guide shall include, but need not be limited to, all of
5 the following:

6 (1) Maps and information on geologic and seismic hazard
7 conditions for all areas of the state.

8 (2) Explanations of the related structural and nonstructural
9 hazards.

10 (3) Recommendations for mitigating the hazards of an
11 earthquake.

12 (4) A statement that there are no guarantees of safety or damage
13 prevention that can be made with respect to a major earthquake
14 and that only precautions, such as retrofitting, can be taken to
15 reduce the risk of various types of earthquake damage. For purposes
16 of preparing the statement, the commission shall confer with
17 insurers and design professional associations.

18 *SEC. 21. Section 10151.5 of the Business and Professions Code*
19 *is amended to read:*

20 10151.5. (a) An applicant who is not a resident of this state
21 shall be eligible for a real estate license provided (1) the applicant
22 qualifies for licensure under this chapter, including Section 10162,
23 and (2) the state or other jurisdiction that is the place of residence
24 of the applicant permits a resident of California to qualify for and
25 obtain a real estate license in that jurisdiction.

26 (b) A foreign corporation shall be exempt from the eligibility
27 requirement set forth in clause (2) of subdivision (a) if, and for so
28 long as, at least one of the officers of the corporation who is
29 designated and licensed as a real estate broker pursuant to Section
30 10158 or 10211 is a resident of this state.

31 (c) Every nonresident applicant for a real estate license shall,
32 along with his or her application, file with the Real Estate
33 Commissioner an irrevocable consent that if in any action
34 commenced against him or her in this state, personal service of
35 process upon him or her cannot be made in this state after the
36 exercise of due diligence, a valid service may thereupon be made
37 upon the applicant by delivering the process to the ~~Department of~~
38 ~~Real Estate~~ *Bureau of Real Estate.*

39 *SEC. 22. Section 10166.07 of the Business and Professions*
40 *Code is amended to read:*

1 10166.07. (a) A real estate broker who acts pursuant to Section
2 10131.1 or subdivision (d) or (e) of Section 10131, and who makes,
3 arranges, or services one or more loans in a calendar year that are
4 secured by real property containing one to four residential units,
5 shall annually file a business activities report, within 90 days after
6 the end of the broker's fiscal year or within any additional time as
7 the commissioner may allow for filing for good cause. The report
8 shall contain within its scope all of the following information for
9 the fiscal year, relative to the business activities of the broker and
10 those of any other brokers and real estate salespersons acting under
11 that broker's supervision:

12 (1) Name and license number of the supervising broker and
13 names and license numbers of the real estate brokers and
14 salespersons under that broker's supervision. The report shall
15 include brokers and salespersons who were under the supervising
16 broker's supervision for all or part of the year.

17 (2) A list of the real estate-related activities in which the
18 supervising broker and the brokers and salespersons under his or
19 her supervision engaged during the prior year. This listing shall
20 identify all of the following:

21 (A) Activities relating to mortgages, including arranging,
22 making, or servicing.

23 (B) Other activities performed under the real estate broker's or
24 salesperson's license.

25 (C) Activities performed under related licenses, including, but
26 not limited to, a license to engage as a finance lender or a finance
27 broker under the California Finance Lenders Law (Division 9
28 (commencing with Section 22000) of the Financial Code), or a
29 license to engage as a residential mortgage lender or residential
30 mortgage loan servicer under the California Residential Mortgage
31 Lending Act (Division 20 (commencing with Section 50000) of
32 the Financial Code).

33 (3) A list of the forms of media used by the broker and those
34 under his or her supervision to advertise to the public, including
35 print, radio, television, the Internet, or other means.

36 (4) For fixed rate loans made, brokered, or serviced, all of the
37 following:

38 (A) The total number, aggregate principal amount, lowest
39 interest rate, highest interest rate, and a list of the institutional
40 lenders of record. If the loan was funded by any lender other than

1 an institutional lender, the broker shall categorize the loan as
2 privately funded.

3 (B) The total number and aggregate principal amount of covered
4 loans, as defined in Section 4970 of the Financial Code.

5 (C) The total number and aggregate principal amount of loans
6 for which ~~Department of Real Estate~~ *Bureau of Real Estate* form
7 RE Form 885 or an equivalent is required.

8 (5) For adjustable rate loans made, brokered, or serviced, all of
9 the following:

10 (A) The total number, aggregate principal amount, lowest
11 beginning interest rate, highest beginning interest rate, highest
12 margin, and a list of the institutional lenders of record. If the loan
13 was funded by any lender other than an institutional lender, the
14 broker shall categorize the loan as privately funded.

15 (B) The total number and aggregate principal amount of covered
16 loans, as defined in Section 4970 of the Financial Code.

17 (C) The total number and aggregate principal amount of loans
18 for which ~~Department of Real Estate~~ *Bureau of Real Estate* form
19 RE Form 885 or an equivalent is required.

20 (6) For all loans made, brokered, or serviced, the total number
21 and aggregate principal amount of loans funded by institutional
22 lenders, and the total number and aggregate principal amount of
23 loans funded by private lenders.

24 (7) For all loans made, brokered, or serviced, the total number
25 and aggregate principal amount of loans that included a prepayment
26 penalty, the minimum prepayment penalty length, the maximum
27 prepayment penalty length, and the number of loans with
28 prepayment penalties whose length exceeded the length of time
29 before the borrower’s loan payment amount could increase.

30 (8) For all loans brokered, the total compensation received by
31 the broker, including yield spread premiums, commissions, and
32 rebates, but excluding compensation used to pay fees for third-party
33 services on behalf of the borrower.

34 (9) For all mortgage loans made or brokered, the total number
35 of loans for which a mortgage loan disclosure statement was
36 provided in a language other than English, and the number of forms
37 provided per language other than English.

38 (10) For all mortgage loans serviced, the total amount of funds
39 advanced to be applied toward a payment to protect the security
40 of the note being serviced.

1 (11) For purposes of this section, an institutional lender has the
2 meaning specified in paragraph (1) of subdivision (c) of Section
3 10232.

4 (b) A broker subject to this section and Section 10232.2 may
5 file consolidated reports that include all of the information required
6 under this section and Section 10232.2. Those consolidated reports
7 shall clearly indicate that they are intended to satisfy the
8 requirements of both sections.

9 (c) If a broker subject to this section fails to timely file the report
10 required under this section, the commissioner may cause an
11 examination and report to be made and may charge the broker one
12 and one-half times the cost of making the examination and report.
13 In determining the hourly cost incurred by the commissioner for
14 conducting an examination and preparing the report, the
15 commissioner may use the estimated average hourly cost for all
16 department audit staff performing audits of real estate brokers. If
17 a broker fails to pay the commissioner's cost within 60 days of the
18 mailing of a notice of billing, the commissioner may suspend the
19 broker's license or deny renewal of that license. The suspension
20 or denial shall remain in effect until the billed amount is paid or
21 the broker's right to renew a license has expired. The commissioner
22 may maintain an action for the recovery of the billed amount in
23 any court of competent jurisdiction.

24 (d) The report described in this section is exempted from any
25 requirement of public disclosure by paragraph (2) of subdivision
26 (d) of Section 6254 of the Government Code.

27 (e) The commissioner may waive the requirement to submit
28 certain information described in paragraphs (1) to (10), inclusive,
29 of subdivision (a) if the commissioner determines that this
30 information is duplicative of information required by the
31 Nationwide Mortgage Licensing System and Registry, pursuant
32 to Section 10166.08.

33 *SEC. 23. Section 10176.1 of the Business and Professions Code*
34 *is amended to read:*

35 10176.1. (a) (1) Whenever the commissioner takes any
36 enforcement or disciplinary action against a licensee, and the
37 enforcement or disciplinary action is related to escrow services
38 provided pursuant to paragraph (4) of subdivision (a) of Section
39 17006 of the Financial Code, upon the action becoming final the
40 commissioner shall notify the Insurance Commissioner and the

1 Commissioner of ~~Corporations~~ *Business Oversight* of the action
2 or actions taken. The purpose of this notification is to alert the
3 departments that enforcement or disciplinary action has been taken,
4 if the licensee seeks or obtains employment with entities regulated
5 by the departments.

6 (2) The commissioner shall provide the Insurance Commissioner
7 and the Commissioner of ~~Corporations~~ *Business Oversight*, in
8 addition to the notification of the action taken, with a copy of the
9 written accusation, statement of issues, or order issued or filed in
10 the matter and, at the request of the Insurance Commissioner or
11 the Commissioner of ~~Corporations~~ *Business Oversight*, with any
12 underlying factual material relevant to the enforcement or
13 disciplinary action. Any confidential information provided by the
14 commissioner to the Insurance Commissioner or the Commissioner
15 of ~~Corporations~~ *Business Oversight* shall not be made public
16 pursuant to this section. Notwithstanding any other provision of
17 law, the disclosure of any underlying factual material to the
18 Insurance Commissioner or the Commissioner of ~~Corporations~~
19 *Business Oversight* shall not operate as a waiver of confidentiality
20 or any privilege that the commissioner may assert.

21 (b) The commissioner shall establish and maintain, on the Web
22 site maintained by the ~~Department of Real Estate~~ *Bureau of Real*
23 *Estate*, a database of its licensees, including those who have been
24 subject to any enforcement or disciplinary action that triggers the
25 notification requirements of this section. The database shall also
26 contain a direct link to the databases, described in Section 17423.1
27 of the Financial Code and Section 12414.31 of the Insurance Code
28 and required to be maintained on the Web sites of the Department
29 of Corporations and the Department of Insurance, respectively, of
30 persons who have been subject to enforcement or disciplinary
31 action for malfeasance or misconduct related to the escrow industry
32 by the Insurance Commissioner and the Commissioner of
33 ~~Corporations~~ *Business Oversight*.

34 (c) There shall be no liability on the part of, and no cause of
35 action of any nature shall arise against, the State of California, the
36 ~~Department of Real Estate~~ *Bureau of Real Estate*, the Real Estate
37 Commissioner, any other state agency, or any officer, agent,
38 employee, consultant, or contractor of the state, for the release of
39 any false or unauthorized information pursuant to this section,
40 unless the release of that information was done with knowledge

1 and malice, or for the failure to release any information pursuant
2 to this section.

3 *SEC. 24. Section 10231.2 of the Business and Professions Code*
4 *is amended to read:*

5 10231.2. (a) A real estate broker who, through express or
6 implied representations that the broker or any salesperson acting
7 on the broker's behalf is engaging in acts for which a real estate
8 license is required by subdivision (d) or (e) of Section 10131,
9 proposes to solicit and accept funds, or to cause the solicitation
10 and acceptance of funds, to be applied to a purchase or loan
11 transaction in which the broker will directly or indirectly obtain
12 the use or benefit of the funds other than for commissions, fees,
13 and costs and expenses as provided by law for the broker's services
14 as an agent, shall, prior to the making of any representation,
15 solicitation, or presentation of the statement described in
16 subdivision (b), submit the following to the ~~Department of Real~~
17 *Estate Bureau of Real Estate*:

18 (1) A true copy of the statement described in subdivision (b)
19 complete except for the signature of the prospective lender or
20 purchaser.

21 (2) A statement that the submittal is being made to the
22 ~~department~~ *bureau* pursuant to Section 10231.2.

23 (b) A broker making a solicitation pursuant to subdivision (a)
24 shall deliver, or cause to be delivered, to the person solicited, the
25 applicable completed statement described in Section 10232.5 not
26 less than 24 hours before the earlier of the acceptance of any funds
27 from that person by or on behalf of the broker or the execution of
28 any instrument obligating the person to make the loan or purchase.
29 The statement shall be signed by the prospective lender or
30 purchaser and by the real estate broker or, on the broker's behalf,
31 by a real estate salesperson licensed to the broker. When so
32 executed, an exact copy of the executed statement shall be given
33 to the prospective lender or purchaser, and the broker shall retain
34 a true copy of the executed statement for a period of four years.

35 (c) None of the provisions of subdivision (a) or (b) shall apply
36 in the case of an offering of a security authorized pursuant to
37 applicable provisions of the Corporate Securities Law of 1968
38 (Division 1 (commencing with Section ~~25000~~ 25000) of Title 4
39 of the Corporations Code).

1 (d) In the case of a solicitation by a corporate real estate broker,
2 the provisions of subdivisions (a) and (b) shall apply if the funds
3 solicited are intended for the direct or indirect use or benefit of an
4 officer or director of the corporation or of a person with a 10
5 percent or greater ownership interest in the corporation.

6 *SEC. 25. Section 10232.1 of the Business and Professions Code*
7 *is amended to read:*

8 10232.1. (a) A real estate broker, prior to the use of any
9 proposed advertisement in connection with the conduct of activities
10 described in subdivisions (d) and (e) of Section 10131 and Section
11 10131.1, may submit a true copy thereof to the ~~Department of Real~~
12 ~~Estate Bureau of Real Estate~~ *Bureau of Real Estate* for approval. The submission shall
13 be accompanied by a fee of not more than forty dollars (\$40). The
14 commissioner shall by regulation prescribe the amount of the fee.
15 If disapproval of the proposed advertisement is not communicated
16 by the ~~department bureau~~ to the broker within 15 calendar days
17 after receipt of the copy of the proposed advertisement by the
18 ~~department bureau~~, the proposed advertisement shall be deemed
19 approved, but the ~~department bureau~~ shall not be precluded from
20 disapproving a later publication or other use of the same or similar
21 advertising.

22 The commissioner shall adopt regulations pertaining to the
23 submittal and clearance of that advertising and establishing criteria
24 for approval to ensure that the public will be protected against
25 false or misleading representations.

26 Except as provided in subdivision (b), “advertisement” includes
27 dissemination in any newspaper, circular, form letter, brochure or
28 similar publication, display, sign, radio broadcast or telecast, which
29 concerns (1) the use, terms, rates, conditions, or the amount of any
30 loan or sale referred to in subdivisions (d) and (e) of Section 10131
31 or Section 10131.1 or (2) the security, solvency, or stability of any
32 person carrying on the activities described in those sections.

33 (b) “Advertisement” does not include a letter or brochure that
34 meets both of the following criteria:

35 (1) It is restricted in distribution to other real estate brokers and
36 to persons for whom the broker has previously acted as an agent
37 in arranging a loan secured by real property or in the purchase,
38 sale, or exchange of a deed of trust or real property sales contract.

39 (2) It is restricted in content to the identification and a
40 description of the terms of loans, mortgages, deeds of trust, real

1 property sales contracts, or any combination thereof offered for
2 funding or purchase through the broker as agent.

3 (c) Subdivision (a) is not applicable to advertising that is used
4 exclusively in connection with an offering authorized by permit
5 issued pursuant to the applicable provisions of the Corporate
6 Securities Law of 1968 (Division 1 (commencing with Section
7 ~~25000~~ 25000) of Title 4 of the Corporations Code).

8 (d) All advertising approvals shall be for a period of five years
9 after the date of approval. The approval period applies to all
10 advertising, including that which was previously submitted on a
11 mandatory basis.

12 *SEC. 26. Section 10232.2 of the Business and Professions Code*
13 *is amended to read:*

14 10232.2. A real estate broker who meets the criteria of
15 subdivision (a) of Section 10232 shall annually file the reports
16 referred to in subdivisions (a) and (c) with the ~~Department of Real~~
17 *Estate Bureau of Real Estate* within 90 days after the end of the
18 broker's fiscal year or within any additional time as the Real Estate
19 Commissioner may allow for filing for good cause:

20 (a) The report of a review by a licensed California independent
21 public accountant of trust fund financial statements, conducted in
22 accordance with generally accepted accounting practices, which
23 shall include within its scope the following information for the
24 fiscal year relative to the business activities of the broker described
25 in subdivisions (d) and (e) of Section 10131:

26 (1) The receipt and disposition of all funds of others to be
27 applied to the making of loans and the purchasing of promissory
28 notes or real property sales contracts.

29 (2) The receipt and disposition of all funds of others in
30 connection with the servicing by the broker of the accounts of
31 owners of promissory notes and real property sales contracts
32 including installment payments and loan or contract payoffs by
33 obligors.

34 (3) A statement as of the end of the fiscal year which shall
35 include an itemized trust fund accounting of the broker and
36 confirmation that the trust funds are on deposit in an account or
37 accounts maintained by the broker in a financial institution.

38 (b) A broker who meets the criteria of Section 10232, but who,
39 in carrying on the activities described in subdivisions (d) and (e)
40 of Section 10131, has not during a fiscal year, accepted for the

1 benefit of a person to whom the broker is a trustee, any payment
 2 or remittance in a form convertible to cash by the broker, need not
 3 comply with the provisions of subdivision (a). In lieu thereof, the
 4 broker shall submit to the commissioner within 30 days after the
 5 end of the broker’s fiscal year or, within any additional time as
 6 the commissioner may allow for a filing for good cause, a notarized
 7 statement under penalty of perjury on a form provided by the
 8 ~~department~~ *bureau* attesting to the fact that the broker did not
 9 receive any trust funds in cash or convertible to cash during the
 10 fiscal year.

11 (c) A report of all of the following aspects of the business
 12 conducted by the broker while engaging in activities described in
 13 subdivisions (d) and (e) of Section 10131 and in Section 10131.1:

14 (1) Number and aggregate dollar amount of loan, trust deed
 15 sales and real property sales contract transactions negotiated.

16 (2) Number and aggregate dollar amount of promissory notes
 17 and contracts serviced by the broker or an affiliate of the broker.

18 (3) Number and aggregate dollar amount of late payment
 19 charges, prepayment penalties and other fees or charges collected
 20 and retained by the broker under servicing agreements with
 21 beneficiaries and obligees.

22 (4) Default and foreclosure experience in connection with
 23 promissory notes and contracts subject to servicing agreements
 24 between the broker and beneficiaries or obligees.

25 (5) Commissions received by the broker for services performed
 26 as agent in negotiating loans and sales of promissory notes and
 27 real property sales contracts.

28 (6) Aggregate costs and expenses as referred to in Section 10241
 29 paid by borrowers to the broker.

30 (d) The commissioner shall adopt regulations prescribing the
 31 form and content of the report referred to in subdivision (c) with
 32 appropriate categories to afford a better understanding of the
 33 business conducted by the broker.

34 (e) If the broker fails to file either of the reports required under
 35 subdivisions (a) and (c) within the time permitted herein, the
 36 commissioner may cause an examination and report to be made
 37 and may charge the broker one and one-half times the cost of
 38 making the examination and report. In determining the hourly cost
 39 incurred by the commissioner for conducting an examination and
 40 preparing the report, the commissioner may use the estimated

1 average hourly cost for all department audit staff performing audits
2 of real estate brokers. If a broker fails to pay the above amount
3 within 60 days of the mailing of a notice of billing, the
4 commissioner may suspend the broker's license or deny renewal
5 of the broker's license. The suspension or denial shall remain in
6 effect until the above amount is paid or the broker's right to renew
7 a license has expired. The commissioner may maintain an action
8 for the recovery of the above amount in any court of competent
9 jurisdiction.

10 (f) The reports referred to in subdivisions (a) and (c) are
11 exempted from any requirement of public disclosure by paragraph
12 (2) of subdivision (d) of Section 6254 of the Government Code.
13 The commissioner shall annually make and file as a public record,
14 a composite of the annual reports and any comments thereon which
15 are deemed to be in the public interest.

16 *SEC. 27. Section 10235.5 of the Business and Professions Code*
17 *is amended to read:*

18 10235.5. (a) No real estate licensee or mortgage loan originator
19 shall place an advertisement disseminated primarily in this state
20 for a loan unless there is disclosed within the printed text of that
21 advertisement, or the oral text in the case of a radio or television
22 advertisement, the ~~Department of Real Estate~~ *Bureau of*
23 *Real Estate* number and the unique identifier assigned to that
24 licensee by the Nationwide Mortgage Licensing System and
25 Registry under which the loan would be made or arranged.

26 (b) "Mortgage loan originator," "unique identifier," and
27 "Nationwide Mortgage Licensing System and Registry" have the
28 meanings set forth in Section 10166.01.

29 *SEC. 28. Section 10236.2 of the Business and Professions Code*
30 *is amended to read:*

31 10236.2. (a) A real estate broker who satisfies the criteria of
32 subdivision (a) or (b) of Section 10232 and who fails to notify the
33 ~~Department of Real Estate~~ *Bureau of Real Estate*, in writing, of
34 that fact within 30 days thereafter as required by subdivision (e)
35 of Section 10232 shall be assessed a penalty of fifty dollars (\$50)
36 per day for each additional day written notification has not been
37 received up to and including the 30th day after the first day of the
38 assessment penalty. On and after the 31st day the penalty is one
39 hundred dollars (\$100) per day, not to exceed a total penalty of

1 ten thousand dollars (\$10,000), regardless of the number of days,
2 until the ~~department~~ bureau receives the written notification.

3 (b) The commissioner may suspend or revoke the license of any
4 real estate broker who fails to pay a penalty imposed under this
5 section. In addition, the commissioner may bring an action in an
6 appropriate court of this state to collect payment of the penalty.

7 (c) All penalties paid or collected under this section shall be
8 deposited into the Consumer Recovery Account of the Real Estate
9 Fund.

10 *SEC. 29. Section 10249.3 of the Business and Professions Code*
11 *is amended to read:*

12 10249.3. (a) The commissioner may by regulation prescribe
13 filing fees in connection with registrations with the ~~department~~
14 bureau pursuant to the provisions of this article that are lower than
15 the maximum fees specified in subdivision (b) if the commissioner
16 determines that the lower fees are sufficient to offset the costs and
17 expenses incurred in the administration of this article. The
18 commissioner shall hold at least one hearing each calendar year
19 to determine if lower fees than those specified in subdivision (b)
20 should be prescribed.

21 (b) The filing fee for an application for a registration with the
22 ~~department~~ bureau pursuant to the provisions of this article shall
23 not exceed the following for each subdivision or phase of the
24 subdivision in which interests are to be offered for sale or lease:

25 (1) An application for an original registration: One hundred
26 dollars (\$100).

27 (2) An application for a renewal registration: One hundred
28 dollars (\$100).

29 (3) An application for an amended registration: One hundred
30 dollars (\$100).

31 (c) All fees collected by the ~~Department of Real Estate Bureau~~
32 *of Real Estate* under authority of this article shall be deposited into
33 the Real Estate Fund under Chapter 6 (commencing with Section
34 10450) of Part 1. All fees received by the ~~department~~ bureau
35 pursuant to the provisions of this article shall be deemed earned
36 upon receipt. No part of any fee is refundable unless the
37 commissioner determines that it was paid as a result of mistake or
38 inadvertence.

39 *SEC. 30. Section 10249.8 of the Business and Professions Code*
40 *is amended to read:*

1 10249.8. (a) Notwithstanding any provision to the contrary in
2 Section 10249 or 11000, it is unlawful for a person, in this state,
3 to sell or lease or offer for sale or lease lots, parcels, or interests
4 in a subdivision, as defined in Section 10249.1, entirely located
5 outside of this state but within the United States, unless any printed
6 material, literature, advertising, or invitation in this state relating
7 to that sale, lease, or offer clearly and conspicuously contains the
8 following disclaimer in at least 10-point type:

9

10 ~~WARNING: THE CALIFORNIA DEPARTMENT OF REAL~~
11 ~~ESTATE BUREAU OF REAL ESTATE HAS NOT INSPECTED,~~
12 ~~EXAMINED, OR QUALIFIED THIS OFFERING.~~

13

14 (b) If an offer on property described in subdivision (a) is not
15 initially made in writing, the disclaimer set forth in subdivision
16 (c) shall be received by the offeree in writing prior to a visit to a
17 location, sales presentation, or contact with a person representing
18 the offeror, when the visit or contact was scheduled or arranged
19 by the offeror or its representative. The deposit of the disclaimer
20 in the United States mail, addressed to the offeree and with
21 first-class postage prepaid, at least five days prior to the scheduled
22 or arranged visit or contact, shall be deemed to constitute delivery
23 for purposes of this section.

24 (c) If a California resident is presented with an agreement or
25 contract to lease or purchase any property described in subdivision
26 (a), where an offer to lease or purchase that property was made to
27 that resident in California, a copy of the disclaimer set forth in this
28 subdivision shall be inserted in at least 10-point type at the top of
29 the first page of that agreement or contract and shall be initialed
30 by that California resident.

31

32 ~~WARNING: THE CALIFORNIA DEPARTMENT OF REAL~~
33 ~~ESTATE BUREAU OF REAL ESTATE HAS NOT QUALIFIED,~~
34 ~~INSPECTED, OR EXAMINED THIS OFFERING, INCLUDING,~~
35 ~~BUT NOT LIMITED TO, THE CONDITION OF TITLE, THE~~
36 ~~STATUS OF BLANKET LIENS ON THE PROJECT (IF ANY),~~
37 ~~ARRANGEMENTS TO ASSURE PROJECT COMPLETION,~~
38 ~~ESCROW PRACTICES, CONTROL OVER PROJECT~~
39 ~~MANAGEMENT, RACIALLY DISCRIMINATORY~~
40 ~~PRACTICES (IF ANY), TERMS, CONDITIONS, AND PRICE~~

1 OF THE OFFER, CONTROL OVER ANNUAL ASSESSMENTS
 2 (IF ANY), OR THE AVAILABILITY OF WATER, SERVICES,
 3 UTILITIES, OR IMPROVEMENTS. IT MAY BE ADVISABLE
 4 FOR YOU TO CONSULT AN ATTORNEY OR OTHER
 5 KNOWLEDGEABLE PROFESSIONAL WHO IS FAMILIAR
 6 WITH REAL ESTATE AND DEVELOPMENT LAW IN THE
 7 STATE WHERE THIS SUBDIVISION IS SITUATED.

8

9 *SEC. 31. Section 10249.9 of the Business and Professions Code*
 10 *is amended to read:*

11 10249.9. (a) Notwithstanding any provision to the contrary in
 12 Section 10249 or 11000, it is unlawful for a person, in this state,
 13 to sell or lease or offer for sale or lease a lot, parcel, or interest in
 14 a subdivision, located outside the United States, unless the printed
 15 material, literature, advertising, or invitation in this state relating
 16 to that sale, lease, or offer clearly and conspicuously contains the
 17 following disclaimer in at least 10-point capital type:

18

19 ~~WARNING: THE CALIFORNIA DEPARTMENT OF REAL~~
 20 ~~ESTATE BUREAU OF REAL ESTATE HAS NOT EXAMINED~~
 21 ~~THIS OFFERING, INCLUDING, BUT NOT LIMITED TO, THE~~
 22 ~~CONDITION OF TITLE, THE STATUS OF BLANKET LIENS~~
 23 ~~ON THE PROJECT (IF ANY), ARRANGEMENTS TO ASSURE~~
 24 ~~PROJECT COMPLETION, ESCROW PRACTICES, CONTROL~~
 25 ~~OVER PROJECT MANAGEMENT, RACIALLY~~
 26 ~~DISCRIMINATORY PRACTICES (IF ANY), TERMS,~~
 27 ~~CONDITIONS, AND PRICE OF THE OFFER, CONTROL OVER~~
 28 ~~ANNUAL ASSESSMENTS (IF ANY), OR THE AVAILABILITY~~
 29 ~~OF WATER, SERVICES, UTILITIES, OR IMPROVEMENTS.~~
 30 ~~IT MAY BE ADVISABLE FOR YOU TO CONSULT AN~~
 31 ~~ATTORNEY OR OTHER KNOWLEDGEABLE~~
 32 ~~PROFESSIONAL WHO IS FAMILIAR WITH REAL ESTATE~~
 33 ~~AND DEVELOPMENT LAW IN THE COUNTRY WHERE~~
 34 ~~THIS SUBDIVISION IS SITUATED.~~

35

36 (b) If an offer on property described in subdivision (a) is not
 37 initially made in writing, the foregoing disclaimer shall be received
 38 by the offeree in writing prior to a visit to a location, sales
 39 presentation, or contact with a person representing the offeror,
 40 when the visit or contact was scheduled or arranged by the offeror

1 or its representative. The deposit of the disclaimer in the United
2 States mail, addressed to the offeree and with first-class postage
3 prepaid, at least five days prior to the scheduled or arranged visit
4 or contact, shall be deemed to constitute delivery for purposes of
5 this section.

6 (c) If any California resident is presented with an agreement or
7 contract to lease or purchase a property described in subdivision
8 (a), where an offer to lease or purchase that property was made to
9 that resident in California, a copy of the disclaimer set forth in
10 subdivision (a) shall be inserted in at least 10-point type at the top
11 of the first page of that agreement or contract and shall be initialed
12 by that California resident.

13 *SEC. 32. Section 10471 of the Business and Professions Code*
14 *is amended to read:*

15 10471. (a) When an aggrieved person obtains (1) a final
16 judgment in a court of competent jurisdiction, including, but not
17 limited to, a criminal restitution order issued pursuant to
18 subdivision (f) of Section 1202.4 of the Penal Code or Section
19 3663 of Title 18 of the United States Code, or (2) an arbitration
20 award that includes findings of fact and conclusions of law
21 rendered in accordance with the rules established by the American
22 Arbitration Association or another recognized arbitration body,
23 and in accordance with Sections 1281 to 1294.2, inclusive, of the
24 Code of Civil Procedure where applicable, and where the
25 arbitration award has been confirmed and reduced to judgment
26 pursuant to Section 1287.4 of the Code of Civil Procedure, against
27 a defendant based upon the defendant's fraud, misrepresentation,
28 or deceit, made with intent to defraud, or conversion of trust funds,
29 arising directly out of any transaction in which the defendant, while
30 licensed under this part, performed acts for which a real estate
31 license was required, the aggrieved person may, upon the judgment
32 becoming final, file an application with the ~~Department of Real~~
33 *Estate Bureau of Real Estate* for payment from the Consumer
34 Recovery Account, within the limitations specified in Section
35 10474, of the amount unpaid on the judgment that represents an
36 actual and direct loss to the claimant in the transaction. As used
37 in this chapter, "court of competent jurisdiction" includes the
38 federal courts, but does not include the courts of another state.

1 (b) The application shall be delivered in person or by certified
2 mail to an office of the ~~department~~ *bureau* not later than one year
3 after the judgment has become final.

4 (c) The application shall be made on a form prescribed by the
5 ~~department~~ *bureau*, verified by the claimant, and shall include the
6 following:

7 (1) The name and address of the claimant.

8 (2) If the claimant is represented by an attorney, the name,
9 business address, and telephone number of the attorney.

10 (3) The identification of the judgment, the amount of the claim
11 and an explanation of its computation.

12 (4) A detailed narrative statement of the facts in explanation of
13 the allegations of the complaint upon which the underlying
14 judgment is based.

15 (5) (A) Except as provided in subparagraph (B), a statement
16 by the claimant, signed under penalty of perjury, that the complaint
17 upon which the underlying judgment is based was prosecuted
18 conscientiously and in good faith. As used in this section,
19 “conscientiously and in good faith” means that no party potentially
20 liable to the claimant in the underlying transaction was intentionally
21 and without good cause omitted from the complaint, that no party
22 named in the complaint who otherwise reasonably appeared capable
23 of responding in damages was dismissed from the complaint
24 intentionally and without good cause, and that the claimant
25 employed no other procedural means contrary to the diligent
26 prosecution of the complaint in order to seek to qualify for the
27 Consumer Recovery Account.

28 (B) For the purpose of an application based on a criminal
29 restitution order, all of the following statements by the claimant:

30 (i) The claimant has not intentionally and without good cause
31 failed to pursue any person potentially liable to the claimant in the
32 underlying transaction other than a defendant who is the subject
33 of a criminal restitution order.

34 (ii) The claimant has not intentionally and without good cause
35 failed to pursue in a civil action for damages all persons potentially
36 liable to the claimant in the underlying transaction who otherwise
37 reasonably appeared capable of responding in damages other than
38 a defendant who is the subject of a criminal restitution order.

1 (iii) The claimant employed no other procedural means contrary
2 to the diligent prosecution of the complaint in order to seek to
3 qualify for the Consumer Recovery Account.

4 (6) The name and address of the judgment debtor or, if not
5 known, the names and addresses of persons who may know the
6 judgment debtor's present whereabouts.

7 (7) The following representations and information from the
8 claimant:

9 (A) That he or she is not a spouse of the judgment debtor nor a
10 personal representative of the spouse.

11 (B) That he or she has complied with all of the requirements of
12 this chapter.

13 (C) That the judgment underlying the claim meets the
14 requirements of subdivision (a).

15 (D) A description of searches and inquiries conducted by or on
16 behalf of the claimant with respect to the judgment debtor's assets
17 liable to be sold or applied to satisfaction of the judgment, an
18 itemized valuation of the assets discovered, and the results of
19 actions by the claimant to have the assets applied to satisfaction
20 of the judgment.

21 (E) That he or she has diligently pursued collection efforts
22 against all judgment debtors and all other persons liable to the
23 claimant in the transaction that is the basis for the underlying
24 judgment.

25 (F) That the underlying judgment and debt have not been
26 discharged in bankruptcy, or, in the case of a bankruptcy
27 proceeding that is open at or after the time of the filing of the
28 application, that the judgment and debt have been declared to be
29 nondischargeable.

30 (G) That the application was mailed or delivered to the
31 ~~department~~ *bureau* no later than one year after the underlying
32 judgment became final.

33 (d) If the claimant is basing his or her application upon a
34 judgment against a salesperson, and the claimant has not obtained
35 a judgment against that salesperson's employing broker, if any, or
36 has not diligently pursued the assets of that broker, the application
37 shall be denied for failure to diligently pursue the assets of all other
38 persons liable to the claimant in the transaction unless the claimant
39 can demonstrate, by clear and convincing evidence, either that the
40 salesperson was not employed by a broker at the time of the

1 transaction, or that the salesperson’s employing broker would not
 2 have been liable to the claimant because the salesperson was acting
 3 outside the scope of his or her employment by the broker in the
 4 transaction.

5 (e) The application form shall include detailed instructions with
 6 respect to documentary evidence, pleadings, court rulings, the
 7 products of discovery in the underlying litigation, and a notice to
 8 the applicant of his or her obligation to protect the underlying
 9 judgment from discharge in bankruptcy, to be appended to the
 10 application.

11 (f) An application for payment from the Consumer Recovery
 12 Account that is based on a criminal restitution order shall comply
 13 with all of the requirements of this chapter. For the purpose of an
 14 application based on a criminal restitution order, the following
 15 terms have the following meanings:

- 16 (1) “Judgment” means the criminal restitution order.
- 17 (2) “Complaint” means the facts of the underlying transaction
 18 upon which the criminal restitution order is based.
- 19 (3) “Judgment debtor” means any defendant who is the subject
 20 of the criminal restitution order.

21 The amendments to this section made at the July 1997–98
 22 Regular Session shall become operative July 1, 2000.

23 *SEC. 33. Section 10471.1 of the Business and Professions Code*
 24 *is amended to read:*

25 10471.1. (a) The claimant shall serve a copy of the notice
 26 prescribed in subdivision (e) together with a copy of the application
 27 upon the judgment debtor by personal service, by certified mail,
 28 or by publication, as set forth in subdivision (b).

29 (b) If the judgment debtor holds an unexpired and unrevoked
 30 license issued by the ~~department~~ *bureau*, service of the notice and
 31 a copy of the application may be made by certified mail addressed
 32 to the judgment debtor at the latest business or residence address
 33 on file with the ~~department~~ *bureau*. If the judgment debtor does
 34 not hold an unexpired and unrevoked license issued by the
 35 ~~department~~ *bureau* and personal service cannot be effected through
 36 the exercise of reasonable diligence, the claimant shall serve the
 37 judgment debtor by one publication of the notice in each of two
 38 successive weeks in a newspaper of general circulation published
 39 in the county in which the judgment debtor was last known to
 40 reside.

1 (c) If the application is served upon the judgment debtor by
 2 certified mail, service is complete five days after mailing if the
 3 place of address is within the State of California, 10 days after
 4 mailing if the place of address is outside the State of California
 5 but within the United States, and 20 days after mailing if the place
 6 of address is outside the United States. Personal service is complete
 7 on the date of service. Service by publication is complete upon
 8 completion of the second week of publication.

9 (d) If a judgment debtor wishes to contest payment of an
 10 application by the commissioner, he or she shall mail or deliver a
 11 written response to the application addressed to the ~~department~~
 12 *bureau* at its headquarters office within 30 days after service of
 13 the notice and application, and shall mail or deliver a copy of the
 14 response to the claimant. If a judgment debtor fails to mail or
 15 deliver a timely response, he or she shall have waived his or her
 16 right to present objections to payment.

17 (e) The notice served upon the judgment debtor shall include
 18 the following statement:

19
 20 "NOTICE: Based upon a judgment entered against you in favor of
 21 _____, application for payment from the Consumer
 22 (name of claimant)

23 Recovery Account of the Real Estate Fund is being made to the ~~Department~~
 24 *of Real Estate Bureau of Real Estate*.

25 "If payment is made from the Consumer Recovery Account, all licenses and
 26 license rights that you have under the Real Estate Law will be automatically
 27 suspended on the date of payment and cannot be reinstated until the Consumer
 28 Recovery Account has been reimbursed for the amount paid plus interest at
 29 the prevailing rate.

30 "If you wish to contest payment by the Real Estate Commissioner, you must
 31 file a written response to the application addressed to the ~~Department of Real~~
 32 *Estate Bureau of Real Estate* at _____ within 30 days after mailing,
 33 delivery, or publication of this notice and mail or deliver a copy of that response
 34 to the claimant. If you fail to do so, you will have waived your right to present
 35 your objections to payment."
 36

37 (f) If a judgment debtor fails to mail or deliver a written response
 38 to the application with the ~~department~~ *bureau* within 30 days after
 39 personal service, mailing, or final publication of the notice, the
 40 judgment debtor shall not thereafter be entitled to notice of any

1 action taken or proposed to be taken by the commissioner with
2 respect to the application.

3 *SEC. 34. Section 10472 of the Business and Professions Code*
4 *is amended to read:*

5 10472. (a) A claimant against whom the commissioner has
6 rendered a decision denying an application pursuant to Section
7 10471 may, within six months after the mailing of the notice of
8 the denial, file a verified application in superior court for an Order
9 Directing Payment Out of the Consumer Recovery Account based
10 upon the grounds set forth in the application to the commissioner.
11 If the underlying judgment is a California state court judgment,
12 the application shall be filed in the court in which the underlying
13 judgment was entered. If the underlying judgment is a federal court
14 judgment, the application shall be filed in the superior court of any
15 county within California that would have been a proper venue if
16 the underlying lawsuit had been filed in a California state court,
17 or in the Superior Court of the County of Sacramento.

18 (b) A copy of the verified application shall be served upon the
19 commissioner and upon the judgment debtor. A certificate or
20 affidavit of service shall be filed by the claimant with the court.
21 Service on the commissioner may be made by certified mail
22 addressed to the headquarters office of the ~~department~~ *bureau*.
23 Service upon a judgment debtor may be made in accordance with
24 Section 10471.1. The notice served upon the judgment debtor shall
25 read as follows:

26 “NOTICE: An application has been filed with the court for a
27 payment from the Consumer Recovery Account that was previously
28 denied by the Real Estate Commissioner.

29 “If the ~~Department of Real Estate~~ *Bureau of Real Estate* makes
30 a payment from the Consumer Recovery Account pursuant to court
31 order, all of your licenses and license rights under the Real Estate
32 Law will be automatically suspended until the Consumer Recovery
33 Account has been reimbursed for the amount paid plus interest at
34 the prevailing rate.

35 “If you wish to defend in court against this application, you must
36 file a written response with the court within 30 days after having
37 been served with a copy of the application. If you do not file a
38 written response, you will have waived your right to defend against
39 the application.”

1 SEC. 35. *Section 11003.4 of the Business and Professions Code*
2 *is amended to read:*

3 11003.4. (a) A “limited-equity housing cooperative” or a
4 “workforce housing cooperative trust” is a corporation that meets
5 the criteria of Section 11003.2 and that also meets the criteria of
6 Sections 817 and 817.1 of the Civil Code, as applicable. Except
7 as provided in subdivision (b), a limited-equity housing or
8 workforce housing cooperative trust shall be subject to all the
9 requirements of this chapter pertaining to stock cooperatives.

10 (b) A limited-equity housing cooperative or a workforce housing
11 cooperative trust shall be exempt from the requirements of this
12 chapter if the limited-equity housing cooperative or workforce
13 housing cooperative trust complies with all the following
14 conditions:

15 (1) The United States Department of Housing and Urban
16 Development, the United States Department of Agriculture, the
17 National Consumers Cooperative Bank, the California Housing
18 Finance Agency, the Public Employees’ Retirement System
19 (PERS), the State Teachers’ Retirement System (STRS), the
20 Department of Housing and Community Development, or the
21 Federal Home Loan Bank System or any of its member institutions,
22 alone or in any combination with each other, or with the city,
23 county, school district, or redevelopment agency in which the
24 cooperative is located, directly finances or subsidizes at least 50
25 percent of the total construction or development cost or one
26 hundred thousand dollars (\$100,000), whichever is less; or the real
27 property to be occupied by the cooperative was sold or leased by
28 the ~~Department of Transportation~~ *Transportation Agency*, other
29 state agency, a city, a county, or a school district for the
30 development of the cooperative and has a regulatory agreement
31 approved by the Department of Housing and Community
32 Development for the term of the permanent financing,
33 notwithstanding the source of the permanent subsidy or financing.

34 (2) No more than 20 percent of the total development cost of a
35 limited-equity mobilehome park, and no more than 10 percent of
36 the total development cost of other limited-equity housing
37 cooperatives, is provided by purchasers of membership shares.

38 (3) A regulatory agreement that covers the cooperative for a
39 term of at least as long as the duration of the permanent financing
40 or subsidy, notwithstanding the source of the permanent subsidy

1 or financing has been duly executed between the recipient of the
2 financing and either (A) one of the federal or state agencies
3 specified in paragraph (1) or (B) a local public agency that is
4 providing financing for the project under a regulatory agreement
5 meeting standards of the Department of Housing and Community
6 Development. The regulatory agreement shall make provision for
7 at least all of the following:

8 (A) Assurances for completion of the common areas and
9 facilities to be owned or leased by the limited-equity housing
10 cooperative, unless a construction agreement between the same
11 parties contains written assurances for completion.

12 (B) Governing instruments for the organization and operation
13 of the housing cooperative by the members.

14 (C) The ongoing fiscal management of the project by the
15 cooperative, including an adequate budget, reserves, and provisions
16 for maintenance and management.

17 (D) Distribution of a membership information report to any
18 prospective purchaser of a membership share, prior to purchase
19 of that share. The membership information report shall contain
20 full disclosure of the financial obligations and responsibilities of
21 cooperative membership, the resale of shares, the financing of the
22 cooperative including any arrangements made with any partners,
23 membership share accounts, occupancy restrictions, management
24 arrangements, and any other information pertinent to the benefits,
25 risks, and obligations of cooperative ownership.

26 (4) The federal, state, or local public agency that executes the
27 regulatory agreement shall satisfy itself that the bylaws, articles
28 of incorporation, occupancy agreement, subscription agreement,
29 any lease of the regulated premises, any arrangement with partners,
30 and arrangement for membership share accounts provide adequate
31 protection of the rights of cooperative members.

32 (5) The federal or state agency shall receive from the attorney
33 for the recipient of the financing or subsidy a legal opinion that
34 the cooperative meets the requirements of Section 817 of the Civil
35 Code and the exemption provided by this section.

36 (c) Any limited-equity cooperative, or workforce housing
37 cooperative trust that meets the requirements for exemption
38 pursuant to subdivision (b) may elect to be subject to all provisions
39 of this chapter.

1 (d) The developer of the cooperative shall notify the ~~Department~~
2 ~~of Real Estate Bureau of Real Estate~~, on a form provided by the
3 ~~department bureau~~, that an exemption is claimed under this section.
4 The ~~Department of Real Estate Bureau of Real Estate~~ shall retain
5 this form for at least four years for statistical purposes.

6 *SEC. 36. Section 11010 of the Business and Professions Code*
7 *is amended to read:*

8 11010. (a) Except as otherwise provided pursuant to
9 subdivision (c) or elsewhere in this chapter, any person who intends
10 to offer subdivided lands within this state for sale or lease shall
11 file with the ~~Department of Real Estate Bureau of Real Estate~~ an
12 application for a public report consisting of a notice of intention
13 and a completed questionnaire on a form prepared by the
14 ~~department bureau~~.

15 (b) The notice of intention shall contain the following
16 information about the subdivided lands and the proposed offering:

17 (1) The name and address of the owner.

18 (2) The name and address of the subdivider.

19 (3) The legal description and area of lands.

20 (4) A true statement of the condition of the title to the land,
21 particularly including all encumbrances thereon.

22 (5) A true statement of the terms and conditions on which it is
23 intended to dispose of the land, together with copies of any
24 contracts intended to be used.

25 (6) A true statement of the provisions, if any, that have been
26 made for public utilities in the proposed subdivision, including
27 water, electricity, gas, telephone, and sewerage facilities. For
28 subdivided lands that were subject to the imposition of a condition
29 pursuant to subdivision (b) of Section 66473.7 of the Government
30 Code, the true statement of the provisions made for water shall be
31 satisfied by submitting a copy of the written verification of the
32 available water supply obtained pursuant to Section 66473.7 of
33 the Government Code.

34 (7) A true statement of the use or uses for which the proposed
35 subdivision will be offered.

36 (8) A true statement of the provisions, if any, limiting the use
37 or occupancy of the parcels in the subdivision.

38 (9) A true statement of the amount of indebtedness that is a lien
39 upon the subdivision or any part thereof, and that was incurred to

1 pay for the construction of any onsite or offsite improvement, or
2 any community or recreational facility.

3 (10) A true statement or reasonable estimate, if applicable, of
4 the amount of any indebtedness which has been or is proposed to
5 be incurred by an existing or proposed special district, entity, taxing
6 area, assessment district, or community facilities district within
7 the boundaries of which, the subdivision, or any part thereof, is
8 located, and that is to pay for the construction or installation of
9 any improvement or to furnish community or recreational facilities
10 to that subdivision, and which amounts are to be obtained by ad
11 valorem tax or assessment, or by a special assessment or tax upon
12 the subdivision, or any part thereof.

13 (11) A notice pursuant to Section 1102.6c of the Civil Code.

14 (12) (A) As to each school district serving the subdivision, a
15 statement from the appropriate district that indicates the location
16 of each high school, junior high school, and elementary school
17 serving the subdivision, or documentation that a statement to that
18 effect has been requested from the appropriate school district.

19 (B) In the event that, as of the date the notice of intention and
20 application for issuance of a public report are otherwise deemed
21 to be qualitatively and substantially complete pursuant to Section
22 11010.2, the statement described in subparagraph (A) has not been
23 provided by any school district serving the subdivision, the person
24 who filed the notice of intention and application for issuance of a
25 public report shall immediately provide the ~~department~~ *bureau*
26 with the name, address, and telephone number of that district.

27 (13) (A) The location of all existing airports, and of all proposed
28 airports shown on the general plan of any city or county, located
29 within two statute miles of the subdivision. If the property is
30 located within an airport influence area, the following statement
31 shall be included in the notice of intention:

32

33

NOTICE OF AIRPORT IN VICINITY

34

35 This property is presently located in the vicinity of an airport, within
36 what is known as an airport influence area. For that reason, the property may
37 be subject to some of the annoyances or inconveniences associated with
38 proximity to airport operations (for example: noise, vibration, or odors).
39 Individual sensitivities to those annoyances, if any, are associated with the

1 property before you complete your purchase and determine whether they are
2 acceptable to you.

3
4 (B) For purposes of this section, an “airport influence area,”
5 also known as an “airport referral area,” is the area in which current
6 or future airport-related noise, overflight, safety, or airspace
7 protection factors may significantly affect land uses or necessitate
8 restrictions on those uses as determined by an airport land use
9 commission.

10 (14) A true statement, if applicable, referencing any soils or
11 geologic report or soils and geologic reports that have been
12 prepared specifically for the subdivision.

13 (15) A true statement of whether or not fill is used, or is
14 proposed to be used, in the subdivision and a statement giving the
15 name and the location of the public agency where information
16 concerning soil conditions in the subdivision is available.

17 (16) On or after July 1, 2005, as to property located within the
18 jurisdiction of the San Francisco Bay Conservation and
19 Development Commission, a statement that the property is so
20 located and the following notice:

21 NOTICE OF SAN FRANCISCO BAY CONSERVATION AND
22 DEVELOPMENT COMMISSION JURISDICTION

23 This property is located within the jurisdiction of the San
24 Francisco Bay Conservation and Development Commission. Use
25 and development of property within the commission’s jurisdiction
26 may be subject to special regulations, restrictions, and permit
27 requirements. You may wish to investigate and determine whether
28 they are acceptable to you and your intended use of the property
29 before you complete your transaction.

30 (17) If the property is presently located within one mile of a
31 parcel of real property designated as “Prime Farmland,” “Farmland
32 of Statewide Importance,” “Unique Farmland,” “Farmland of Local
33 Importance,” or “Grazing Land” on the most current “Important
34 Farmland Map” issued by the California Department of
35 Conservation, Division of Land Resource Protection, utilizing
36 solely the county-level GIS map data, if any, available on the
37 Farmland Mapping and Monitoring Program Website. If the
38 residential property is within one mile of a designated farmland
39 area, the report shall contain the following notice:

40

1 NOTICE OF RIGHT TO FARM

2 This property is located within one mile of a farm or ranch land
 3 designated on the current county-level GIS “Important Farmland
 4 Map,” issued by the California Department of Conservation,
 5 Division of Land Resource Protection. Accordingly, the property
 6 may be subject to inconveniences or discomforts resulting from
 7 agricultural operations that are a normal and necessary aspect of
 8 living in a community with a strong rural character and a healthy
 9 agricultural sector. Customary agricultural practices in farm
 10 operations may include, but are not limited to, noise, odors, dust,
 11 light, insects, the operation of pumps and machinery, the storage
 12 and disposal of manure, bee pollination, and the ground or aerial
 13 application of fertilizers, pesticides, and herbicides. These
 14 agricultural practices may occur at any time during the 24-hour
 15 day. Individual sensitivities to those practices can vary from person
 16 to person. You may wish to consider the impacts of such
 17 agricultural practices before you complete your purchase. Please
 18 be advised that you may be barred from obtaining legal remedies
 19 against agricultural practices conducted in a manner consistent
 20 with proper and accepted customs and standards pursuant to
 21 Section 3482.5 of the Civil Code or any pertinent local ordinance.

22 (18) Any other information that the owner, his or her agent, or
 23 the subdivider may desire to present.

24 (c) The commissioner may, by regulation, or on the basis of the
 25 particular circumstances of a proposed offering, waive the
 26 requirement of the submission of a completed questionnaire if the
 27 commissioner determines that prospective purchasers or lessees
 28 of the subdivision interests to be offered will be adequately
 29 protected through the issuance of a public report based solely upon
 30 information contained in the notice of intention.

31 *SEC. 37. Section 11010.8 of the Business and Professions Code*
 32 *is amended to read:*

33 11010.8. (a) The requirement that a notice of intention be filed
 34 pursuant to Section 11010 is not applicable to the purchase of a
 35 mobilehome park by a nonprofit corporation if all of the following
 36 occur:

37 (1) A majority of the shareholders or members of the nonprofit
 38 corporation constitute a majority of the homeowners of the
 39 mobilehome park, and a majority of the members of the board of

1 directors of the nonprofit corporation are homeowners of the
2 mobilehome park.

3 (2) All members of the corporation are residents of the
4 mobilehome park. Members of the nonprofit corporation may enter
5 into leases with the corporation that are greater than five years in
6 length. “Homeowners” or “residents” of the mobilehome park
7 shall include a bona fide secured party who has, pursuant to a
8 security interest in a membership, taken title to the membership
9 by means of foreclosure, repossession, or voluntary repossession,
10 and who is actively attempting to resell the membership to a
11 prospective resident or homeowner of the mobilehome park, in
12 accordance with subdivision (f) of Section 7312 of the Corporations
13 Code.

14 (3) A permit to issue securities under Section 25113 of the
15 Corporations Code is obtained from the ~~Department of~~
16 ~~Corporations~~ *Department of Business Oversight, Division of*
17 *Corporations*. In the case of a nonissuer transaction (as defined
18 by Section 25011 of the Corporations Code) involving the offer
19 to resell or the resale of memberships by a bona fide secured party
20 as described in paragraph (2) of this section, a permit is not
21 required where the transaction is exempt from the qualification
22 requirements of Section 25130 of the Corporations Code pursuant
23 to subdivision (e) of Section 25104 of the Corporations Code. The
24 exemption from qualification pursuant to subdivision (e) of Section
25 25104 of the Corporations Code available to a bona fide secured
26 party does not eliminate the requirement of this section that the
27 nonprofit corporation shall either file a notice of intention pursuant
28 to Section 11010 or obtain a permit pursuant to Section 25113 of
29 the Corporations Code.

30 (4) All funds of tenants for the purchase of the mobilehome
31 park are deposited in escrow until the document transferring title
32 of the mobilehome park to the nonprofit corporation is recorded.
33 The escrow also shall include funds of homeowners that shall be
34 available to the homeowners association nonprofit corporation for
35 payment of any and all costs reasonably associated with the
36 processing and conversion of the mobilehome park into
37 condominium interests. Payment of these costs may be made from
38 the funds deposited in escrow prior to the close of escrow upon
39 the direction of the homeowners association nonprofit corporation.

1 (b) The funds described by paragraph (4) of subdivision (a), or
2 any other funds subsequently received from tenants for purposes
3 other than the purchase of a separate subdivided interest in any
4 portion of the mobilehome park, are not subject to the requirements
5 of Section 11013.1, 11013.2, or 11013.4.

6 *SEC. 38. Section 11011 of the Business and Professions Code*
7 *is amended to read:*

8 11011. (a) The commissioner may by regulation prescribe
9 filing fees in connection with applications to the ~~Department of~~
10 ~~Real Estate Bureau of Real Estate~~ pursuant to this chapter that are
11 lower than the maximum fees specified in subdivision (b) if the
12 commissioner determines that the lower fees are sufficient to offset
13 the costs and expenses incurred in the administration of this
14 chapter. The commissioner shall hold at least one hearing each
15 calendar year to determine if lower fees than those specified in
16 subdivision (b) should be prescribed.

17 (b) The filing fee for an application for a public report to be
18 issued under authority of this chapter shall not exceed the following
19 for each subdivision or phase of a subdivision in which interests
20 are to be offered for sale or lease:

21 (1) A notice of intention without a completed questionnaire:
22 One hundred fifty dollars (\$150).

23 (2) An original public report for subdivision interests described
24 in Section 11004.5: One thousand seven hundred dollars (\$1,700)
25 plus ten dollars (\$10) for each subdivision interest to be offered.

26 (3) An original public report for subdivision interests other than
27 those described in Section 11004.5: Six hundred dollars (\$600)
28 plus ten dollars (\$10) for each subdivision interest to be offered.

29 (4) A conditional public report for subdivision interests
30 described in Section 11004.5: Five hundred dollars (\$500).

31 (5) A conditional public report for subdivision interests other
32 than those described in Section 11004.5: Five hundred dollars
33 (\$500).

34 (6) A preliminary public report for subdivision interests
35 described in Section 11004.5: Five hundred dollars (\$500).

36 (7) A preliminary public report for subdivision interests other
37 than those described in Section 11004.5: Five hundred dollars
38 (\$500).

39 (8) A renewal public report for subdivision interests described
40 in Section 11004.5: Six hundred dollars (\$600).

1 (9) A renewal public report for subdivision interests other than
2 those described in Section 11004.5: Six hundred dollars (\$600).

3 (10) An amended public report for subdivision interests
4 described in Section 11004.5: Five hundred dollars (\$500) plus
5 ten dollars (\$10) for each subdivision interest to be offered under
6 the amended public report for which a fee has not previously been
7 paid.

8 (11) An amended public report to offer subdivision interests
9 other than those described in Section 11004.5: Five hundred dollars
10 (\$500) plus ten dollars (\$10) for each subdivision interest to be
11 offered under the amended public report for which a fee has not
12 previously been paid.

13 (c) The filing fee to review a declaration as described in Section
14 11010.10 shall not exceed two hundred dollars (\$200).

15 (d) The actual subdivision fees established by regulation under
16 authority of this section and Section 10249.3 shall not exceed the
17 amount reasonably required by the ~~department~~ *bureau* to administer
18 this part and Article 8 (commencing with Section 10249) of
19 Chapter 3 of Part 1.

20 (e) All fees collected by the ~~department~~ *bureau* under authority
21 of this chapter shall be deposited into the Real Estate Fund under
22 Chapter 6 (commencing with Section 10450) of Part 1. All fees
23 received by the ~~department~~ *bureau* pursuant to this chapter shall
24 be deemed earned upon receipt. No part of any fee is refundable
25 unless the commissioner determines that it was paid as the result
26 of a mistake or inadvertence.

27 This section shall remain in effect unless it is superseded
28 pursuant to Section 10226 or subdivision (a) of Section 10226.5,
29 whichever is applicable.

30 *SEC. 39. Section 11012 of the Business and Professions Code*
31 *is amended to read:*

32 11012. It is unlawful for the owner, his agent, or subdivider,
33 of the project, after it is submitted to the ~~Department of Real Estate~~
34 *Bureau of Real Estate*, to materially change the setup of such
35 offering without first notifying the ~~Department of Real Estate~~
36 *bureau* in writing of such intended change. This section only
37 applies to those changes of which the owner, his agent, or
38 subdivider has knowledge or constructive knowledge.

39 *SEC. 40. Section 11225 of the Business and Professions Code*
40 *is amended to read:*

1 11225. A person shall not be required to register a time-share
2 plan with the commissioner pursuant to this chapter if any of the
3 following applies:

4 (a) The person is an owner of a time-share interest who has
5 acquired the time-share interest for the person’s own use and
6 occupancy and who later offers it for resale.

7 (b) The person is a managing entity or an association that is not
8 otherwise a developer of a time-share plan in its own right, solely
9 while acting as an association or under a contract with an
10 association to offer or sell a time-share interest transferred to the
11 association through foreclosure, deed in lieu of foreclosure, or
12 gratuitous transfer, if these acts are performed in the regular course
13 of, or as an incident to, the management of the association for its
14 own account in the time-share plan. Notwithstanding the exemption
15 from registration, the association or managing entity shall provide
16 each purchaser of a time-share interest covered by this subdivision
17 a copy of the time-share instruments, a copy of the then-current
18 budget, a written statement of the then-current assessment amounts,
19 and shall provide the purchaser the opportunity to rescind the
20 purchase within seven days after receipt of these documents.
21 Immediately prior to the space reserved in the contract for the
22 signature of the purchaser, the association or managing entity shall
23 disclose, in conspicuous type, substantially the following notice
24 of cancellation:
25

26 YOU MAY CANCEL THIS CONTRACT WITHOUT ANY
27 PENALTY OR OBLIGATION WITHIN SEVEN CALENDAR
28 DAYS OF RECEIPT OF THE PUBLIC REPORT OR AFTER
29 THE DATE YOU SIGN THIS CONTRACT, WHICHEVER
30 DATE IS LATER. IF YOU DECIDE TO CANCEL THIS
31 CONTRACT, YOU MUST NOTIFY THE ASSOCIATION (OR
32 MANAGING ENTITY) IN WRITING OF YOUR INTENT TO
33 CANCEL. YOUR NOTICE OF CANCELLATION SHALL BE
34 EFFECTIVE UPON THE DATE SENT AND SHALL BE SENT
35 TO (NAME OF ASSOCIATION OR MANAGING ENTITY) AT
36 (ADDRESS OF ASSOCIATION OR MANAGING ENTITY).
37 YOUR NOTICE OF CANCELLATION MAY ALSO BE SENT
38 BY FACSIMILE TO (FACSIMILE NUMBER OF THE
39 ASSOCIATION OR MANAGING ENTITY) OR BY
40 HAND-DELIVERY. ANY ATTEMPT TO OBTAIN A WAIVER

1 OF YOUR CANCELLATION RIGHT IS VOID AND OF NO
2 EFFECT.

3
4 (c) The person is conveyed, assigned, or transferred more than
5 seven time-share interests from a developer in a single voluntary
6 or involuntary transaction and subsequently conveys, assigns, or
7 transfers all of the time-share interests received from the developer
8 to a single purchaser in a single transaction.

9 (d) (1) The developer is offering or disposing of a time-share
10 interest to a purchaser who has previously acquired a time-share
11 interest from the same developer if the developer has a time-share
12 plan registered under this chapter, which was originally approved
13 by the commissioner within the preceding seven years, and the
14 developer complies in all respects with the provisions of Section
15 11245, and, further, provides the purchaser with (A) a cancellation
16 period of at least seven days, (B) all the time-share disclosure
17 documents that are required to be provided to purchasers as if the
18 sale occurred in the state or jurisdiction where the time-share
19 property is located, and (C) the following disclaimer in conspicuous
20 type:

21
22 ~~WARNING: THE CALIFORNIA DEPARTMENT OF REAL~~
23 ~~ESTATE BUREAU OF REAL ESTATE HAS NOT EXAMINED~~
24 ~~THIS OFFERING, INCLUDING, BUT NOT LIMITED TO, THE~~
25 ~~CONDITION OF TITLE, THE STATUS OF BLANKET LIENS~~
26 ~~ON THE PROJECT (IF ANY), ARRANGEMENTS TO ASSURE~~
27 ~~PROJECT COMPLETION, ESCROW PRACTICES, CONTROL~~
28 ~~OVER PROJECT MANAGEMENT, RACIALLY~~
29 ~~DISCRIMINATORY PRACTICES (IF ANY), TERMS,~~
30 ~~CONDITIONS, AND PRICE OF THE OFFER, CONTROL OVER~~
31 ~~ANNUAL ASSESSMENTS (IF ANY), OR THE AVAILABILITY~~
32 ~~OF WATER, SERVICES, UTILITIES, OR IMPROVEMENTS.~~
33 ~~IT MAY BE ADVISABLE FOR YOU TO CONSULT AN~~
34 ~~ATTORNEY OR OTHER KNOWLEDGEABLE~~
35 ~~PROFESSIONAL WHO IS FAMILIAR WITH REAL ESTATE~~
36 ~~AND DEVELOPMENT LAW IN THE STATE WHERE THIS~~
37 ~~TIME-SHARE PROPERTY IS SITUATED.~~

38
39 (2) By making such an offering or disposition, the person is
40 deemed to consent to the jurisdiction of the commissioner in the

1 event of a dispute with the purchaser in connection with the
2 offering or disposition.

3 (e) It is a single site time-share plan located outside of the
4 boundaries of the United States or component site of a specific
5 time-share interest multisite time-share plan located wholly outside
6 of the boundaries of the United States, or a nonspecific time-share
7 interest multisite time-share plan in which all component sites are
8 located wholly outside of the boundaries of the United States.
9 However, it is unlawful and a violation of this chapter for a person,
10 in this state, to sell or lease or offer for sale or lease a time-share
11 interest in such a time-share plan, located outside the United States,
12 unless the printed material, literature, advertising, or invitation in
13 this state relating to that sale, lease, or offer clearly and
14 conspicuously contains the following disclaimer in capital letters
15 of at least 10-point type:

16
17 ~~WARNING: THE CALIFORNIA DEPARTMENT OF REAL~~
18 ~~ESTATE BUREAU OF REAL ESTATE HAS NOT~~
19 EXAMINED THIS OFFERING, INCLUDING, BUT NOT
20 LIMITED TO, THE CONDITION OF TITLE, THE STATUS
21 OF BLANKET LIENS ON THE PROJECT (IF ANY),
22 ARRANGEMENTS TO ASSURE PROJECT COMPLETION,
23 ESCROW PRACTICES, CONTROL OVER PROJECT
24 MANAGEMENT, RACIALLY DISCRIMINATORY
25 PRACTICES (IF ANY), TERMS, CONDITIONS, AND
26 PRICE OF THE OFFER, CONTROL OVER ANNUAL
27 ASSESSMENTS (IF ANY), OR THE AVAILABILITY OF
28 WATER, SERVICES, UTILITIES, OR IMPROVEMENTS.
29 IT MAY BE ADVISABLE FOR YOU TO CONSULT AN
30 ATTORNEY OR OTHER KNOWLEDGEABLE
31 PROFESSIONAL WHO IS FAMILIAR WITH REAL
32 ESTATE AND DEVELOPMENT LAW IN THE COUNTRY
33 WHERE THIS TIME-SHARE PROPERTY IS SITUATED.

34
35 (1) If an offer of time-share interest in a time-share plan
36 described in subdivision (e) is not initially made in writing, the
37 foregoing disclaimer shall be received by the offeree in writing
38 prior to a visit to a location, sales presentation, or contact with a
39 person representing the offeror, when the visit or contact was
40 scheduled or arranged by the offeror or its representative. The

1 deposit of the disclaimer in the United States mail, addressed to
2 the offeree and with first-class postage prepaid, at least five days
3 prior to the scheduled or arranged visit or contact, shall be deemed
4 to constitute delivery for purposes of this section.

5 (2) If any California resident is presented with an agreement or
6 purchase contract to lease or purchase a time-share interest as
7 described in subdivision (e), where an offer to lease or purchase
8 that time-share interest was made to that resident in California, a
9 copy of the disclaimer set forth in subdivision (e) shall be inserted
10 in at least 10-point type at the top of the first page of that agreement
11 or purchase contract and shall be initialed by that California
12 resident.

13 (3) ~~Nothing contained in this~~ This subdivision shall *not* be
14 deemed to exempt from registration in this state a nonspecific
15 time-share interest multisite time-share plan in which any
16 component site in the time-share plan is located in the United
17 States.

18 *SEC. 41. Section 11232 of the Business and Professions Code*
19 *is amended to read:*

20 11232. (a) The commissioner may by regulation prescribe
21 filing fees in connection with applications to the ~~Department of~~
22 ~~Real Estate~~ *Bureau of Real Estate* for a public report pursuant to
23 the provisions of this chapter that are lower than the maximum
24 fees specified in subdivision (b) if the commissioner determines
25 that the lower fees are sufficient to offset the costs and expenses
26 incurred in the administration of this chapter. The commissioner
27 shall hold at least one hearing each calendar year to determine if
28 lower fees than those specified in subdivision (b) should be
29 prescribed.

30 (b) The filing fees for an application for a public report to be
31 issued under authority of this chapter shall not exceed the following
32 for each time-share plan, location, or phase of the time-share plan
33 in which interests are to be offered for sale or lease:

34 (1) One thousand seven hundred dollars (\$1,700) plus ten dollars
35 (\$10) for each time-share interest to be offered for an original
36 public report application.

37 (2) Six hundred dollars (\$600) plus ten dollars (\$10) for each
38 time-share plan interest to be offered that was not permitted to be
39 offered under the public report to be renewed for a renewal public
40 report or permit application.

1 (3) Five hundred dollars (\$500) plus ten dollars (\$10) for each
 2 time-share interest to be offered under the amended public report
 3 for which a fee has not previously been paid for an amended public
 4 report application.

5 (4) Five hundred dollars (\$500) for a conditional public report
 6 application.

7 (c) Fees collected by the commissioner under authority of this
 8 chapter shall be deposited into the Real Estate Fund pursuant to
 9 Chapter 6 (commencing with Section 10450) of Part 1. Fees
 10 received by the commissioner pursuant to this article shall be
 11 deemed earned upon receipt. ~~No part of any~~ A fee is *not* refundable
 12 unless the commissioner determines that it was paid as a result of
 13 mistake or inadvertency. This section shall remain in effect unless
 14 it is superseded pursuant to Section 10266 or subdivision (a) of
 15 Section 10266.5, whichever is applicable.

16 *SEC. 42. Section 11301 of the Business and Professions Code*
 17 *is amended to read:*

18 11301. (a) There is hereby created within the ~~Business,~~
 19 ~~Transportation and Housing Agency an Office~~ Department of
 20 Consumer Affairs a Bureau of Real Estate Appraisers to administer
 21 and enforce this part.

22 (b) *Whenever the term “Office of Real Estate Appraisers”*
 23 *appears in any other law, it means the “Bureau of Real Estate*
 24 *Appraisers.”*

25 *SEC. 43. Section 11302 of the Business and Professions Code*
 26 *is amended to read:*

27 11302. For the purpose of applying this part, the following
 28 terms, unless otherwise expressly indicated, shall mean and have
 29 the following definitions:

30 (a) ~~“Agency” means the Business, Transportation and Housing~~
 31 ~~Agency.~~ *“Department” means the Department of Consumer*
 32 *Affairs.*

33 (b) *“Appraisal” means a written statement independently and*
 34 *impartially prepared by a qualified appraiser setting forth an*
 35 *opinion in a federally related transaction as to the market value of*
 36 *an adequately described property as of a specific date, supported*
 37 *by the presentation and analysis of relevant market information.*

38 The term *“appraisal”* does not include an opinion given by a real
 39 estate licensee or engineer or land surveyor in the ordinary course
 40 of his or her business in connection with a function for which a

1 license is required under Chapter 7 (commencing with Section
2 6700) or Chapter 15 (commencing with Section 8700) of Division
3 3, or Chapter 3 (commencing with Section 10130) or Chapter 7
4 (commencing with Section 10500) and the opinion shall not be
5 referred to as an appraisal. This part does not apply to a probate
6 referee acting pursuant to Sections 400 to 408, inclusive, of the
7 Probate Code unless the appraised transaction is federally related.

8 (c) “Appraisal Foundation” means the Appraisal Foundation
9 that was incorporated as an Illinois not-for-profit corporation on
10 November 30, 1987.

11 (d) (1) “Appraisal management company” means any person
12 or entity that satisfies all of the following conditions:

13 (A) Maintains an approved list or lists, containing 11 or more
14 independent contractor appraisers licensed or certified pursuant
15 to this part, or employs 11 or more appraisers licensed or certified
16 pursuant to this part.

17 (B) Receives requests for appraisals from one or more clients.

18 (C) For a fee paid by one or more of its clients, delegates
19 appraisal assignments for completion by its independent contractor
20 or employee appraisers.

21 (2) “Appraisal management company” does not include any of
22 the following, when that person or entity directly contracts with
23 an independent appraiser:

24 (A) Any bank, credit union, trust company, savings and loan
25 association, or industrial loan company doing business under the
26 authority of, or in accordance with, a license, certificate, or charter
27 issued by the United States or any state, district, territory, or
28 commonwealth of the United States that is authorized to transact
29 business in this state.

30 (B) Any finance lender or finance broker licensed pursuant to
31 Division 9 (commencing with Section 22000) of the Financial
32 Code, when acting under the authority of that license.

33 (C) Any residential mortgage lender or residential mortgage
34 servicer licensed pursuant to Division 20 (commencing with
35 Section 50000) of the Financial Code, when acting under the
36 authority of that license.

37 (D) Any real estate broker licensed pursuant to Part 1
38 (commencing with Section 10000) of Division 4 of the Business
39 and Professions Code, when acting under the authority of that
40 license.

1 (3) “Appraisal management company” does not include any
2 person licensed to practice law in this state who is working with
3 or on behalf of a client of that person in connection with one or
4 more appraisals for that client.

5 (e) “Appraisal Subcommittee” means the Appraisal
6 Subcommittee of the Federal Financial Institutions Examination
7 Council.

8 (f) “Controlling person” means one or more of the following:

9 (1) An officer or director of an appraisal management company,
10 or an individual who holds a 10 percent or greater ownership
11 interest in an appraisal management company.

12 (2) An individual employed, appointed, or authorized by an
13 appraisal management company that has the authority to enter into
14 a contractual relationship with clients for the performance of
15 appraisal services and that has the authority to enter into
16 agreements with independent appraisers for the completion of
17 appraisals.

18 (3) An individual who possesses the power to direct or cause
19 the direction of the management or policies of an appraisal
20 management company.

21 (g) “Director” or “chief” means the ~~Director~~ *Chief* of the ~~Office~~
22 *Bureau* of Real Estate Appraisers.

23 (h) “Federal financial institutions regulatory agency” means the
24 Federal Reserve Board, Federal Deposit Insurance Corporation,
25 Office of the Comptroller of the Currency, Office of Thrift
26 Supervision, Federal Home Loan Bank System, National Credit
27 Union Administration, and any other agency determined by the
28 director to have jurisdiction over transactions subject to this part.

29 (i) “Federally related real estate appraisal activity” means the
30 act or process of making or performing an appraisal on real estate
31 or real property in a federally related transaction and preparing an
32 appraisal as a result of that activity.

33 (j) “Federally related transaction” means any real estate-related
34 financial transaction which a federal financial institutions
35 regulatory agency engages in, contracts for or regulates and which
36 requires the services of a state licensed real estate appraiser
37 regulated by this part. This term also includes any transaction
38 identified as such by a federal financial institutions regulatory
39 agency.

1 (k) “License” means any license, certificate, permit, registration,
2 or other means issued by the ~~office~~ *bureau* authorizing the person
3 to whom it is issued to act pursuant to this part within this state.

4 (l) “Licensure” means the procedures and requirements a person
5 shall comply with in order to qualify for issuance of a license and
6 includes the issuance of the license.

7 (m) “Office” or “bureau” means the ~~Office Bureau~~ of Real
8 Estate Appraisers.

9 (n) “Registration” means the procedures and requirements with
10 which a person or entity shall comply in order to qualify to conduct
11 business as an appraisal management company.

12 ~~(o) “Secretary” means the Secretary of Business, Transportation
13 and Housing.~~

14 ~~(p)~~

15 (o) “State licensed real estate appraiser” is a person who is
16 issued and holds a current valid license under this part.

17 ~~(q)~~

18 (p) “Uniform Standards of Professional Appraisal Practice” are
19 the standards of professional appraisal practice established by the
20 Appraisal Foundation.

21 ~~(r)~~

22 (q) “Course provider” means a person or entity that provides
23 educational courses related to professional appraisal practice.

24 *SEC. 44. Section 11310 of the Business and Professions Code*
25 *is amended to read:*

26 11310. The Governor shall appoint, subject to confirmation
27 by the Senate, the ~~Director Chief~~ of the ~~Office Bureau~~ of Real
28 Estate Appraisers who shall, in consultation with the Governor
29 and ~~secretary~~ *the Director of Consumer Affairs*, administer the
30 licensing and certification program for real estate appraisers. In
31 making the appointment, consideration shall be given to the
32 qualifications of an individual that demonstrate knowledge of the
33 real estate appraisal profession.

34 (a) The ~~director chief~~ shall serve at the pleasure of the Governor.
35 The salary for the ~~director chief~~ shall be fixed and determined by
36 the ~~secretary~~ *Director of Consumer Affairs* with approval of the
37 Department of Human Resources.

38 (b) The ~~director chief~~ shall not be actively engaged in the
39 appraisal business or any other affected industry for the term of

1 appointment, and thereafter the ~~director~~ *chief* shall be subject to
2 Section 87406 of the Government Code.

3 (c) The ~~director~~ *chief*, in consultation with the ~~secretary~~ *Director*
4 *of Consumer Affairs* and in accordance with the State Civil Service
5 Act, may appoint and fix the compensation of legal, clerical,
6 technical, investigation, and auditing personnel as may be necessary
7 to carry out this part. All personnel shall perform their respective
8 duties under the supervision and direction of the ~~director~~ *chief*.

9 (d) The ~~director~~ *chief* may appoint not more than four ~~deputy~~
10 ~~directors~~ *deputies* as he or she deems appropriate. The ~~deputy~~
11 ~~directors~~ *deputies* shall perform their respective duties under the
12 supervision and direction of the ~~director~~ *chief*.

13 (e) Every power granted to or duty imposed upon the ~~director~~
14 *chief* under this part may be exercised or performed in the name
15 of the ~~director~~ *chief* by the ~~deputy~~ *directors* *deputies*, subject to
16 conditions and limitations as the ~~director~~ *chief* may prescribe.

17 *SEC. 45. Section 11313 of the Business and Professions Code*
18 *is amended to read:*

19 11313. The ~~office~~ *bureau* is under the supervision and control
20 of the ~~secretary~~ *Director of Consumer Affairs*. The duty of
21 enforcing and administering this part is vested in the ~~director~~ *chief*,
22 and he or she is responsible to the ~~secretary~~ *Director of Consumer*
23 *Affairs* therefor. The ~~director~~ *chief* shall adopt and enforce rules
24 and regulations as are determined reasonably necessary to carry
25 out the purposes of this part. Those rules and regulations shall be
26 adopted pursuant to Chapter 3.5 (commencing with Section 11340)
27 of Part 1 of Division 3 of Title 2 of the Government Code.
28 *Regulations adopted by the former Director of the Office of Real*
29 *Estate Appraisers shall continue to apply to the bureau and its*
30 *licensees.*

31 *SEC. 46. Section 11313.2 of the Business and Professions Code*
32 *is repealed.*

33 11313.2. (a) The ~~secretary~~ shall review and evaluate the office,
34 and make recommendations to the Legislature by October 1, 2014,
35 regarding whether the office should be consolidated within the
36 Department of Real Estate, or consolidated within any other state
37 department or office, and shall provide appropriate justification
38 for that recommendation.

39 (b) Notwithstanding any other provision of law, on and after
40 January 1, 2015, the office shall be subject to review by the

1 ~~appropriate policy committees of the Legislature. The review shall~~
2 ~~include, but shall not be limited to, the recommendations of the~~
3 ~~secretary regarding the office.~~

4 *SEC. 47. Section 19826 of the Business and Professions Code*
5 *is amended to read:*

6 19826. The department *shall perform all investigatory functions*
7 *required by this chapter, as well as auditing functions under tribal*
8 *gaming compacts, and shall have all of the following*
9 *responsibilities:*

10 (a) *To receive and process applications for any license, permit,*
11 *or other approval, and to collect all related fees. The department*
12 *shall investigate the qualifications of applicants before any license,*
13 *permit, or other approval is issued, and to investigate any request*
14 *to the commission for any approval that may be required pursuant*
15 *to this chapter. The department may recommend the denial or the*
16 *limitation, conditioning, or restriction of any license, permit, or*
17 *other approval.*

18 (b) *To monitor the conduct of all licensees and other persons*
19 *having a material involvement, directly or indirectly, with a*
20 *gambling operation or its holding company, for the purpose of*
21 *ensuring that licenses are not issued or held by, and that there is*
22 *no direct or indirect material involvement with, a gambling*
23 *operation or holding company by ineligible, unqualified,*
24 *disqualified, or unsuitable persons, or persons whose operations*
25 *are conducted in a manner that is inimical to the public health,*
26 *safety, or welfare.*

27 (c) *To investigate suspected violations of this chapter or laws*
28 *of this state relating to gambling, including any activity prohibited*
29 *by Chapter 9 (commencing with Section 319) or Chapter 10*
30 *(commencing with Section 330) of Title 9 of Part 1 of the Penal*
31 *Code.*

32 (d) *To investigate complaints that are lodged against licensees,*
33 *or other persons associated with a gambling operation, by members*
34 *of the public.*

35 (e) *To initiate, where appropriate, disciplinary actions as*
36 *provided in this chapter. In connection with any disciplinary action,*
37 *the department may seek restriction, limitation, suspension, or*
38 *revocation of any license or approval, or the imposition of any fine*
39 *upon any person licensed or approved.*

1 (f) To adopt regulations reasonably related to its functions and
2 duties as specified in this chapter.

3 (g) Approve the play of any controlled game, including placing
4 restrictions and limitations on how a controlled game may be
5 played. The department shall make available to the public the rules
6 of play and the collection rates of each gaming activity approved
7 for play at each gambling establishment on the Attorney General’s
8 Web site. Actual costs incurred by the department to review and
9 approve game rules shall be reimbursed to the department by the
10 licensee making the request.

11 *SEC. 48. Section 19861 of the Business and Professions Code*
12 *is amended to read:*

13 19861. Notwithstanding subdivision (i) of Section 19801, the
14 commission shall not deny a license to a gambling establishment
15 solely because it is not open to the public, provided that all of the
16 following are true: (a) the gambling establishment is situated in a
17 local jurisdiction that has an ordinance allowing only private clubs,
18 and the gambling establishment was in operation as a private club
19 under that ordinance on December 31, 1997, and met all applicable
20 state and local gaming registration requirements; (b) the gambling
21 establishment consists of no more than five gaming tables; (c)
22 video recordings of the entrance to the gambling room or rooms
23 and all tables situated therein are made during all hours of operation
24 by means of closed-circuit television cameras, and these recordings
25 are retained for a period of 30 days and are made available for
26 review by the department or ~~commission~~ upon request; and (d) the
27 gambling establishment is open to members of the private club
28 and their spouses in accordance with membership criteria in effect
29 as of December 31, 1997.

30 A gambling establishment meeting these criteria, in addition to
31 the other requirements of this chapter, may be licensed to operate
32 as a private club gambling establishment until November 30, 2003,
33 or until the ownership or operation of the gambling establishment
34 changes from the ownership or operation as of January 1, 1998,
35 whichever occurs first. Operation of the gambling establishments
36 after this date shall only be permitted if the local jurisdiction
37 approves an ordinance, pursuant to Sections 19961 and 19962,
38 authorizing the operation of gambling establishments that are open
39 to the public. The ~~commission~~ *department* shall adopt regulations
40 implementing this section. Prior to the ~~commission’s~~ *department’s*

1 issuance of a license to a private club, the department shall ensure
2 that the ownership of the gambling establishment has remained
3 constant since January 1, 1998, and the operation of the gambling
4 establishment has not been leased to any third party.

5 *SEC. 49. Section 19864 of the Business and Professions Code*
6 *is amended to read:*

7 19864. (a) Application for a state license or other commission
8 action shall be ~~made~~ *submitted to the department* on forms
9 furnished by the ~~commission~~ *department*.

10 (b) The application for a gambling license shall include all of
11 the following:

12 (1) The name of the proposed licensee.

13 (2) The name and location of the proposed gambling
14 establishment.

15 (3) The gambling games proposed to be conducted.

16 (4) The names of all persons directly or indirectly interested in
17 the business and the nature of the interest.

18 (5) A description of the proposed gambling establishment and
19 operation.

20 (6) Any other information and details the ~~commission~~
21 *department* may require in order to discharge its ~~duty~~ *duties*
22 properly.

23 *SEC. 50. Section 19872 of the Business and Professions Code*
24 *is amended to read:*

25 19872. (a) No member of the commission may communicate
26 ex parte, directly or indirectly, with any applicant, or any agent,
27 representative, or person acting on behalf of an applicant, upon
28 the merits of an application for a license, permit, registration, or
29 approval while the application is *being investigated by the*
30 *department or* pending disposition before the department or the
31 commission.

32 (b) No applicant, or any agent, representative, or person acting
33 on behalf of an applicant, and no person who has a direct or indirect
34 interest in the outcome of a proceeding to consider an application
35 for a license, permit, registration, or approval may communicate
36 ex parte, directly or indirectly, with any member of the
37 commission, upon the merits of the application while the
38 application is *being investigated by the department or* pending
39 disposition before the department.

1 (c) No employee or agent of the department, applicant, or any
2 agent, representative, or person acting on behalf of an applicant,
3 and no person who has a direct or indirect interest in the outcome
4 of a proceeding to consider an application for a license, permit,
5 registration, or approval may communicate ex parte, directly or
6 indirectly, with any member of the commission, upon the merits
7 of the application, while the application is pending disposition
8 before the commission.

9 (d) The receipt by a member of the commission of an ex parte
10 communication prohibited by this section may provide the basis
11 for disqualification of that member or the denial of the application.
12 The commission shall adopt regulations to implement this
13 subdivision.

14 (e) For the purposes of this subdivision, “ex parte” means a
15 communication without notice and opportunity for all parties to
16 participate in the communication.

17 (f) Nothing in this section precludes a communication made on
18 the record at a public hearing on a properly agendaized matter.

19 *SEC. 51. Section 19881 of the Business and Professions Code*
20 *is amended to read:*

21 19881. (a) ~~No~~A corporation is *not* eligible to receive a license
22 to own a gambling enterprise unless the conduct of controlled
23 gambling is among the purposes stated in its articles of
24 incorporation and the articles of incorporation have been submitted
25 to and approved by the ~~commission~~ *department*.

26 (b) The Secretary of State shall not accept for filing any articles
27 of incorporation of any corporation that include as a stated purpose
28 the conduct of controlled gambling, or any amendment thereto, or
29 any amendment that adds this purpose to articles of incorporation
30 already filed, unless the articles have, or amendment has, been
31 approved by the ~~commission~~ *department*.

32 *SEC. 52. Section 19881.5 of the Business and Professions Code*
33 *is repealed.*

34 ~~19881.5. The commission may delegate to staff the approval~~
35 ~~of articles of incorporation, statements of limited partnership, and~~
36 ~~other entity filings that are required to specifically state that~~
37 ~~gambling is one of the purposes for which the business entity is~~
38 ~~formed.~~

39 *SEC. 53. Section 912 of the Civil Code is amended to read:*

40 912. A builder shall do all of the following:

1 (a) Within 30 days of a written request by a homeowner or his
2 or her legal representative, the builder shall provide copies of all
3 relevant plans, specifications, mass or rough grading plans, final
4 soils reports, ~~Department of Real Estate~~ *Bureau of Real Estate*
5 public reports, and available engineering calculations, that pertain
6 to a homeowner's residence specifically or as part of a larger
7 development tract. The request shall be honored if it states that it
8 is made relative to structural, fire safety, or soils provisions of this
9 title. However, a builder is not obligated to provide a copying
10 service, and reasonable copying costs shall be borne by the
11 requesting party. A builder may require that the documents be
12 copied onsite by the requesting party, except that the homeowner
13 may, at his or her option, use his or her own copying service, which
14 may include an offsite copy facility that is bonded and insured. If
15 a builder can show that the builder maintained the documents, but
16 that they later became unavailable due to loss or destruction that
17 was not the fault of the builder, the builder may be excused from
18 the requirements of this subdivision, in which case the builder
19 shall act with reasonable diligence to assist the homeowner in
20 obtaining those documents from any applicable government
21 authority or from the source that generated the document. However,
22 in that case, the time limits specified by this section do not apply.

23 (b) At the expense of the homeowner, who may opt to use an
24 offsite copy facility that is bonded and insured, the builder shall
25 provide to the homeowner or his or her legal representative copies
26 of all maintenance and preventative maintenance recommendations
27 that pertain to his or her residence within 30 days of service of a
28 written request for those documents. Those documents shall also
29 be provided to the homeowner in conjunction with the initial sale
30 of the residence.

31 (c) At the expense of the homeowner, who may opt to use an
32 offsite copy facility that is bonded and insured, a builder shall
33 provide to the homeowner or his or her legal representative copies
34 of all manufactured products maintenance, preventive maintenance,
35 and limited warranty information within 30 days of a written
36 request for those documents. These documents shall also be
37 provided to the homeowner in conjunction with the initial sale of
38 the residence.

39 (d) At the expense of the homeowner, who may opt to use an
40 offsite copy facility that is bonded and insured, a builder shall

1 provide to the homeowner or his or her legal representative copies
2 of all of the builder's limited contractual warranties in accordance
3 with this part in effect at the time of the original sale of the
4 residence within 30 days of a written request for those documents.
5 Those documents shall also be provided to the homeowner in
6 conjunction with the initial sale of the residence.

7 (e) A builder shall maintain the name and address of an agent
8 for notice pursuant to this chapter with the Secretary of State or,
9 alternatively, elect to use a third party for that notice if the builder
10 has notified the homeowner in writing of the third party's name
11 and address, to whom claims and requests for information under
12 this section may be mailed. The name and address of the agent for
13 notice or third party shall be included with the original sales
14 documentation and shall be initialed and acknowledged by the
15 purchaser and the builder's sales representative.

16 This subdivision applies to instances in which a builder contracts
17 with a third party to accept claims and act on the builder's behalf.
18 A builder shall give actual notice to the homeowner that the builder
19 has made such an election, and shall include the name and address
20 of the third party.

21 (f) A builder shall record on title a notice of the existence of
22 these procedures and a notice that these procedures impact the
23 legal rights of the homeowner. This information shall also be
24 included with the original sales documentation and shall be initialed
25 and acknowledged by the purchaser and the builder's sales
26 representative.

27 (g) A builder shall provide, with the original sales
28 documentation, a written copy of this title, which shall be initialed
29 and acknowledged by the purchaser and the builder's sales
30 representative.

31 (h) As to any documents provided in conjunction with the
32 original sale, the builder shall instruct the original purchaser to
33 provide those documents to any subsequent purchaser.

34 (i) Any builder who fails to comply with any of these
35 requirements within the time specified is not entitled to the
36 protection of this chapter, and the homeowner is released from the
37 requirements of this chapter and may proceed with the filing of an
38 action, in which case the remaining chapters of this part shall
39 continue to apply to the action.

1 *SEC. 54. Section 1675 of the Civil Code, as amended by Section*
2 *25 of Chapter 140 of the Statutes of 2009, is amended to read:*

3 1675. (a) As used in this section, “residential property” means
4 real property primarily consisting of a dwelling that meets both of
5 the following requirements:

6 (1) The dwelling contains not more than four residential units.

7 (2) At the time the contract to purchase and sell the property is
8 made, the buyer intends to occupy the dwelling or one of its units
9 as his or her residence.

10 (b) A provision in a contract to purchase and sell residential
11 property that provides that all or any part of a payment made by
12 the buyer shall constitute liquidated damages to the seller upon
13 the buyer’s failure to complete the purchase of the property is valid
14 to the extent that payment in the form of cash or check, including
15 a postdated check, is actually made if the provision satisfies the
16 requirements of Sections 1677 and 1678 and either subdivision
17 (c) or (d) of this section.

18 (c) If the amount actually paid pursuant to the liquidated
19 damages provision does not exceed 3 percent of the purchase price,
20 the provision is valid to the extent that payment is actually made
21 unless the buyer establishes that the amount is unreasonable as
22 liquidated damages.

23 (d) If the amount actually paid pursuant to the liquidated
24 damages provision exceeds 3 percent of the purchase price, the
25 provision is invalid unless the party seeking to uphold the provision
26 establishes that the amount actually paid is reasonable as liquidated
27 damages.

28 (e) For the purposes of subdivisions (c) and (d), the
29 reasonableness of an amount actually paid as liquidated damages
30 shall be determined by taking into account both of the following:

31 (1) The circumstances existing at the time the contract was
32 made.

33 (2) The price and other terms and circumstances of any
34 subsequent sale or contract to sell and purchase the same property
35 if the sale or contract is made within six months of the buyer’s
36 default.

37 (f) (1) Notwithstanding either subdivision (c) or (d), for the
38 initial sale of newly constructed attached condominium units, as
39 defined pursuant to Section 783, that involves the sale of an
40 attached residential condominium unit located within a structure

1 of 10 or more residential condominium units and the amount
2 actually paid to the seller pursuant to the liquidated damages
3 provision exceeds 3 percent of the purchase price of the residential
4 unit in the transaction, both of the following shall occur in the
5 event of a buyer's default:

6 (A) The seller shall perform an accounting of its costs and
7 revenues related to and fairly allocable to the construction and sale
8 of the residential unit within 60 calendar days after the final close
9 of escrow of the sale of the unit within the structure.

10 (B) The accounting shall include any and all costs and revenues
11 related to the construction and sale of the residential property and
12 any delay caused by the buyer's default. The seller shall make
13 reasonable efforts to mitigate any damages arising from the default.
14 The seller shall refund to the buyer any amounts previously retained
15 as liquidated damages in excess of the greater of either 3 percent
16 of the originally agreed-upon purchase price of the residential
17 property or the amount of the seller's losses resulting from the
18 buyer's default, as calculated by the accounting.

19 (2) The refund shall be sent to the buyer's last known address
20 within 90 days after the final close of escrow of the sale or lease
21 of all the residential condominium units within the structure.

22 (3) If the amount retained by the seller after the accounting does
23 not exceed 3 percent of the purchase price, the amount is valid
24 unless the buyer establishes that the amount is unreasonable as
25 liquidated damages pursuant to subdivision (e).

26 (4) Subdivision (d) shall not apply to any dispute regarding the
27 reasonableness of any amount retained as liquidated damages
28 pursuant to this subdivision.

29 (5) Notwithstanding the time periods regarding the performance
30 of the accounting set forth in paragraph (1), if a new qualified
31 buyer has entered into a contract to purchase the residential
32 property in question, the seller shall perform the accounting within
33 60 calendar days after a new qualified buyer has entered into a
34 contract to purchase.

35 (6) As used in this subdivision, "structure" means either of the
36 following:

37 (A) Improvements constructed on a common foundation.

38 (B) Improvements constructed by the same owner that must be
39 constructed concurrently due to the design characteristics of the

1 improvements or physical characteristics of the property on which
2 the improvements are located.

3 (7) As used in this subdivision, “new qualified buyer” means a
4 buyer who either:

5 (A) Has been issued a loan commitment, which satisfies the
6 purchase agreement loan contingency requirement, by an
7 institutional lender to obtain a loan for an amount equal to the
8 purchase price less any downpayment possessed by the buyer.

9 (B) Has contracted to pay a purchase price that is greater than
10 or equal to the purchase price to be paid by the original buyer.

11 (g) (1) (A) Notwithstanding subdivision (c), (d), or (f), for the
12 initial sale of newly constructed attached condominium units, as
13 defined pursuant to Section 783, that involves the sale of an
14 attached residential condominium unit described in subparagraph
15 (B), and the amount actually paid to the seller pursuant to the
16 liquidated damages provision exceeds 6 percent of the purchase
17 price of the residential unit in the transaction, both of the following
18 shall occur in the event of a buyer’s default:

19 (i) The seller shall perform an accounting of its costs and
20 revenues related to and fairly allocable to the construction and sale
21 of the residential unit within 60 calendar days after the final close
22 of escrow of the sale of the unit within the structure.

23 (ii) The accounting shall include any and all costs and revenues
24 related to the construction and sale of the residential property and
25 any delay caused by the buyer’s default. The seller shall make
26 reasonable efforts to mitigate any damages arising from the default.
27 The seller shall refund to the buyer any amounts previously retained
28 as liquidated damages in excess of the greater of either 6 percent
29 of the originally agreed-upon purchase price of the residential
30 property or the amount of the seller’s losses resulting from the
31 buyer’s default, as calculated by the accounting.

32 (B) This subdivision applies to an attached residential
33 condominium unit for which both of the following are true:

34 (i) The unit is located within a structure of 20 or more residential
35 condominium units, standing over eight stories high, that is
36 high-density infill development, as defined in paragraph (10) of
37 subdivision (a) of Section 21159.24 of the Public Resources Code,
38 and that is located in a city, county, or city and county with a
39 population density of 1,900 residents per square mile or greater,
40 as evidenced by the 2000 United States census.

- 1 (ii) The purchase price of the unit was more than one million
2 dollars (\$1,000,000).
- 3 (2) The refund shall be sent to the buyer’s last known address
4 within 90 days after the final close of escrow of the sale or lease
5 of all the residential condominium units within the structure.
- 6 (3) If the amount retained by the seller after the accounting does
7 not exceed 6 percent of the purchase price, the amount is valid
8 unless the buyer establishes that the amount is unreasonable as
9 liquidated damages pursuant to subdivision (e).
- 10 (4) Subdivision (d) shall not apply to any dispute regarding the
11 reasonableness of any amount retained as liquidated damages
12 pursuant to this subdivision.
- 13 (5) Notwithstanding the time periods regarding the performance
14 of the accounting set forth in paragraph (1), if a new qualified
15 buyer has entered into a contract to purchase the residential
16 property in question, the seller shall perform the accounting within
17 60 calendar days after a new qualified buyer has entered into a
18 contract to purchase.
- 19 (6) As used in this subdivision, “structure” means either of the
20 following:
 - 21 (A) Improvements constructed on a common foundation.
 - 22 (B) Improvements constructed by the same owner that must be
23 constructed concurrently due to the design characteristics of the
24 improvements or physical characteristics of the property on which
25 the improvements are located.
- 26 (7) As used in this subdivision, “new qualified buyer” means a
27 buyer who either:
 - 28 (A) Has been issued a loan commitment, which satisfies the
29 purchase agreement loan contingency requirement, by an
30 institutional lender to obtain a loan for an amount equal to the
31 purchase price less any downpayment possessed by the buyer.
 - 32 (B) Has contracted to pay a purchase price that is greater than
33 or equal to the purchase price to be paid by the original buyer.
- 34 (8) Commencing on July 1, 2010, and annually on each July 1
35 thereafter, the dollar amount of the minimum purchase price
36 specified in paragraph (1) shall be adjusted. The Real Estate
37 Commissioner shall determine the amount of the adjustment based
38 on the change in the median price of a single family home in
39 California, as determined by the most recent data available from
40 the Federal Housing Finance Board. Upon determining the amount

1 of the adjustment, the Real Estate Commissioner shall publish the
2 current dollar amount of the minimum purchase price on the
3 Internet Web site of the ~~Department of Real Estate~~ *Bureau of Real*
4 *Estate*.

5 (9) Prior to the execution of a contract for sale of a residential
6 condominium unit subject to this subdivision, the seller shall
7 provide to the buyer the following notice, in at least 12-point type:

8 “Important Notice Regarding Your Deposit: Under California
9 law, in a contract for the initial sale of a newly constructed attached
10 condominium unit in a building over eight stories tall, containing
11 20 or more residential units, and located in a high-density infill
12 development in a city, county, or city and county with 1,900
13 residents or more per square mile, where the price is more than
14 one million dollars (\$1,000,000), as adjusted by the ~~Department~~
15 ~~of Real Estate~~ *Bureau of Real Estate*, liquidated damages of 6
16 percent of the purchase price are presumed valid if the buyer
17 defaults, unless the buyer establishes that the amount is
18 unreasonable.”

19 If the seller fails to provide this notice to the buyer prior to the
20 execution of the contract, the amount of any liquidated damages
21 shall be subject to subdivisions (c) and (d).

22 (h) This section shall become inoperative on July 1, 2014, and,
23 as of January 1, 2015, is repealed, unless a later enacted statute,
24 that becomes operative on or before January 1, 2015, deletes or
25 extends the dates on which it becomes inoperative and is repealed.

26 *SEC. 55. Section 1798.3 of the Civil Code is amended to read:*
27 1798.3. As used in this chapter:

28 (a) The term “personal information” means any information
29 that is maintained by an agency that identifies or describes an
30 individual, including, but not limited to, his or her name, social
31 security number, physical description, home address, home
32 telephone number, education, financial matters, and medical or
33 employment history. It includes statements made by, or attributed
34 to, the individual.

35 (b) The term “agency” means every state office, officer,
36 department, division, bureau, board, commission, or other state
37 agency, except that the term agency shall not include:

38 (1) The California Legislature.

39 (2) Any agency established under Article VI of the California
40 Constitution.

1 (3) The State Compensation Insurance Fund, except as to any
 2 records which contain personal information about the employees
 3 of the State Compensation Insurance Fund.

4 (4) A local agency, as defined in subdivision (a) of Section 6252
 5 of the Government Code.

6 (c) The term “disclose” means to disclose, release, transfer,
 7 disseminate, or otherwise communicate all or any part of any record
 8 orally, in writing, or by electronic or any other means to any person
 9 or entity.

10 (d) The term “individual” means a natural person.

11 (e) The term “maintain” includes maintain, acquire, use, or
 12 disclose.

13 (f) The term “person” means any natural person, corporation,
 14 partnership, limited liability company, firm, or association.

15 (g) The term “record” means any file or grouping of information
 16 about an individual that is maintained by an agency by reference
 17 to an identifying particular such as the individual’s name,
 18 photograph, finger or voice print, or a number or symbol assigned
 19 to the individual.

20 (h) The term “system of records” means one or more records,
 21 which pertain to one or more individuals, which is maintained by
 22 any agency, from which information is retrieved by the name of
 23 an individual or by some identifying number, symbol or other
 24 identifying particular assigned to the individual.

25 (i) The term “governmental entity,” except as used in Section
 26 1798.26, means any branch of the federal government or of the
 27 local government.

28 (j) The term “commercial purpose” means any purpose which
 29 has financial gain as a major objective. It does not include the
 30 gathering or dissemination of newsworthy facts by a publisher or
 31 broadcaster.

32 (k) The term “regulatory agency” means the Department of
 33 ~~Financial Institutions, the Department of Corporations~~ *Business*
 34 *Oversight*, the Department of Insurance, the ~~Department~~ *Bureau*
 35 of Real Estate, and agencies of the United States or of any other
 36 state responsible for regulating financial institutions.

37 *SEC. 56. Section 2985 of the Civil Code is amended to read:*

38 2985. (a) A real property sales contract is an agreement in
 39 which one party agrees to convey title to real property to another
 40 party upon the satisfaction of specified conditions set forth in the

1 contract and that does not require conveyance of title within one
2 year from the date of formation of the contract.

3 (b) For purposes of this chapter only, a real property sales
4 contract does not include a contract for purchase of an attached
5 residential condominium unit entered into pursuant to a conditional
6 public report issued by the ~~Department of Real Estate~~ *Bureau of*
7 *Real Estate* pursuant to Section 11018.12 of the Business and
8 Professions Code.

9 *SEC. 57. Section 5240 of the Civil Code, as added by Section*
10 *2 of Chapter 180 of the Statutes of 2012, is amended to read:*

11 5240. (a) As applied to an association and its members, the
12 provisions of this article are intended to supersede the provisions
13 of Sections 8330 and 8333 of the Corporations Code to the extent
14 those sections are inconsistent.

15 (b) Except as provided in subdivision (a), members of the
16 association shall have access to association records, including
17 accounting books and records and membership lists, in accordance
18 with Article 3 (commencing with Section 8330) of Chapter 13 of
19 Part 3 of Division 2 of Title 1 of the Corporations Code.

20 (c) ~~The provisions of this article apply~~ *This article applies* to
21 any community service organization or similar entity that is related
22 to the association, and to any nonprofit entity that provides services
23 to a common interest development under a declaration of trust.
24 This article shall operate to give a member of the organization or
25 entity a right to inspect and copy the records of that organization
26 or entity equivalent to that granted to association members by this
27 article.

28 (d) ~~The provisions of this~~ *This* article shall not apply to any
29 common interest development in which separate interests are being
30 offered for sale by a subdivider under the authority of a public
31 report issued by the ~~Department of Real Estate~~ *Bureau of Real*
32 *Estate* so long as the subdivider or all subdividers offering those
33 separate interests for sale, or any employees of those subdividers
34 or any other person who receives direct or indirect compensation
35 from any of those subdividers, comprise a majority of the directors.
36 Notwithstanding the foregoing, this article shall apply to that
37 common interest development no later than 10 years after the close
38 of escrow for the first sale of a separate interest to a member of
39 the general public pursuant to the public report issued for the first
40 phase of the development.

1 SEC. 58. Section 5400 of the Civil Code, as added by Section
2 2 of Chapter 180 of the Statutes of 2012, is amended to read:

3 5400. To the extent existing funds are available, the Department
4 of Consumer Affairs and the ~~Department of Real Estate Bureau~~
5 of Real Estate shall develop an online education course for the
6 board regarding the role, duties, laws, and responsibilities of
7 directors and prospective directors, and the nonjudicial foreclosure
8 process.

9 SEC. 59. Section 1218 of the Code of Civil Procedure is
10 amended to read:

11 1218. (a) Upon the answer and evidence taken, the court or
12 judge shall determine whether the person proceeded against is
13 guilty of the contempt charged, and if it be adjudged that he or she
14 is guilty of the contempt, a fine may be imposed on him or her not
15 exceeding one thousand dollars (\$1,000), payable to the court, or
16 he or she may be imprisoned not exceeding five days, or both. In
17 addition, a person who is subject to a court order as a party to the
18 action, or any agent of this person, who is adjudged guilty of
19 contempt for violating that court order may be ordered to pay to
20 the party initiating the contempt proceeding the reasonable
21 attorney’s fees and costs incurred by this party in connection with
22 the contempt proceeding.

23 (b) ~~No~~ Any party, who is in contempt of a court order or
24 judgment in a dissolution of marriage, dissolution of domestic
25 partnership, or legal separation action, shall *not* be permitted to
26 enforce such an order or judgment, by way of execution or
27 otherwise, either in the same action or by way of a separate action,
28 against the other party. This restriction shall not affect nor apply
29 to the enforcement of child or spousal support orders.

30 (c) In any court action in which a party is found in contempt of
31 court for failure to comply with a court order pursuant to the Family
32 Code, the court shall order the following:

33 (1) Upon a first finding of contempt, the court shall order the
34 contemner to perform community service of up to 120 hours, or
35 to be imprisoned up to 120 hours, for each count of contempt.

36 (2) Upon the second finding of contempt, the court shall order
37 the contemner to perform community service of up to 120 hours,
38 in addition to ordering imprisonment of the contemner up to 120
39 hours, for each count of contempt.

1 (3) Upon the third or any subsequent finding of contempt, the
2 court shall order both of the following:

3 (A) The court shall order the contemner to serve a term of
4 imprisonment of up to 240 hours, and to perform community
5 service of up to 240 hours, for each count of contempt.

6 (B) The court shall order the contemner to pay an administrative
7 fee, not to exceed the actual cost of the contemner's administration
8 and supervision, while assigned to a community service program
9 pursuant to this paragraph.

10 (4) The court shall take parties' employment schedules into
11 consideration when ordering either community service or
12 imprisonment, or both.

13 (d) Pursuant to Section 1211 and this section, a district attorney
14 or city attorney may initiate and pursue a court action for contempt
15 against a party for failing to comply with a court order entered
16 pursuant to the Domestic Violence Protection Act (Division 10
17 commencing with Section 6200) of the Family Code). Any
18 attorney's fees and costs ordered by the court pursuant to
19 subdivision (a) against a party who is adjudged guilty of contempt
20 under this subdivision shall be paid to the ~~California Emergency~~
21 ~~Management Agency's Office of Emergency Services'~~ account
22 established for the purpose of funding domestic violence shelter
23 service providers pursuant to subdivision (f) of Section 13823.15
24 of the Penal Code.

25 *SEC. 60. Section 14010 of the Corporations Code is amended*
26 *to read:*

27 14010. Unless the context otherwise requires, the definitions
28 in this section govern the construction of this part.

29 (a) "Corporation" or "the corporation" means any nonprofit
30 California small business financial development corporation created
31 pursuant to this part.

32 (b) "Director" means the Director of the Governor's Office of
33 Business and Economic Development.

34 ~~(b)~~

35 (c) "Financial institution" means banking organizations
36 including national banks and trust companies authorized to conduct
37 business in California and state-chartered commercial banks, trust
38 companies, and savings and loan associations.

39 ~~(e)~~

- 1 (d) “Financial company” means banking organizations including
- 2 national banks and trust companies, savings and loan associations,
- 3 state insurance companies, mutual insurance companies, and other
- 4 banking, lending, retirement, and insurance organizations.
- 5 ~~(d)~~
- 6 (e) “Expansion Fund” means the California Small Business
- 7 Expansion Fund.
- 8 ~~(e)~~
- 9 (f) Unless otherwise defined by the director by regulation, “small
- 10 business loan” means a loan to a business defined as an eligible
- 11 small business as set forth in Section 121.3-10 of Part 121 of
- 12 Chapter 1 of Title 13 of the Code of Federal Regulations, including
- 13 those businesses organized for agricultural purposes that create or
- 14 retain employment as a result of the loan. From time to time, the
- 15 director shall provide guidelines as to the preferred ratio of jobs
- 16 created or retained to total funds borrowed for guidance to the
- 17 corporations.
- 18 ~~(f)~~
- 19 (g) “Employment incentive loan” means a loan to a qualified
- 20 business, as defined in subdivision (h) of Section 7082 of the
- 21 Government Code, or to a business located within an enterprise
- 22 zone, as defined in subdivision (b) of Section 7072 of the
- 23 Government Code.
- 24 ~~(g)~~
- 25 (h) “Loan committee” means a committee appointed by the
- 26 board of directors of a corporation to determine the course of action
- 27 on a loan application pursuant to Section 14060.
- 28 ~~(h)~~
- 29 (i) “Board of directors” means the board of directors of the
- 30 corporation.
- 31 ~~(i)~~
- 32 (j) “Board” means the California Small Business Board.
- 33 ~~(j) “Agency” means the Business, Transportation and Housing~~
- 34 ~~Agency.~~
- 35 ~~(k) “Director” means the person designated to this title by the~~
- 36 ~~secretary.~~
- 37 ~~(l) “Secretary” means the Secretary of Business, Transportation~~
- 38 ~~and Housing Agency.~~

1 (k) “Manager” means the manager of the Small Business Loan
2 Guarantee Program as designated by the Director of the
3 Governor’s Office of Business and Economic Development.

4 (l) “Office” means the Governor’s Office of Business and
5 Economic Development.

6 (m) “Trust fund” means the money from the expansion fund
7 that is held in trust by a financial institution or a financial company.
8 A trust fund is not a deposit of state funds and is not subject to the
9 requirements of Section 16506 of the Government Code.

10 (n) “Trust fund account” means an account within the trust fund
11 that is allocated to a particular small business financial
12 development corporation for the purpose of paying loan defaults
13 and claims on bond guarantees for a specific small business
14 financial development corporation.

15 (o) “Trustee” is the lending institution or financial company
16 selected by the office to hold and invest the trust fund. The
17 agreement between the agency and the trustee shall not be
18 construed to be a deposit of state funds.

19 *SEC. 61. Section 14060.6 of the Corporations Code is amended*
20 *to read:*

21 ~~14060.6. (a)~~

22 *14060.6. (a) The Small Business Loan Guarantee Program*
23 *exists in the Governor’s Office of Business and Economic*
24 *Development.*

25 (b) The Legislature finds and declares that the Small Business
26 Loan Guarantee Program has enabled participating small businesses
27 that do not qualify for conventional business loans or Small
28 Business Administration loans to secure funds to expand their
29 businesses. These small businesses would not have been able to
30 expand their businesses in the absence of the program. The program
31 has also provided valuable technical assistance to small businesses
32 to ensure growth and stability. The study commissioned by Section
33 14069.6, as added by Chapter 919 of the Statutes of 1997,
34 documented the return on investment of the program and the need
35 for its services. The value of the program has also been recognized
36 by the Governor through proposals contained in the May Revision
37 to the Budget Act of 2000 for the 2000–01 fiscal year.

38 ~~(b)~~

39 (c) Notwithstanding Section 14060.5, the ~~Business,~~
40 ~~Transportation and Housing Agency~~ *Governor’s Office of Business*

1 *and Economic Development* shall establish new small business
 2 financial development corporations pursuant to the procedures
 3 otherwise established by this chapter in the following areas:

- 4 (1) San Jose.
- 5 (2) Santa Ana.
- 6 (3) San Fernando Valley.
- 7 (4) Ontario.

8 (e)

9 (d) Upon an appropriation in the annual Budget Act for this
 10 purpose, the ~~Secretary of Business, Transportation and Housing~~
 11 *Governor’s Office of Business and Economic Development* shall
 12 establish a small business financial development corporation in
 13 southeast Los Angeles.

14 (d)

15 (e) Each of the small business financial development
 16 corporations, upon the recommendation of the board and at least
 17 once each year, shall make a presentation and overview of the
 18 corporation’s business operations to the board.

19 *SEC. 62. Section 25005 of the Corporations Code is amended*
 20 *to read:*

21 25005. “Commissioner” means the Commissioner of
 22 ~~Corporations Business Oversight.~~

23 *SEC. 63. Section 25600 of the Corporations Code is repealed.*

24 ~~25600. There is in the state government, in the Business and~~
 25 ~~Transportation Agency a Department of Corporations, which shall~~
 26 ~~administer the provisions of this division. The chief officer of the~~
 27 ~~Department of Corporations is the Commissioner of Corporations.~~
 28 ~~The commissioner shall be appointed by the Governor and shall~~
 29 ~~hold office at the pleasure of the Governor. He or she shall receive~~
 30 ~~an annual salary as fixed in the Government Code. Within 15 days~~
 31 ~~from the time of his or her appointment the commissioner shall~~
 32 ~~take and subscribe to the constitutional oath of office and file it in~~
 33 ~~the office of the Secretary of State.~~

34 Whenever the term “Division of Corporations” is used in the
 35 law, it means the Department of Corporations.

36 *SEC. 64. Section 25601 of the Corporations Code is repealed.*

37 ~~25601. The commissioner shall have his principal office in the~~
 38 ~~City of Sacramento, and may establish branch offices in the City~~
 39 ~~and County of San Francisco, in the City of Los Angeles and in~~
 40 ~~the City of San Diego. The commissioner shall from time to time~~

1 obtain the necessary furniture, stationery, fuel, light, and other
2 proper conveniences for the transaction of the business of the
3 Department of Corporations.

4 *SEC. 65. Section 25602 of the Corporations Code is repealed.*

5 25602. In accordance with the laws governing the state civil
6 service, the commissioner shall employ and, with the approval of
7 the Department of Finance, fix the compensation of such personnel
8 as the commissioner needs to discharge properly the duties imposed
9 upon the commissioner by law, including legal counsel to act as
10 the attorney for the commissioner in actions or proceedings brought
11 by or against the commissioner under or pursuant to any provision
12 of any law under the commissioner's jurisdiction, or in which the
13 commissioner joins or intervenes as to a matter within the
14 commissioner's jurisdiction, as a friend of the court or otherwise,
15 and stenographic reporters to take and transcribe the testimony in
16 any formal hearing or investigation before the commissioner or
17 before a person authorized by the commissioner. The personnel
18 of the Department of Corporations shall perform such duties as
19 the commissioner assigns to them. Such employees as the
20 commissioner designates by rule or order shall, within 15 days
21 after their appointments, take and subscribe to the constitutional
22 oath of office and file it in the office of the Secretary of State.

23 *SEC. 66. Section 25603 of the Corporations Code is repealed.*

24 25603. The commissioner shall adopt a seal bearing the
25 inscription: "Commissioner of Corporations, State of California."
26 The seal shall be affixed to or imprinted on all orders and
27 certificates issued by him and such other instruments as he directs.
28 All courts shall take judicial notice of this seal.

29 *SEC. 67. Section 28033 of the Corporations Code is amended*
30 *to read:*

31 28033. "Commissioner" means the Commissioner of
32 Corporations *Business Oversight* or his or her designee with respect
33 to a particular matter.

34 *SEC. 68. Section 29200 of the Corporations Code is amended*
35 *to read:*

36 29200. Every person doing business as a broker or making
37 contracts as a broker or agent for the purchase or sale of any
38 securities or commodities on any board of trade or exchange shall
39 keep or cause to be kept at his office or place of business correct
40 and permanent records or books of account showing each of such

1 transactions as a separate item. The failure so to keep or cause to
 2 be kept such records or books of account is prima facie evidence
 3 that any such contract was bucketing or bucketshopping.

4 Such records or books of account shall at all times be open to
 5 inspection by the Commissioner of ~~Corporations Business~~
 6 *Oversight* or by any deputy, investigator, or auditor of the
 7 Department of ~~Corporations Business Oversight~~ to whom he may
 8 delegate such authority in writing.

9 *SEC. 69. Section 29503 of the Corporations Code is amended*
 10 *to read:*

11 29503. “Commissioner” means the ~~Commissioner of~~
 12 ~~Corporations~~ *Deputy Commissioner of Business Oversight for the*
 13 *Division of Corporations.*

14 *SEC. 70. Section 31004 of the Corporations Code is amended*
 15 *to read:*

16 31004. “Commissioner” means the ~~Commissioner of~~
 17 ~~Corporations~~ *Deputy Commissioner of Business Oversight for the*
 18 *Division of Corporations.*

19 *SEC. 71. Section 31210 of the Corporations Code is amended*
 20 *to read:*

21 31210. It is unlawful for any person to effect or attempt to
 22 effect a sale of a franchise in this state, except in transactions
 23 exempted under Chapter 1 (commencing with Section 31100) of
 24 Part 2 of this division, unless such person is: (1) identified in an
 25 application or amended application filed with the commissioner
 26 pursuant to Part 2 (commencing with Section 31100) of this
 27 division, (2) licensed by the ~~California Department of Real Estate~~
 28 *Bureau of Real Estate* as a real estate broker or real estate salesman,
 29 or (3) licensed by the commissioner as a broker-dealer or agent
 30 pursuant to the Corporate Securities Law of 1968.

31 *SEC. 72. Section 17444 of the Education Code is amended to*
 32 *read:*

33 17444. (a) Any installment of an owner’s development lien
 34 created pursuant to this article shall become delinquent 30 days
 35 following billing thereof if unpaid, or if the installment is being
 36 collected by the county tax collector, at the time general taxes
 37 become delinquent. An installment shall be in default 30 days after
 38 written notice of the delinquency has been given by certified or
 39 registered mail to the record owner of the property subject to the
 40 lien and all lenders of record.

1 (b) The governing board, not later than four years after the date
2 of default of any payment, may order that the amount be collected
3 by an action brought in superior court to foreclose against the real
4 property subject to the owner's development lien for the then
5 delinquent installment of the owner's development lien. The action
6 shall affect only the delinquent amounts and shall not accelerate
7 or require payment of any remaining amount of the owner's
8 development lien.

9 (c) The lease agreement between the governing board and the
10 nonprofit corporation may contain covenants for the benefit of
11 bondholders providing that the governing board shall commence
12 and diligently prosecute to completion any foreclosure action
13 regarding delinquent installments of an owner's development lien.
14 The lease agreement may specify a deadline for commencement
15 of the foreclosure action and any other terms and conditions that
16 the governing board may determine to be reasonable.

17 (d) The governing board may assign its rights under this section
18 to the nonprofit corporation or to any trustee under the resolution
19 adopted pursuant to Section 17437.

20 (e) Costs in the action shall be fixed and allowed by the court
21 and shall include, but are not limited to, reasonable attorneys' fees,
22 interest, penalties and other charges or advances authorized by this
23 article, and when so fixed and allowed by the court, the costs shall
24 be included in the judgment. The amount of penalties, costs, and
25 interest due shall be calculated up to the date of judgment.

26 (f) All matters pertaining to foreclosure, execution and sale shall
27 be governed by the then existing law of California. However,
28 notwithstanding any other law, the owner's right of redemption
29 shall be limited to 60 days following the date of sale of the owner's
30 interest. The owner's development lien shall continue as security
31 for all future required installment payments. Any remaining funds
32 after foreclosure and payment of all obligations and costs of
33 foreclosure of the delinquent installment of the owner's
34 development lien shall be paid pursuant to the priority of
35 encumbrances of record and to the owner or owner's successor as
36 of the date of initiation of the foreclosure proceeding.

37 (g) Foreclosures of installments of the owner's development
38 lien pursuant to this article shall not affect the priority of any
39 scheme of community development approved by the ~~Department~~
40 ~~of Real Estate Bureau of Real Estate~~, including, but not limited

1 to, subdivision maps, condominium plans, covenants, conditions,
2 restrictions, and easements whether recorded prior to or subsequent
3 to the owner’s development lien.

4 SEC. 73. Section 22001 of the Education Code is amended to
5 read:

6 22001. In order to provide a financially sound plan for the
7 retirement, with adequate retirement allowances, of teachers in the
8 public schools of this state, teachers in schools supported by this
9 state, and other persons employed in connection with the schools,
10 the State Teachers’ Retirement System is established. The system
11 is a unit of the ~~State and Consumer Services~~ Government
12 Operations Agency.

13 SEC. 74. Section 32282 of the Education Code is amended to
14 read:

15 32282. (a) The comprehensive school safety plan shall include,
16 but not be limited to, both of the following:

17 (1) Assessing the current status of school crime committed on
18 school campuses and at school-related functions.

19 (2) Identifying appropriate strategies and programs that will
20 provide or maintain a high level of school safety and address the
21 school’s procedures for complying with existing laws related to
22 school safety, which shall include the development of all of the
23 following:

24 (A) Child abuse reporting procedures consistent with Article
25 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of
26 Part 4 of the Penal Code.

27 (B) Disaster procedures, routine and emergency, including
28 adaptations for pupils with disabilities in accordance with the
29 federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec.
30 12101 et seq.). The disaster procedures shall also include, but not
31 be limited to, both of the following:

32 (i) Establishing an earthquake emergency procedure system in
33 every public school building having an occupant capacity of 50
34 or more pupils or more than one classroom. A district or county
35 office may work with the ~~California Emergency Management~~
36 ~~Agency~~ Office of Emergency Services and the Seismic Safety
37 Commission to develop and establish the earthquake emergency
38 procedure system. The system shall include, but not be limited to,
39 all of the following:

- 1 (I) A school building disaster plan, ready for implementation
2 at any time, for maintaining the safety and care of pupils and staff.
- 3 (II) A drop procedure whereby each pupil and staff member
4 takes cover under a table or desk, dropping to his or her knees,
5 with the head protected by the arms, and the back to the windows.
6 A drop procedure practice shall be held at least once each school
7 quarter in elementary schools and at least once a semester in
8 secondary schools.
- 9 (III) Protective measures to be taken before, during, and
10 following an earthquake.
- 11 (IV) A program to ensure that pupils and both the certificated
12 and classified staff are aware of, and properly trained in, the
13 earthquake emergency procedure system.
- 14 (ii) Establishing a procedure to allow a public agency, including
15 the American Red Cross, to use school buildings, grounds, and
16 equipment for mass care and welfare shelters during disasters or
17 other emergencies affecting the public health and welfare. The
18 district or county office shall cooperate with the public agency in
19 furnishing and maintaining the services as the district or county
20 office may deem necessary to meet the needs of the community.
- 21 (C) Policies pursuant to subdivision (d) of Section 48915 for
22 pupils who committed an act listed in subdivision (c) of Section
23 48915 and other school-designated serious acts which would lead
24 to suspension, expulsion, or mandatory expulsion recommendations
25 pursuant to Article 1 (commencing with Section 48900) of Chapter
26 6 of Part 27 of Division 4 of Title 2.
- 27 (D) Procedures to notify teachers of dangerous pupils pursuant
28 to Section 49079.
- 29 (E) A discrimination and harassment policy consistent with the
30 prohibition against discrimination contained in Chapter 2
31 (commencing with Section 200) of Part 1.
- 32 (F) The provisions of any schoolwide dress code, pursuant to
33 Section 35183, that prohibits pupils from wearing “gang-related
34 apparel,” if the school has adopted that type of a dress code. For
35 those purposes, the comprehensive school safety plan shall define
36 “gang-related apparel.” The definition shall be limited to apparel
37 that, if worn or displayed on a school campus, reasonably could
38 be determined to threaten the health and safety of the school
39 environment. Any schoolwide dress code established pursuant to
40 this section and Section 35183 shall be enforced on the school

1 campus and at any school-sponsored activity by the principal of
2 the school or the person designated by the principal. For purposes
3 of this paragraph, “gang-related apparel” shall not be considered
4 a protected form of speech pursuant to Section 48950.

5 (G) Procedures for safe ingress and egress of pupils, parents,
6 and school employees to and from school.

7 (H) A safe and orderly environment conducive to learning at
8 the school.

9 (I) The rules and procedures on school discipline adopted
10 pursuant to Sections 35291 and 35291.5.

11 (b) It is the intent of the Legislature that schools develop
12 comprehensive school safety plans using existing resources,
13 including the materials and services of the partnership, pursuant
14 to this chapter. It is also the intent of the Legislature that schools
15 use the handbook developed and distributed by the School/Law
16 Enforcement Partnership Program entitled “Safe Schools: A
17 Planning Guide for Action” in conjunction with developing their
18 plan for school safety.

19 (c) Grants to assist schools in implementing their comprehensive
20 school safety plan shall be made available through the partnership
21 as authorized by Section 32285.

22 (d) Each schoolsite council or school safety planning committee
23 in developing and updating a comprehensive school safety plan
24 shall, where practical, consult, cooperate, and coordinate with
25 other schoolsite councils or school safety planning committees.

26 (e) The comprehensive school safety plan may be evaluated and
27 amended, as needed, by the school safety planning committee, but
28 shall be evaluated at least once a year, to ensure that the
29 comprehensive school safety plan is properly implemented. An
30 updated file of all safety-related plans and materials shall be readily
31 available for inspection by the public.

32 (f) As comprehensive school safety plans are reviewed and
33 updated, the Legislature encourages all plans, to the extent that
34 resources are available, to include policies and procedures aimed
35 at the prevention of bullying.

36 (g) The comprehensive school safety plan, as written and
37 updated by the schoolsite council or school safety planning
38 committee, shall be submitted for approval under subdivision (a)
39 of Section 32288.

1 *SEC. 75. Section 32282.5 of the Education Code is amended*
2 *to read:*

3 32282.5. (a) The department shall electronically distribute
4 disaster preparedness educational materials and lesson plans that
5 are currently available to school districts and county offices of
6 education.

7 (b) The department shall ensure that the disaster preparedness
8 materials are available in at least the three most dominant primary
9 languages spoken by English learners in California, according to
10 the language census.

11 (c) The department shall coordinate with the ~~California~~
12 ~~Emergency Management Agency~~ *Office of Emergency Services*
13 to make sure that all materials are reviewed and updated annually.

14 *SEC. 76. Section 35296 of the Education Code is amended to*
15 *read:*

16 35296. The governing board of each private school shall
17 establish an earthquake emergency procedure system in every
18 private school building under its jurisdiction having an occupant
19 capacity of 50 or more pupils or more than one classroom. A
20 governing board may work with the ~~California Emergency~~
21 ~~Management Agency~~ *Office of Emergency Services* and the Seismic
22 Safety Commission to develop and establish the earthquake
23 emergency procedure systems.

24 *SEC. 77. Section 51264 of the Education Code is amended to*
25 *read:*

26 51264. (a) The State Department of Education shall prepare
27 and distribute to school districts and county offices of education
28 guidelines for incorporating in-service training in gang violence
29 and drug and alcohol abuse prevention for teachers, counselors,
30 athletic directors, school board members, and other educational
31 personnel into the staff development plans of all school districts
32 and county offices of education.

33 (b) The department shall, upon request, assist school districts
34 and county offices of education in developing comprehensive gang
35 violence and drug and alcohol abuse prevention in-service training
36 programs. The department's information and guidelines, to the
37 maximum extent possible, shall encourage school districts and
38 county offices of education to avoid duplication of effort by sharing
39 resources, adapting or adopting model in-service training programs,
40 developing joint and collaborative programs, and coordinating

1 efforts with existing state staff development programs, county
2 gang violence and drug and alcohol staff development programs,
3 county health departments, county and city law enforcement
4 agencies, and other public and private agencies providing health,
5 drug, alcohol, gang violence prevention, or other related services
6 at the local level.

7 (c) The department shall assist school districts and county offices
8 of education in qualifying for the receipt of federal and state funds
9 to support their gang violence and drug and alcohol abuse
10 prevention in-service training programs.

11 (d) Each school that chooses to utilize the provisions of this
12 article related to in-service training in gang violence and drug and
13 alcohol abuse prevention, is encouraged to develop a single plan
14 to strengthen its gang violence and drug and alcohol abuse
15 prevention efforts. If a school develops or has developed a school
16 improvement plan pursuant to Article 2 (commencing with Section
17 52010) of Chapter 6 of Part 28, or a school safety plan pursuant
18 to Article 5 (commencing with Section 32280) of Chapter 2.5 of
19 Part 19, it is encouraged to incorporate into that plan, where
20 appropriate, the gang violence and drug and alcohol prevention
21 plan that it has developed.

22 (e) The department shall consult with the ~~California Emergency~~
23 ~~Management Agency Office of Emergency Services~~ regarding gang
24 violence.

25 *SEC. 78. Section 51266 of the Education Code is amended to*
26 *read:*

27 51266. (a) ~~The California Emergency Management Agency~~
28 ~~Office of Emergency Services~~, in collaboration with the State
29 Department of Education, shall develop a model gang violence
30 suppression and substance abuse prevention curriculum for grades
31 2, 4, and 6. The curriculum for grades 2, 4, and 6 shall be modeled
32 after a similar curriculum that has been developed by the Orange
33 County Office of Education for grades 3, 5, and 7. ~~The California~~
34 ~~Emergency Management Agency Office of Emergency Services~~,
35 in collaboration with the State Department of Education, may
36 contract with a county office of education for the development of
37 the model curriculum. The model curriculum shall be made
38 available to school districts and county offices of education and
39 shall, at a minimum, provide for each of the following:

1 (1) Lessons for grades 2, 4, and 6 that are aligned with the state
2 curriculum frameworks for history, social science, and English
3 and language arts.

4 (2) Instructional resources that address issues of ethnic diversity
5 and at-risk pupils.

6 (3) The integration of the instructional resources of the
7 ~~California Emergency Management Agency Office of Emergency~~
8 ~~Services~~ and the School/Law Enforcement Partnership in order to
9 support the school curriculum and assist in the alignment of the
10 state curriculum framework.

11 (b) ~~The California Emergency Management Agency Office of~~
12 ~~Emergency Services~~ shall develop an independent evaluation of
13 the pupil outcomes of the model gang violence suppression and
14 substance abuse prevention curriculum program.

15 *SEC. 79. Section 51266.5 of the Education Code is amended*
16 *to read:*

17 51266.5. The Rural Gang Task Force Subcommittee provided
18 for by subdivision (g) of Section 13826.1 of the Penal Code, in
19 collaboration with the Gang Violence Suppression Advisory
20 Committee provided for by subdivision (g) of Section 13826.1 of
21 the Penal Code and the ~~California Emergency Management Agency~~
22 ~~Office of Emergency Services~~, shall review the model gang violence
23 suppression and substance abuse prevention curriculum for grades
24 2, 4, and 6, developed pursuant to Section 51266, and identify
25 methods by which the curriculum can best be utilized in rural
26 school settings.

27 *SEC. 80. Section 51269 of the Education Code is amended to*
28 *read:*

29 51269. (a) The State Department of Education shall
30 collaborate, to the extent possible, with other state agencies that
31 administer drug, alcohol, and tobacco abuse prevention education
32 programs to streamline and simplify the process whereby local
33 educational agencies apply for state and federal drug, alcohol, and
34 tobacco education funds.

35 (b) The State Department of Education, in consultation with the
36 Department of Justice, the ~~California Emergency Management~~
37 ~~Agency Office of Emergency Services~~, and the State Department
38 of Alcohol and Drug Programs, shall develop, to the extent
39 possible, an ongoing statewide monitoring and assessment system
40 to provide current and reliable data on the utilization of resources

1 for programs for prevention of and early intervention for drug,
2 alcohol, and tobacco abuse. The purpose of the system shall be to
3 facilitate improved planning and program delivery among state
4 and local agencies, including law enforcement, juvenile justice,
5 county health, and county drug and alcohol agencies and programs,
6 and communities.

7 *SEC. 81. Section 66210 of the Education Code is amended to*
8 *read:*

9 ~~66210.~~ (a) ~~The California Emergency Management Agency~~
10 *Office of Emergency Services* shall develop guidelines for campuses
11 of the University of California and the California State University
12 to use in developing emergency evacuation plans for all forms of
13 student housing owned, operated, and offered by the university,
14 both on campus and off campus. In developing the guidelines, the
15 ~~California Emergency Management Agency~~ *Office of Emergency*
16 *Services* shall consider Sections 3.09 and 3.13 of Title 19 of the
17 California Code of Regulations. The guidelines shall address all
18 of the following issues:

19 (1) Plan content. The plans should include, but need not be
20 limited to, the following:

21 (A) Specific evacuation routes that recognize the needs of
22 persons with special needs, such as persons with disabilities.

23 (B) The designation of a meeting place or places upon
24 evacuation.

25 (C) The education of students and staff in emergency procedures.

26 (2) The implementation and maintenance of the evacuation plan
27 by the director of student housing, or other appropriate officer, at
28 the individual campuses. The director, or other appropriate officer,
29 is responsible for scheduling periodic tests of the plan and
30 implementing changes as needed.

31 (b) Each campus of the University of California and the
32 California State University shall establish an emergency evacuation
33 plan for its postsecondary student housing and may consult with
34 the ~~California Emergency Management Agency~~ *Office of*
35 *Emergency Services* for guidance in developing and establishing
36 the plan.

37 *SEC. 82. Section 71095 of the Education Code is amended to*
38 *read:*

39 71095. (a) The chancellor's office, in consultation with the
40 ~~California Emergency Management Agency~~ *Office of Emergency*

1 *Services* and the Office of Homeland Security, shall, by January
2 1, 2009, develop emergency preparedness standards and guidelines
3 to assist community college districts and campuses in the event of
4 a natural disaster, hazardous condition, or terrorist activity on or
5 around a community college campus.

6 (b) The standards and guidelines shall be developed in
7 accordance with the Standardized Emergency Management System
8 and the National Incident Management System, and shall be
9 reviewed by the ~~California Emergency Management Agency Office~~
10 *of Emergency Services* in a manner that is consistent with existing
11 policy. In developing the standards and guidelines, the chancellor's
12 office shall consider, but is not limited to, all of the following
13 components:

14 (1) Information on establishing a campus emergency
15 management team.

16 (2) Provisions regarding overview training for every employee
17 within one year of commencement of employment.

18 (3) Information on specialized training for employees who may
19 be designated as part of an emergency management team.

20 (4) Information on preparedness, prevention, response, recovery,
21 and mitigation policies and procedures.

22 (5) Information on coordinating with the appropriate local, state,
23 and federal government authorities, and nongovernmental entities
24 on comprehensive emergency management and preparedness
25 activities.

26 *SEC. 83. Section 94600 of the Education Code is amended to*
27 *read:*

28 94600. (a) ~~The California Emergency Management Agency~~
29 *Office of Emergency Services* shall develop guidelines for private
30 colleges and universities to use in developing emergency
31 evacuation plans for all forms of student housing owned, operated,
32 and offered by private colleges and universities, both on campus
33 and off campus. In developing the guidelines, the ~~California~~
34 ~~Emergency Management Agency Office of Emergency Services~~
35 shall consider Sections 3.09 and 3.13 of Title 19 of the California
36 Code of Regulations. The guidelines shall address all of the
37 following issues:

38 (1) Plan content. The plans should include, but need not be
39 limited to, the following:

1 (A) Specific evacuation routes that recognize the needs of
2 persons with special needs, such as persons with disabilities.

3 (B) The designation of a meeting place or places upon
4 evacuation.

5 (C) The education of students and staff in emergency procedures.

6 (2) The implementation and maintenance of the evacuation plan
7 by the director of student housing, or other appropriate officer, at
8 individual campuses. The director, or other appropriate officer, is
9 responsible for scheduling periodic tests of the plan and
10 implementing changes as needed.

11 (b) Each private college or university shall establish an
12 emergency evacuation plan for its postsecondary student housing
13 and may consult with the ~~California Emergency Management~~
14 ~~Agency~~ *Office of Emergency Services* for guidance in developing
15 and establishing the plan.

16 *SEC. 84. Section 298 of the Family Code is amended to read:*

17 298. (a) (1) The Secretary of State shall prepare forms entitled
18 “Declaration of Domestic Partnership” and “Notice of Termination
19 of Domestic Partnership” to meet the requirements of this division.
20 These forms shall require the signature and seal of an
21 acknowledgment by a notary public to be binding and valid.

22 (2) When funding allows, the Secretary of State shall include
23 on the form notice that a lesbian, gay, bisexual, and transgender
24 specific domestic abuse brochure is available upon request.

25 (b) (1) The Secretary of State shall distribute these forms to
26 each county clerk. These forms shall be available to the public at
27 the office of the Secretary of State and each county clerk.

28 (2) The Secretary of State shall, by regulation, establish fees
29 for the actual costs of processing each of these forms, and the cost
30 for preparing and sending the mailings and notices required
31 pursuant to Section 299.3, and shall charge these fees to persons
32 filing the forms.

33 (3) There is hereby established a fee of twenty-three dollars
34 (\$23) to be charged in addition to the existing fees established by
35 regulation to persons filing domestic partner registrations pursuant
36 to Section 297 for development and support of a lesbian, gay,
37 bisexual, and transgender curriculum for training workshops on
38 domestic violence, conducted pursuant to Section 13823.15 of the
39 Penal Code, and for the support of a grant program to promote
40 healthy nonviolent relationships in the lesbian, gay, bisexual, and

1 transgender community. This paragraph shall not apply to persons
2 of opposite sexes filing a domestic partnership registration and
3 who meet the qualifications described in subparagraph (B) of
4 paragraph (5) of subdivision (b) of Section 297.

5 (4) The fee established by paragraph (3) shall be deposited in
6 the Equality in Prevention and Services for Domestic Abuse Fund,
7 which is hereby established. The fund shall be administered by
8 the ~~California Emergency Management Agency~~ *Office of*
9 *Emergency Services*, and expenditures from the fund shall be used
10 to support the purposes of paragraph (3).

11 (c) The Declaration of Domestic Partnership shall require each
12 person who wants to become a domestic partner to (1) state that
13 he or she meets the requirements of Section 297 at the time the
14 form is signed, (2) provide a mailing address, (3) state that he or
15 she consents to the jurisdiction of the Superior Courts of California
16 for the purpose of a proceeding to obtain a judgment of dissolution
17 or nullity of the domestic partnership or for legal separation of
18 partners in the domestic partnership, or for any other proceeding
19 related to the partners' rights and obligations, even if one or both
20 partners ceases to be a resident of, or to maintain a domicile in,
21 this state, (4) sign the form with a declaration that representations
22 made therein are true, correct, and contain no material omissions
23 of fact to the best knowledge and belief of the applicant, and (5)
24 have a notary public acknowledge his or her signature. Both
25 partners' signatures shall be affixed to one Declaration of Domestic
26 Partnership form, which form shall then be transmitted to the
27 Secretary of State according to the instructions provided on the
28 form. Filing an intentionally and materially false Declaration of
29 Domestic Partnership shall be punishable as a misdemeanor.

30 (d) The Declaration of Domestic Partnership form shall contain
31 an optional section for either party or both parties to indicate a
32 change in name pursuant to Section 298.6. The optional section
33 shall require a party indicating a change in name to provide his or
34 her date of birth.

35 *SEC. 85. Section 17520 of the Family Code is amended to*
36 *read:*

37 17520. (a) As used in this section:

38 (1) "Applicant" means any person applying for issuance or
39 renewal of a license.

1 (2) “Board” means any entity specified in Section 101 of the
2 Business and Professions Code, the entities referred to in Sections
3 1000 and 3600 of the Business and Professions Code, the State
4 Bar, the ~~Department of Real Estate~~ *Bureau of Real Estate*, the
5 Department of Motor Vehicles, the Secretary of State, the
6 Department of Fish and Game, and any other state commission,
7 department, committee, examiner, or agency that issues a license,
8 certificate, credential, permit, registration, or any other
9 authorization to engage in a business, occupation, or profession,
10 or to the extent required by federal law or regulations, for
11 recreational purposes. This term includes all boards, commissions,
12 departments, committees, examiners, entities, and agencies that
13 issue a license, certificate, credential, permit, registration, or any
14 other authorization to engage in a business, occupation, or
15 profession. The failure to specifically name a particular board,
16 commission, department, committee, examiner, entity, or agency
17 that issues a license, certificate, credential, permit, registration, or
18 any other authorization to engage in a business, occupation, or
19 profession does not exclude that board, commission, department,
20 committee, examiner, entity, or agency from this term.

21 (3) “Certified list” means a list provided by the local child
22 support agency to the Department of Child Support Services in
23 which the local child support agency verifies, under penalty of
24 perjury, that the names contained therein are support obligors found
25 to be out of compliance with a judgment or order for support in a
26 case being enforced under Title IV-D of the Social Security Act.

27 (4) “Compliance with a judgment or order for support” means
28 that, as set forth in a judgment or order for child or family support,
29 the obligor is no more than 30 calendar days in arrears in making
30 payments in full for current support, in making periodic payments
31 in full, whether court ordered or by agreement with the local child
32 support agency, on a support arrearage, or in making periodic
33 payments in full, whether court ordered or by agreement with the
34 local child support agency, on a judgment for reimbursement for
35 public assistance, or has obtained a judicial finding that equitable
36 estoppel as provided in statute or case law precludes enforcement
37 of the order. The local child support agency is authorized to use
38 this section to enforce orders for spousal support only when the
39 local child support agency is also enforcing a related child support

1 obligation owed to the obligee parent by the same obligor, pursuant
2 to Sections 17400 and 17604.

3 (5) “License” includes membership in the State Bar, and a
4 certificate, credential, permit, registration, or any other
5 authorization issued by a board that allows a person to engage in
6 a business, occupation, or profession, or to operate a commercial
7 motor vehicle, including appointment and commission by the
8 Secretary of State as a notary public. “License” also includes any
9 driver’s license issued by the Department of Motor Vehicles, any
10 commercial fishing license issued by the Department of Fish and
11 Game, and to the extent required by federal law or regulations,
12 any license used for recreational purposes. This term includes all
13 licenses, certificates, credentials, permits, registrations, or any
14 other authorization issued by a board that allows a person to engage
15 in a business, occupation, or profession. The failure to specifically
16 name a particular type of license, certificate, credential, permit,
17 registration, or other authorization issued by a board that allows
18 a person to engage in a business, occupation, or profession, does
19 not exclude that license, certificate, credential, permit, registration,
20 or other authorization from this term.

21 (6) “Licensee” means any person holding a license, certificate,
22 credential, permit, registration, or other authorization issued by a
23 board, to engage in a business, occupation, or profession, or a
24 commercial driver’s license as defined in Section 15210 of the
25 Vehicle Code, including an appointment and commission by the
26 Secretary of State as a notary public. “Licensee” also means any
27 person holding a driver’s license issued by the Department of
28 Motor Vehicles, any person holding a commercial fishing license
29 issued by the Department of Fish and Game, and to the extent
30 required by federal law or regulations, any person holding a license
31 used for recreational purposes. This term includes all persons
32 holding a license, certificate, credential, permit, registration, or
33 any other authorization to engage in a business, occupation, or
34 profession, and the failure to specifically name a particular type
35 of license, certificate, credential, permit, registration, or other
36 authorization issued by a board does not exclude that person from
37 this term. For licenses issued to an entity that is not an individual
38 person, “licensee” includes any individual who is either listed on
39 the license or who qualifies for the license.

1 (b) The local child support agency shall maintain a list of those
2 persons included in a case being enforced under Title IV-D of the
3 Social Security Act against whom a support order or judgment has
4 been rendered by, or registered in, a court of this state, and who
5 are not in compliance with that order or judgment. The local child
6 support agency shall submit a certified list with the names, social
7 security numbers, and last known addresses of these persons and
8 the name, address, and telephone number of the local child support
9 agency who certified the list to the department. The local child
10 support agency shall verify, under penalty of perjury, that the
11 persons listed are subject to an order or judgment for the payment
12 of support and that these persons are not in compliance with the
13 order or judgment. The local child support agency shall submit to
14 the department an updated certified list on a monthly basis.

15 (c) The department shall consolidate the certified lists received
16 from the local child support agencies and, within 30 calendar days
17 of receipt, shall provide a copy of the consolidated list to each
18 board that is responsible for the regulation of licenses, as specified
19 in this section.

20 (d) On or before November 1, 1992, or as soon thereafter as
21 economically feasible, as determined by the department, all boards
22 subject to this section shall implement procedures to accept and
23 process the list provided by the department, in accordance with
24 this section. Notwithstanding any other law, all boards shall collect
25 social security numbers from all applicants for the purposes of
26 matching the names of the certified list provided by the department
27 to applicants and licensees and of responding to requests for this
28 information made by child support agencies.

29 (e) (1) Promptly after receiving the certified consolidated list
30 from the department, and prior to the issuance or renewal of a
31 license, each board shall determine whether the applicant is on the
32 most recent certified consolidated list provided by the department.
33 The board shall have the authority to withhold issuance or renewal
34 of the license of any applicant on the list.

35 (2) If an applicant is on the list, the board shall immediately
36 serve notice as specified in subdivision (f) on the applicant of the
37 board's intent to withhold issuance or renewal of the license. The
38 notice shall be made personally or by mail to the applicant's last
39 known mailing address on file with the board. Service by mail

1 shall be complete in accordance with Section 1013 of the Code of
2 Civil Procedure.

3 (A) The board shall issue a temporary license valid for a period
4 of 150 days to any applicant whose name is on the certified list if
5 the applicant is otherwise eligible for a license.

6 (B) Except as provided in subparagraph (D), the 150-day time
7 period for a temporary license shall not be extended. Except as
8 provided in subparagraph (D), only one temporary license shall
9 be issued during a regular license term and it shall coincide with
10 the first 150 days of that license term. As this paragraph applies
11 to commercial driver's licenses, "license term" shall be deemed
12 to be 12 months from the date the application fee is received by
13 the Department of Motor Vehicles. A license for the full or
14 remainder of the license term shall be issued or renewed only upon
15 compliance with this section.

16 (C) In the event that a license or application for a license or the
17 renewal of a license is denied pursuant to this section, any funds
18 paid by the applicant or licensee shall not be refunded by the board.

19 (D) This paragraph shall apply only in the case of a driver's
20 license, other than a commercial driver's license. Upon the request
21 of the local child support agency or by order of the court upon a
22 showing of good cause, the board shall extend a 150-day temporary
23 license for a period not to exceed 150 extra days.

24 (3) (A) The department may, when it is economically feasible
25 for the department and the boards to do so as determined by the
26 department, in cases where the department is aware that certain
27 child support obligors listed on the certified lists have been out of
28 compliance with a judgment or order for support for more than
29 four months, provide a supplemental list of these obligors to each
30 board with which the department has an interagency agreement to
31 implement this paragraph. Upon request by the department, the
32 licenses of these obligors shall be subject to suspension, provided
33 that the licenses would not otherwise be eligible for renewal within
34 six months from the date of the request by the department. The
35 board shall have the authority to suspend the license of any licensee
36 on this supplemental list.

37 (B) If a licensee is on a supplemental list, the board shall
38 immediately serve notice as specified in subdivision (f) on the
39 licensee that his or her license will be automatically suspended
40 150 days after notice is served, unless compliance with this section

1 is achieved. The notice shall be made personally or by mail to the
2 licensee’s last known mailing address on file with the board.
3 Service by mail shall be complete in accordance with Section 1013
4 of the Code of Civil Procedure.

5 (C) The 150-day notice period shall not be extended.

6 (D) In the event that any license is suspended pursuant to this
7 section, any funds paid by the licensee shall not be refunded by
8 the board.

9 (E) This paragraph shall not apply to licenses subject to annual
10 renewal or annual fee.

11 (f) Notices shall be developed by each board in accordance with
12 guidelines provided by the department and subject to approval by
13 the department. The notice shall include the address and telephone
14 number of the local child support agency that submitted the name
15 on the certified list, and shall emphasize the necessity of obtaining
16 a release from that local child support agency as a condition for
17 the issuance, renewal, or continued valid status of a license or
18 licenses.

19 (1) In the case of applicants not subject to paragraph (3) of
20 subdivision (e), the notice shall inform the applicant that the board
21 shall issue a temporary license, as provided in subparagraph (A)
22 of paragraph (2) of subdivision (e), for 150 calendar days if the
23 applicant is otherwise eligible and that upon expiration of that time
24 period the license will be denied unless the board has received a
25 release from the local child support agency that submitted the name
26 on the certified list.

27 (2) In the case of licensees named on a supplemental list, the
28 notice shall inform the licensee that his or her license will continue
29 in its existing status for no more than 150 calendar days from the
30 date of mailing or service of the notice and thereafter will be
31 suspended indefinitely unless, during the 150-day notice period,
32 the board has received a release from the local child support agency
33 that submitted the name on the certified list. Additionally, the
34 notice shall inform the licensee that any license suspended under
35 this section will remain so until the expiration of the remaining
36 license term, unless the board receives a release along with
37 applications and fees, if applicable, to reinstate the license during
38 the license term.

39 (3) The notice shall also inform the applicant or licensee that if
40 an application is denied or a license is suspended pursuant to this

1 section, any funds paid by the applicant or licensee shall not be
2 refunded by the board. The Department of Child Support Services
3 shall also develop a form that the applicant shall use to request a
4 review by the local child support agency. A copy of this form shall
5 be included with every notice sent pursuant to this subdivision.

6 (g) (1) Each local child support agency shall maintain review
7 procedures consistent with this section to allow an applicant to
8 have the underlying arrearage and any relevant defenses
9 investigated, to provide an applicant information on the process
10 of obtaining a modification of a support order, or to provide an
11 applicant assistance in the establishment of a payment schedule
12 on arrearages if the circumstances so warrant.

13 (2) It is the intent of the Legislature that a court or local child
14 support agency, when determining an appropriate payment schedule
15 for arrearages, base its decision on the facts of the particular case
16 and the priority of payment of child support over other debts. The
17 payment schedule shall also recognize that certain expenses may
18 be essential to enable an obligor to be employed. Therefore, in
19 reaching its decision, the court or the local child support agency
20 shall consider both of these goals in setting a payment schedule
21 for arrearages.

22 (h) If the applicant wishes to challenge the submission of his
23 or her name on the certified list, the applicant shall make a timely
24 written request for review to the local child support agency who
25 certified the applicant's name. A request for review pursuant to
26 this section shall be resolved in the same manner and timeframe
27 provided for resolution of a complaint pursuant to Section 17800.
28 The local child support agency shall immediately send a release
29 to the appropriate board and the applicant, if any of the following
30 conditions are met:

31 (1) The applicant is found to be in compliance or negotiates an
32 agreement with the local child support agency for a payment
33 schedule on arrearages or reimbursement.

34 (2) The applicant has submitted a request for review, but the
35 local child support agency will be unable to complete the review
36 and send notice of its findings to the applicant within the time
37 specified in Section 17800.

38 (3) The applicant has filed and served a request for judicial
39 review pursuant to this section, but a resolution of that review will
40 not be made within 150 days of the date of service of notice

1 pursuant to subdivision (f). This paragraph applies only if the delay
2 in completing the judicial review process is not the result of the
3 applicant's failure to act in a reasonable, timely, and diligent
4 manner upon receiving the local child support agency's notice of
5 findings.

6 (4) The applicant has obtained a judicial finding of compliance
7 as defined in this section.

8 (i) An applicant is required to act with diligence in responding
9 to notices from the board and the local child support agency with
10 the recognition that the temporary license will lapse or the license
11 suspension will go into effect after 150 days and that the local
12 child support agency and, where appropriate, the court must have
13 time to act within that period. An applicant's delay in acting,
14 without good cause, which directly results in the inability of the
15 local child support agency to complete a review of the applicant's
16 request or the court to hear the request for judicial review within
17 the 150-day period shall not constitute the diligence required under
18 this section which would justify the issuance of a release.

19 (j) Except as otherwise provided in this section, the local child
20 support agency shall not issue a release if the applicant is not in
21 compliance with the judgment or order for support. The local child
22 support agency shall notify the applicant in writing that the
23 applicant may, by filing an order to show cause or notice of motion,
24 request any or all of the following:

25 (1) Judicial review of the local child support agency's decision
26 not to issue a release.

27 (2) A judicial determination of compliance.

28 (3) A modification of the support judgment or order.

29 The notice shall also contain the name and address of the court
30 in which the applicant shall file the order to show cause or notice
31 of motion and inform the applicant that his or her name shall
32 remain on the certified list if the applicant does not timely request
33 judicial review. The applicant shall comply with all statutes and
34 rules of court regarding orders to show cause and notices of motion.

35 ~~Nothing in this~~

36 *This* section shall *not* be deemed to limit an applicant from filing
37 an order to show cause or notice of motion to modify a support
38 judgment or order or to fix a payment schedule on arrearages
39 accruing under a support judgment or order or to obtain a court
40 finding of compliance with a judgment or order for support.

1 (k) The request for judicial review of the local child support
2 agency's decision shall state the grounds for which review is
3 requested and judicial review shall be limited to those stated
4 grounds. The court shall hold an evidentiary hearing within 20
5 calendar days of the filing of the request for review. Judicial review
6 of the local child support agency's decision shall be limited to a
7 determination of each of the following issues:

8 (1) Whether there is a support judgment, order, or payment
9 schedule on arrearages or reimbursement.

10 (2) Whether the petitioner is the obligor covered by the support
11 judgment or order.

12 (3) Whether the support obligor is or is not in compliance with
13 the judgment or order of support.

14 (4) (A) The extent to which the needs of the obligor, taking
15 into account the obligor's payment history and the current
16 circumstances of both the obligor and the obligee, warrant a
17 conditional release as described in this subdivision.

18 (B) The request for judicial review shall be served by the
19 applicant upon the local child support agency that submitted the
20 applicant's name on the certified list within seven calendar days
21 of the filing of the petition. The court has the authority to uphold
22 the action, unconditionally release the license, or conditionally
23 release the license.

24 (C) If the judicial review results in a finding by the court that
25 the obligor is in compliance with the judgment or order for support,
26 the local child support agency shall immediately send a release in
27 accordance with subdivision (l) to the appropriate board and the
28 applicant. If the judicial review results in a finding by the court
29 that the needs of the obligor warrant a conditional release, the court
30 shall make findings of fact stating the basis for the release and the
31 payment necessary to satisfy the unrestricted issuance or renewal
32 of the license without prejudice to a later judicial determination
33 of the amount of support arrearages, including interest, and shall
34 specify payment terms, compliance with which are necessary to
35 allow the release to remain in effect.

36 (l) The department shall prescribe release forms for use by local
37 child support agencies. When the obligor is in compliance, the
38 local child support agency shall mail to the applicant and the
39 appropriate board a release stating that the applicant is in
40 compliance. The receipt of a release shall serve to notify the

1 applicant and the board that, for the purposes of this section, the
2 applicant is in compliance with the judgment or order for support.
3 Any board that has received a release from the local child support
4 agency pursuant to this subdivision shall process the release within
5 five business days of its receipt.

6 If the local child support agency determines subsequent to the
7 issuance of a release that the applicant is once again not in
8 compliance with a judgment or order for support, or with the terms
9 of repayment as described in this subdivision, the local child
10 support agency may notify the board, the obligor, and the
11 department in a format prescribed by the department that the
12 obligor is not in compliance.

13 The department may, when it is economically feasible for the
14 department and the boards to develop an automated process for
15 complying with this subdivision, notify the boards in a manner
16 prescribed by the department, that the obligor is once again not in
17 compliance. Upon receipt of this notice, the board shall
18 immediately notify the obligor on a form prescribed by the
19 department that the obligor’s license will be suspended on a
20 specific date, and this date shall be no longer than 30 days from
21 the date the form is mailed. The obligor shall be further notified
22 that the license will remain suspended until a new release is issued
23 in accordance with subdivision (h). Nothing in this section shall
24 be deemed to limit the obligor from seeking judicial review of
25 suspension pursuant to the procedures described in subdivision
26 (k).

27 (m) The department may enter into interagency agreements with
28 the state agencies that have responsibility for the administration
29 of boards necessary to implement this section, to the extent that it
30 is cost-effective to implement this section. These agreements shall
31 provide for the receipt by the other state agencies and boards of
32 federal funds to cover that portion of costs allowable in federal
33 law and regulation and incurred by the state agencies and boards
34 in implementing this section. Notwithstanding any other provision
35 of law, revenue generated by a board or state agency shall be used
36 to fund the nonfederal share of costs incurred pursuant to this
37 section. These agreements shall provide that boards shall reimburse
38 the department for the nonfederal share of costs incurred by the
39 department in implementing this section. The boards shall
40 reimburse the department for the nonfederal share of costs incurred

1 pursuant to this section from moneys collected from applicants
2 and licensees.

3 (n) Notwithstanding any other ~~provision of law~~, in order for the
4 boards subject to this section to be reimbursed for the costs incurred
5 in administering its provisions, the boards may, with the approval
6 of the appropriate department director, levy on all licensees and
7 applicants a surcharge on any fee or fees collected pursuant to law,
8 or, alternatively, with the approval of the appropriate department
9 director, levy on the applicants or licensees named on a certified
10 list or supplemental list, a special fee.

11 (o) The process described in subdivision (h) shall constitute the
12 sole administrative remedy for contesting the issuance of a
13 temporary license or the denial or suspension of a license under
14 this section. The procedures specified in the administrative
15 adjudication provisions of the Administrative Procedure Act
16 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
17 (commencing with Section 11500) of Part 1 of Division 3 of Title
18 2 of the Government Code) shall not apply to the denial,
19 suspension, or failure to issue or renew a license or the issuance
20 of a temporary license pursuant to this section.

21 (p) In furtherance of the public policy of increasing child support
22 enforcement and collections, on or before November 1, 1995, the
23 State Department of Social Services shall make a report to the
24 Legislature and the Governor based on data collected by the boards
25 and the district attorneys in a format prescribed by the State
26 Department of Social Services. The report shall contain all of the
27 following:

28 (1) The number of delinquent obligors certified by district
29 attorneys under this section.

30 (2) The number of support obligors who also were applicants
31 or licensees subject to this section.

32 (3) The number of new licenses and renewals that were delayed,
33 temporary licenses issued, and licenses suspended subject to this
34 section and the number of new licenses and renewals granted and
35 licenses reinstated following board receipt of releases as provided
36 by subdivision (h) by May 1, 1995.

37 (4) The costs incurred in the implementation and enforcement
38 of this section.

39 (q) Any board receiving an inquiry as to the licensed status of
40 an applicant or licensee who has had a license denied or suspended

1 under this section or has been granted a temporary license under
2 this section shall respond only that the license was denied or
3 suspended or the temporary license was issued pursuant to this
4 section. Information collected pursuant to this section by any state
5 agency, board, or department shall be subject to the Information
6 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
7 of Title 1.8 of Part 4 of Division 3 of the Civil Code).

8 (r) Any rules and regulations issued pursuant to this section by
9 any state agency, board, or department may be adopted as
10 emergency regulations in accordance with the rulemaking
11 provisions of the Administrative Procedure Act (Chapter 3.5
12 (commencing with Section 11340) of Part 1 of Division 3 of Title
13 2 of the Government Code). The adoption of these regulations
14 shall be deemed an emergency and necessary for the immediate
15 preservation of the public peace, health, and safety, or general
16 welfare. The regulations shall become effective immediately upon
17 filing with the Secretary of State.

18 (s) The department and boards, as appropriate, shall adopt
19 regulations necessary to implement this section.

20 (t) The Judicial Council shall develop the forms necessary to
21 implement this section, except as provided in subdivisions (f) and
22 (l).

23 (u) The release or other use of information received by a board
24 pursuant to this section, except as authorized by this section, is
25 punishable as a misdemeanor.

26 (v) The State Board of Equalization shall enter into interagency
27 agreements with the department and the Franchise Tax Board that
28 will require the department and the Franchise Tax Board to
29 maximize the use of information collected by the State Board of
30 Equalization, for child support enforcement purposes, to the extent
31 it is cost-effective and permitted by the Revenue and Taxation
32 Code.

33 (w) (1) The suspension or revocation of any driver's license,
34 including a commercial driver's license, under this section shall
35 not subject the licensee to vehicle impoundment pursuant to Section
36 14602.6 of the Vehicle Code.

37 (2) Notwithstanding any other ~~provision~~ of law, the suspension
38 or revocation of any driver's license, including a commercial
39 driver's license, under this section shall not subject the licensee
40 to increased costs for vehicle liability insurance.

1 (x) If any provision of this section or the application thereof to
2 any person or circumstance is held invalid, that invalidity shall not
3 affect other provisions or applications of this section which can
4 be given effect without the invalid provision or application, and
5 to this end the provisions of this section are severable.

6 (y) All rights to administrative and judicial review afforded by
7 this section to an applicant shall also be afforded to a licensee.

8 *SEC. 86. Section 125 of the Financial Code is amended to*
9 *read:*

10 125. “Commissioner” means the Commissioner of ~~Financial~~
11 ~~Institutions Business Oversight~~ and “department” means the
12 Department of ~~Financial Institutions Business Oversight~~.

13 *SEC. 87. The heading of Chapter 3 (commencing with Section*
14 *300) of Division 1 of the Financial Code is amended to read:*

15
16 CHAPTER 3. DEPARTMENT OF ~~FINANCIAL INSTITUTIONS~~
17 *BUSINESS OVERSIGHT*
18

19 *SEC. 88. The heading of Article 2 (commencing with Section*
20 *320) of Chapter 3 of Division 1 of the Financial Code is amended*
21 *to read:*

22
23 Article 2. Commissioner of ~~Financial Institutions Business~~
24 *Oversight*
25

26 *SEC. 89. Section 320 of the Financial Code is amended to*
27 *read:*

28 320. The chief officer of the Department of ~~Financial~~
29 ~~Institutions Business Oversight~~ is the Commissioner of ~~Financial~~
30 ~~Institutions Business Oversight~~. The Commissioner of ~~Financial~~
31 ~~Institutions Business Oversight~~ is the head of the department *with*
32 *the authority and responsibility over all officers, employees, and*
33 *activities in the department* and, except as otherwise provided in
34 this code, is subject to the provisions of the Government Code
35 relating to department heads, but need not reside in Sacramento.

36 *SEC. 90. Section 321 of the Financial Code is repealed.*

37 ~~321. As of the operative date of this section:~~

38 (a) ~~In this section, “order” means any approval, consent,~~
39 ~~authorization, exemption, denial, prohibition, requirement, or other~~
40 ~~administrative action, applicable to a specific case.~~

1 ~~(b) The office of the Superintendent of Banks and the State~~
2 ~~Banking Department are abolished. All powers, duties,~~
3 ~~responsibilities, and functions of the Superintendent of Banks and~~
4 ~~the State Banking Department are transferred to the Commissioner~~
5 ~~of Financial Institutions and the Department of Financial~~
6 ~~Institutions, respectively. The Commissioner of Financial~~
7 ~~Institutions and the Department of Financial Institutions succeed~~
8 ~~to all the rights and property of the Superintendent of Banks and~~
9 ~~the State Banking Department, respectively; the Commissioner of~~
10 ~~Financial Institutions and the Department of Financial Institutions~~
11 ~~are subject to all the debts and liabilities of the Superintendent of~~
12 ~~Banks and the State Banking Department, respectively, as if the~~
13 ~~Commissioner of Financial Institutions and the Department of~~
14 ~~Financial Institutions had incurred them. Any action or proceeding~~
15 ~~by or against the Superintendent of Banks or the State Banking~~
16 ~~Department may be prosecuted to judgment, which shall bind the~~
17 ~~Commissioner of Financial Institutions or the Department of~~
18 ~~Financial Institutions, respectively, or the Commissioner of~~
19 ~~Financial Institutions or the Department of Financial Institutions~~
20 ~~may be proceeded against or substituted in place of the~~
21 ~~Superintendent of Banks or the State Banking Department,~~
22 ~~respectively. References in the Constitution of the State of~~
23 ~~California or in any statute or regulation to the Superintendent of~~
24 ~~Banks or to the State Banking Department mean the Commissioner~~
25 ~~of Financial Institutions or the Department of Financial Institutions,~~
26 ~~respectively. All agreements entered into with, and orders and~~
27 ~~regulations issued by, the Superintendent of Banks or the State~~
28 ~~Banking Department shall continue in effect as if the agreements~~
29 ~~were entered into with, and the orders and regulations were issued~~
30 ~~by, the Commissioner of Financial Institutions or the Department~~
31 ~~of Financial Institutions, respectively.~~

32 ~~(c) The office of the Savings and Loan Commissioner and the~~
33 ~~Department of Savings and Loan are abolished. All powers, duties,~~
34 ~~responsibilities, and functions of the Savings and Loan~~
35 ~~Commissioner and the Department of Savings and Loan are~~
36 ~~transferred to the Commissioner of Financial Institutions and the~~
37 ~~Department of Financial Institutions, respectively. The~~
38 ~~Commissioner of Financial Institutions and the Department of~~
39 ~~Financial Institutions succeed to all the rights and property of the~~
40 ~~Savings and Loan Commissioner and the Department of Savings~~

1 and Loan, respectively; the Commissioner of Financial Institutions
2 and the Department of Financial Institutions are subject to all the
3 debts and liabilities of the Savings and Loan Commissioner and
4 the Department of Savings and Loan, respectively, as if the
5 Commissioner of Financial Institutions and the Department of
6 Financial Institutions had incurred them. Any action or proceeding
7 by or against the Savings and Loan Commissioner or the
8 Department of Savings and Loan may be prosecuted to judgment,
9 which shall bind the Commissioner of Financial Institutions or the
10 Department of Financial Institutions, respectively, or the
11 Commissioner of Financial Institutions or the Department of
12 Financial Institutions may be proceeded against or substituted in
13 place of the Savings and Loan Commissioner or the Department
14 of Savings and Loan, respectively. References in the Constitution
15 of the State of California or in any statute or regulation to the
16 Savings and Loan Commissioner or to the Department of Savings
17 and Loan mean the Commissioner of Financial Institutions or the
18 Department of Financial Institutions, respectively. All agreements
19 entered into with, and orders and regulations issued by, the Savings
20 and Loan Commissioner or the Department of Savings and Loan
21 shall continue in effect as if the agreements were entered into with,
22 and the orders and regulations were issued by, the Commissioner
23 of Financial Institutions or the Department of Financial Institutions.

24 (d) All powers, duties, responsibilities, and functions of the
25 Commissioner of Corporations and the Department of Corporations
26 with respect to credit unions, the credit union business, industrial
27 loan companies, or the industrial loan business are transferred to
28 the Commissioner of Financial Institutions and the Department of
29 Financial Institutions, respectively. The Commissioner of Financial
30 Institutions and the Department of Financial Institutions succeed
31 to all the rights and property of the Commissioner of Corporations
32 and the Department of Corporations, respectively, with respect to
33 credit unions, the credit union business, industrial loan companies,
34 or the industrial loan business; the Commissioner of Financial
35 Institutions and the Department of Financial Institutions are subject
36 to all the debts and liabilities of the Commissioner of Corporations
37 and the Department of Corporations, respectively, with respect to
38 credit unions, the credit union business, industrial loan companies,
39 or the industrial loan business, as if the Commissioner of Financial
40 Institutions and the Department of Financial Institutions had

1 incurred them. Any action or proceeding by or against the
2 Commissioner of Corporations or the Department of Corporations
3 with respect to credit unions, the credit union business, industrial
4 loan companies, or the industrial loan business may be prosecuted
5 to judgment, which shall bind the Commissioner of Financial
6 Institutions or the Department of Financial Institutions,
7 respectively, or the Commissioner of Financial Institutions or the
8 Department of Financial Institutions may be proceeded against or
9 substituted in place of the Commissioner of Corporations or the
10 Department of Corporations, respectively. References in the
11 Constitution of the State of California or any statute or regulation
12 to the Commissioner of Corporations or to the Department of
13 Corporations with respect to credit unions, the credit union
14 business, industrial loan companies, or the industrial loan business
15 mean the Commissioner of Financial Institutions or the Department
16 of Financial Institutions, respectively. All agreements entered into
17 with, and orders and regulations issued by, the Commissioner of
18 Corporations or the Department of Corporations in the exercise of
19 authority under any law relating to credit unions, the credit union
20 business, industrial loan companies, or the industrial loan business,
21 shall continue in effect as if the agreements were entered into with,
22 and the orders and regulations were issued by, the Commissioner
23 of Financial Institutions or the Department of Financial Institutions.

24 *SEC. 91. Section 321 is added to the Financial Code, to read:*

25 *321. (a) In this section, "order" means any approval, consent,*
26 *authorization, exemption, denial, prohibition, requirement, or*
27 *other administrative action, applicable to a specific case.*

28 *(b) The office of the Commissioner of Financial Institutions and*
29 *the Department of Financial Institutions are abolished. All powers,*
30 *duties, responsibilities, and functions of the Commissioner of*
31 *Financial Institutions and the Department of Financial Institutions*
32 *are transferred to the Commissioner of Business Oversight and*
33 *the Department of Business Oversight, respectively. The*
34 *Commissioner of Business Oversight and the Department of*
35 *Business Oversight succeed to all of the rights and property of the*
36 *Commissioner of Financial Institutions and Department of*
37 *Financial Institutions, respectively; the Commissioner of Business*
38 *Oversight and the Department of Business Oversight are subject*
39 *to all the debts and liabilities of the Commissioner of Financial*
40 *Institutions and the Department of Financial Institutions,*

1 *respectively, as if the Commissioner of Business Oversight and*
2 *the Department of Business Oversight had incurred them. Any*
3 *action or proceeding by or against the Commissioner of Financial*
4 *Institutions or the Department of Financial Institutions may be*
5 *prosecuted to judgment, which shall bind the Commissioner of*
6 *Business Oversight or the Department of Business Oversight,*
7 *respectively, or the Commissioner of Business Oversight or the*
8 *Department of Business Oversight may be proceeded against or*
9 *substituted in place of the Commissioner of Financial Institutions*
10 *or the Department of Financial Institutions, respectively.*
11 *References in the California Constitution or in any statute or*
12 *regulation to the Superintendent of Banks or the Commissioner of*
13 *Financial Institutions or to the State Banking Department or the*
14 *Department of Financial Institutions mean the Commissioner of*
15 *Business Oversight or the Department of Business Oversight,*
16 *respectively. All agreements entered into with, and orders and*
17 *regulations issued by, the Commissioner of Financial Institutions*
18 *or the Department of Financial Institutions shall continue in effect*
19 *as if the agreements were entered into with, and the orders and*
20 *regulations were issued by, the Commissioner of Business*
21 *Oversight or the Department of Business Oversight, respectively.*

22 *(c) The office of the Commissioner of Corporations and the*
23 *Department of Corporations are abolished. All powers, duties,*
24 *responsibilities, and functions of the Commissioner of Corporations*
25 *and the Department of Corporations are transferred to the*
26 *Commissioner of Business Oversight and the Department of*
27 *Business Oversight, respectively. The Commissioner of Business*
28 *Oversight and the Department of Business Oversight succeed to*
29 *all of the rights and property of the Commissioner of Corporations*
30 *and Department of Corporations, respectively; the Commissioner*
31 *of Business Oversight and the Department of Business Oversight*
32 *are subject to all the debts and liabilities of the Commissioner of*
33 *Corporations and the Department of Corporations, respectively,*
34 *as if the Commissioner of Business Oversight and the Department*
35 *of Business Oversight had incurred them. Any action or proceeding*
36 *by or against the Commissioner of Corporations or the Department*
37 *of Corporations may be prosecuted to judgment, which shall bind*
38 *the Commissioner of Business Oversight or the Department of*
39 *Business Oversight, respectively, or the Commissioner of Business*
40 *Oversight or the Department of Business Oversight may be*

1 *proceeded against or substituted in place of the Commissioner of*
2 *Corporations or the Department of Corporations, respectively.*
3 *References in the California Constitution or in any statute or*
4 *regulation to the Commissioner of Corporations or the Department*
5 *of Corporations mean the Commissioner of Business Oversight*
6 *or the Department of Business Oversight, respectively. All*
7 *agreements entered into with, and orders and regulations issued*
8 *by, the Commissioner of Corporations or the Department of*
9 *Corporations shall continue in effect as if the agreements were*
10 *entered into with, and the orders and regulations were issued by,*
11 *the Commissioner of Business Oversight or the Department of*
12 *Business Oversight, respectively.*

13 *SEC. 92. Section 351 of the Financial Code is repealed.*

14 ~~351. The Chief Officer of the Division of Credit Unions is the~~
15 ~~Deputy Commissioner of Financial Institutions for the Division~~
16 ~~of Credit Unions. The Deputy Commissioner of Financial~~
17 ~~Institutions for the Division of Credit Unions shall administer the~~
18 ~~laws of this state relating to credit unions or the credit union~~
19 ~~business under the direction of the commissioner. The Deputy~~
20 ~~Commissioner of Financial Institutions for the Division of Credit~~
21 ~~Unions shall be appointed by the Governor and shall hold office~~
22 ~~at the pleasure of the Governor. The Deputy Commissioner of~~
23 ~~Financial Institutions shall receive an annual salary as fixed by the~~
24 ~~Governor.~~

25 *SEC. 93. Section 351 is added to the Financial Code, to read:*

26 *351. (a) The chief officer of the Division of Corporations is*
27 *the Deputy Commissioner of Business Oversight for the Division*
28 *of Corporations. The Deputy Commissioner of Business Oversight*
29 *for the Division of Corporations shall, under the direction of the*
30 *commissioner, administer the laws of this state that were, prior to*
31 *July 1, 2013, under the charge of the Department of Corporations.*
32 *The Deputy Commissioner of Business Oversight for the Division*
33 *of Corporations shall be appointed by the Governor and shall hold*
34 *office at the pleasure of the Governor. The Deputy Commissioner*
35 *of Business Oversight for the Division of Corporations shall receive*
36 *an annual salary as fixed by the Governor.*

37 *(b) The chief officer of the Division of Financial Institutions is*
38 *the Deputy Commissioner of Business Oversight for the Division*
39 *of Financial Institutions. The Deputy Commissioner of Business*
40 *Oversight for the Division of Financial Institutions shall, under*

1 *the direction of the commissioner, administer the laws of this state*
2 *that were, prior to July 1, 2013, under the charge of the*
3 *Department of Financial Institutions. The Deputy Commissioner*
4 *of Business Oversight for the Division of Financial Institutions*
5 *shall be appointed by the Governor and shall hold office at the*
6 *pleasure of the Governor. The Deputy Commissioner of Business*
7 *Oversight for the Division of Financial Institutions shall receive*
8 *an annual salary as fixed by the Governor.*

9 *SEC. 94. Section 371 of the Financial Code is repealed.*

10 ~~371. There is in the Department of Financial Institutions, the~~
11 ~~Division of Credit Unions. The Division of Credit Unions has~~
12 ~~charge of the execution of the laws of this state relating to credit~~
13 ~~unions and to the credit union business.~~

14 *SEC. 95. Section 371 is added to the Financial Code, to read:*

15 *371. (a) There is in the Department of Business Oversight, the*
16 *Division of Corporations. The Division of Corporations has charge*
17 *of the execution of the laws of the state that were, prior to July 1,*
18 *2013, under the charge of the Department of Corporations.*

19 *(b) There is in the Department of Business Oversight, the*
20 *Division of Financial Institutions. The Division of Financial*
21 *Institutions has charge of the execution of the laws of the state*
22 *that were, prior to July 1, 2013, under the charge of the*
23 *Department of Financial Institutions.*

24 *SEC. 96. Section 2003 of the Financial Code is amended to*
25 *read:*

26 *2003. For purposes of this division, the following definitions*
27 *shall apply:*

28 *(a) "Affiliate," when used with respect to a specified person,*
29 *means any person controlling, controlled by, or under common*
30 *control with, that specified person, directly or indirectly through*
31 *one or more intermediaries. For purposes of subdivisions (q) and*
32 *(v), a specified person is affiliated with another person if that*
33 *person controls, is controlled by, or under common control through*
34 *the ownership directly or indirectly of shares or equity securities*
35 *possessing more than 50 percent of the voting power of that*
36 *specified person.*

37 *(b) "Agent" means a person that provides money transmission*
38 *in California on behalf of the licensee, provided that the licensee*
39 *becomes liable for the money transmission from the time money*
40 *or monetary value is received by that person. However, "agent"*

1 does not include any officer or employee of the licensee when
2 acting as such at an office of a licensee.

3 (c) “Applicant” means a person that files an application for a
4 license or for acquisition of control of a licensee under this division.

5 (d) “Average daily outstanding” means the amount of
6 outstanding money transmission obligations in California at the
7 end of each day in a given period of time, added together, and
8 divided by the total number of days in that period of time.

9 (e) “Branch office” means any office in this state of a licensee
10 or agent at which the licensee receives money or monetary value
11 to provide money transmission, either directly or through an agent.

12 (f) “Business day” means one of the following:

13 (1) When used with respect to any act to be performed in this
14 state, any day other than Saturday, Sunday, or any other day that
15 is provided for as a holiday in the Government Code.

16 (2) When used with respect to any act to be performed in any
17 jurisdiction other than this state, any day other than a day that is
18 a legal holiday under the laws of that jurisdiction.

19 (g) “Commissioner” means the Commissioner of ~~Financial~~
20 ~~Institutions~~ *Business Oversight*.

21 (h) “Control” has the meaning set forth in Section 1250.

22 (i) “Day” means calendar day.

23 (j) “In California” or “in this state” means physically located
24 in California, or with, to, or from persons located in California.

25 (k) “Issue” and “issuer” mean, with regard to a payment
26 instrument, the entity that is the maker or drawer of the instrument
27 in accordance with the California Commercial Code and is liable
28 for payment. With regard to stored value, “issue” and “issuer”
29 mean the entity that is liable to the holder of stored value and has
30 undertaken or is obligated to pay the stored value. Only a licensee
31 may issue stored value or payment instruments.

32 (l) “Licensee” means a corporation or limited liability company
33 licensed under this division.

34 (m) “Monetary value” means a medium of exchange, whether
35 or not redeemable in money.

36 (n) “Money” means a medium of exchange that is authorized
37 or adopted by the United States or a foreign government. The term
38 includes a monetary unit of account established by an
39 intergovernmental organization or by agreement between two or
40 more governments.

1 (o) “Money transmission” means any of the following:

2 (1) Selling or issuing payment instruments.

3 (2) Selling or issuing stored value.

4 (3) Receiving money for transmission.

5 (p) “Outstanding,” with respect to payment instruments and
6 stored value, means issued or sold by the licensee in the United
7 States and not yet paid or refunded by the licensee, or issued or
8 sold on behalf of the licensee in the United States by its agent and
9 reported as sold, but not yet paid or refunded by the licensee.

10 “Outstanding,” with respect to receiving money for transmission
11 means all money or monetary value received in the United States
12 for transmission by the licensee or its agents but not yet paid to
13 the beneficiaries or refunded to the person from whom the money
14 or monetary value was received. All outstanding money
15 transmission of a licensee is and shall remain a liability of the
16 licensee until it is no longer outstanding.

17 (q) “Payment instrument” means a check, draft, money order,
18 traveler’s check, or other instrument for the transmission or
19 payment of money or monetary value, whether or not negotiable.
20 The term does not include a credit card voucher, letter of credit,
21 or any instrument that is redeemable by the issuer for goods or
22 services provided by the issuer or its affiliate.

23 (r) “Person” means an individual, corporation, business trust,
24 estate, trust, partnership, proprietorship, syndicate, limited liability
25 company, association, joint venture, government, governmental
26 subdivision, agency or instrumentality, public corporation or joint
27 stock company, or any other organization or legal or commercial
28 entity, provided, however, that “person,” when used with respect
29 to acquiring control of or controlling a specified person, includes
30 any combination of two or more persons acting in concert.

31 (s) “Receiving money for transmission” or “money received for
32 transmission” means receiving money or monetary value in the
33 United States for transmission within or outside the United States
34 by electronic or other means. The term does not include sale or
35 issuance of payment instruments and stored value.

36 (t) “Record” means information that is inscribed on a tangible
37 medium or that is stored in an electronic or other medium and is
38 retrievable in perceivable form.

39 (u) “State” means a state of the United States, the District of
40 Columbia, Puerto Rico, the United States Virgin Islands, or any

1 territory or insular possession subject to the jurisdiction of the
 2 United States.

3 (v) “Stored value” means monetary value representing a claim
 4 against the issuer that is stored on an electronic or digital medium
 5 and evidenced by an electronic or digital record, and that is
 6 intended and accepted for use as a means of redemption for money
 7 or monetary value or payment for goods or services. The term does
 8 not include a credit card voucher, letter of credit, or any stored
 9 value that is only redeemable by the issuer for goods or services
 10 provided by the issuer or its affiliate, except to the extent required
 11 by applicable law to be redeemable in cash for its cash value.

12 (w) “Traveler’s check” means an instrument that meets all of
 13 the following:

14 (1) Is designated on its face by the term “traveler’s check” or
 15 by any substantially similar term or is commonly known and
 16 marketed as a traveler’s check.

17 (2) Contains a provision for a specimen signature of the
 18 purchaser to be completed at the time of purchase.

19 (3) Contains a provision for a countersignature of the purchaser
 20 to be completed at the time of negotiation.

21 *SEC. 97. Section 4805.055 of the Financial Code is amended*
 22 *to read:*

23 4805.055. “Commissioner” means the *Deputy* Commissioner
 24 of *Business Oversight for the Division of* Financial Institutions.

25 *SEC. 98. Section 4970 of the Financial Code is amended to*
 26 *read:*

27 4970. For purposes of this division:

28 (a) “Annual percentage rate” means the annual percentage rate
 29 for the loan calculated according to the provisions of the federal
 30 Truth in Lending Act and the regulations adopted thereunder by
 31 the Federal Reserve Board.

32 (b) “Covered loan” means a consumer loan in which the original
 33 principal balance of the loan does not exceed the most current
 34 conforming loan limit for a single-family first mortgage loan
 35 established by the Federal National Mortgage Association in the
 36 case of a mortgage or deed of trust, and where one of the following
 37 conditions are met:

38 (1) For a mortgage or deed of trust, the annual percentage rate
 39 at consummation of the transaction will exceed by more than eight
 40 percentage points the yield on Treasury securities having

1 comparable periods of maturity on the 15th day of the month
2 immediately preceding the month in which the application for the
3 extension of credit is received by the creditor.

4 (2) The total points and fees payable by the consumer at or
5 before closing for a mortgage or deed of trust will exceed 6 percent
6 of the total loan amount.

7 (c) “Points and fees” shall include the following:

8 (1) All items required to be disclosed as finance charges under
9 Sections 226.4(a) and 226.4(b) of Title 12 of the Code of Federal
10 Regulations, including the Official Staff Commentary, as amended
11 from time to time, except interest.

12 (2) All compensation and fees paid to mortgage brokers in
13 connection with the loan transaction.

14 (3) All items listed in Section 226.4(c)(7) of Title 12 of the Code
15 of Federal Regulations, only if the person originating the covered
16 loan receives direct compensation in connection with the charge.

17 (d) “Consumer loan” means a consumer credit transaction that
18 is secured by real property located in this state used, or intended
19 to be used or occupied, as the principal dwelling of the consumer
20 that is improved by a one-to-four residential unit. “Consumer loan”
21 does not include a reverse mortgage, an open line of credit as
22 defined in Part 226 of Title 12 of the Code of Federal Regulations
23 (Regulation Z), or a consumer credit transaction that is secured by
24 rental property or second homes. “Consumer loan” does not include
25 a bridge loan. For purposes of this division, a bridge loan is any
26 temporary loan, having a maturity of one year or less, for the
27 purpose of acquisition or construction of a dwelling intended to
28 become the consumer’s principal dwelling.

29 (e) “Original principal balance” means the total initial amount
30 the consumer is obligated to repay on the loan.

31 (f) “Licensing agency” shall mean the ~~Department of Real Estate~~
32 *Bureau of Real Estate* for licensed real estate brokers, the
33 ~~Department of Corporations Business Oversight~~ for licensed
34 residential mortgage lenders ~~and~~, licensed finance lenders and
35 brokers, and the ~~Department of Financial Institutions~~ for
36 commercial and industrial banks and savings associations and
37 credit unions organized in this state.

38 (g) “Licensed person” means a real estate broker licensed under
39 the Real Estate Law (Part 1 (commencing with Section 10000) of
40 Division 4 of the Business and Professions Code), a finance lender

1 or broker licensed under the California Finance Lenders Law
 2 (Division 9 (commencing with Section 22000)), a residential
 3 mortgage lender licensed under the California Residential Mortgage
 4 Lending Act (Division 20 (commencing with Section 50000)), a
 5 commercial or industrial bank organized under the Banking Law
 6 (Division 1 (commencing with Section 99)), a savings association
 7 organized under the Savings Association Law (Division 2
 8 (commencing with Section 5000)), and a credit union organized
 9 under the California Credit Union Law (Division 5 (commencing
 10 with Section 14000)). ~~Nothing in this~~ This division shall *not* be
 11 construed to prevent any enforcement by a governmental entity
 12 against any person who originates a loan and who is exempt or
 13 excluded from licensure by all of the licensing agencies, based on
 14 a violation of any provision of this division. ~~Nothing in this~~ This
 15 division shall *not* be construed to prevent the ~~Department of Real~~
 16 ~~Estate Bureau of Real Estate~~ from enforcing this division against
 17 a licensed salesperson employed by a licensed real estate broker
 18 as if that salesperson were a licensed person under this division.
 19 A licensed person includes any person engaged in the practice of
 20 consumer lending, as defined in this division, for which a license
 21 is required under any other provision of law, but whose license is
 22 invalid, suspended or revoked, or where no license has been
 23 obtained.

24 (h) “Originate” means to arrange, negotiate, or make a consumer
 25 loan.

26 (i) “Servicer” has the same meaning provided in Section 6 (i)(2)
 27 of the Real Estate Settlement Procedures Act of 1974.

28 *SEC. 99. Section 5104 of the Financial Code is amended to*
 29 *read:*

30 5104. “Commissioner” means the *Deputy* Commissioner of
 31 *Business Oversight for the Division of* Financial Institutions.

32 *SEC. 100. Section 5106 of the Financial Code is amended to*
 33 *read:*

34 5106. “Department” means the ~~Department~~ *Division* of
 35 *Financial Institutions in the Department of Business Oversight.*

36 *SEC. 101. Section 12003 of the Financial Code is amended to*
 37 *read:*

38 12003. “Commissioner” means the *Deputy* Commissioner of
 39 ~~Corporations of the State of California~~ *Business Oversight for the*

1 *Division of Corporations*, or any deputy, investigator, auditor, or
2 any other person employed by him or her.

3 *SEC. 102. Section 14003 of the Financial Code is amended to*
4 *read:*

5 14003. “Commissioner” means the *Deputy* Commissioner of
6 *Business Oversight for the Division of Financial Institutions* ~~of the~~
7 ~~State of California~~.

8 *SEC. 103. Section 14200.1 of the Financial Code is amended*
9 *to read:*

10 14200.1. There is in the ~~Department~~ *Division* of Financial
11 Institutions, the ~~Division~~ *Office* of Credit Unions. The ~~Division~~
12 *Office* of Credit Unions has charge of the execution of the laws of
13 this state relating to credit unions or to the credit union business.

14 *SEC. 104. Section 14200.2 of the Financial Code is amended*
15 *to read:*

16 14200.2. The ~~Chief Officer~~ *chief officer* of the ~~Division~~ *Office*
17 of Credit Unions is the ~~Deputy Commissioner of Financial~~
18 ~~Institutions for the Division~~ *Chief of the Office* of Credit Unions.
19 The ~~Deputy Commissioner of Financial Institutions for the Division~~
20 *Chief of the Office* of Credit Unions shall, *under the direction and*
21 *on behalf of the Deputy Commissioner of Business Oversight for*
22 *the Division of Financial Institutions*, administer the laws of this
23 state relating to credit unions or the credit union business ~~under~~
24 ~~the direction of and on behalf of the commissioner~~. The ~~Deputy~~
25 ~~Commissioner of Financial Institutions for the Division~~ *Chief of*
26 *the Office* of Credit Unions shall be appointed by the Governor
27 and shall hold office at the pleasure of the Governor. The ~~Deputy~~
28 ~~Commissioner of Financial Institutions~~ *Chief of the Office of Credit*
29 *Unions* shall receive an annual salary as fixed by the Governor.

30 *SEC. 105. Section 17002 of the Financial Code is amended to*
31 *read:*

32 17002. “Commissioner” means the *Deputy* Commissioner of
33 ~~Corporations~~ *Business Oversight for the Division of Corporations*.

34 *SEC. 106. Section 17312 of the Financial Code is amended to*
35 *read:*

36 17312. (a) Each person licensed pursuant to this division who
37 is engaged in the business of receiving escrows specified in
38 subdivision (c) and whose escrow business location is located
39 within the State of California shall participate as a member in
40 Fidelity Corporation in accordance with this chapter and rules

1 established by the Board of Directors of Fidelity Corporation.
 2 Fidelity Corporation shall not deny membership to any escrow
 3 agent holding a valid unrevoked license under the Escrow Law
 4 who is required to be a member under this subdivision.

5 (b) Upon filing a new application for licensure as required by
 6 Section 17201, persons required to be a member of Fidelity
 7 Corporation shall file a copy thereof concurrently with Fidelity
 8 Corporation. If an application for licensure submitted to Fidelity
 9 Corporation contains personal or confidential information, Fidelity
 10 Corporation and its board shall maintain this information in
 11 confidence to protect the privacy of the information. The copy of
 12 the application shall include the three-thousand-dollar (\$3,000)
 13 fee specified in subdivision (a) of Section 17320 and all required
 14 Fidelity Corporation Certificates set forth in Sections 17331 and
 15 17331.1. Fidelity Corporation shall promptly furnish to the
 16 commissioner a compliance letter confirming that the applicant
 17 has satisfied the requirements to be a member of Fidelity
 18 Corporation.

19 (c) The required membership in Fidelity Corporation shall be
 20 limited to those licensees whose escrow business location is located
 21 within the State of California and who engage, in whole or in part,
 22 in the business of receiving escrows for deposit or delivery in the
 23 following types of transactions:

24 (1) Real property escrows, including, but not limited to, the
 25 sale, encumbrance, lease, transfer of title, loans or other obligations
 26 to be secured by a lien upon real property, and exchanges,
 27 excluding money or property held or deposited pursuant to
 28 paragraph (3) of subdivision (a) of Section 51003.

29 (2) Bulk sale escrows, including, but not limited to, the sale or
 30 transfer of title to a business entity and the transfer of liquor
 31 licenses or other types of business licenses or permits.

32 (3) Fund or joint control escrows, including, but not limited to,
 33 transactions specified in Section 17005.1, and contracts specified
 34 in Section 10263 of the Public Contract Code.

35 (4) The sale, transfer of title, or refinance escrows for
 36 manufactured homes or mobilehomes.

37 (5) Reservation deposits required under Article 2 (commencing
 38 with Section 11010) of Chapter 1 of Part 2 of Division 4 of the
 39 Business and Professions Code or by regulation of the ~~Department~~

1 of Real Estate Bureau of Real Estate to be held in an escrow
2 account.

3 (6) Escrows for sale, transfer, modification, assignment, or
4 hypothecation of promissory notes secured by deeds of trust.

5 (d) Coverage required to be provided by Fidelity Corporation
6 under this chapter shall be provided to members only for loss of
7 trust obligations with respect to those types of transactions
8 specified in subdivision (c). If a loss covered by Fidelity
9 Corporation is also covered by a member's general liability,
10 dishonesty, or indemnity policy, or other private insurance policy,
11 then the member's private policy shall first be applied as the
12 primary indemnity to cover the loss. However, the failure of the
13 member's private primary policy to indemnify the member's loss
14 within the time specified for Fidelity Corporation indemnity in
15 subdivision (a) of Section 17314 shall not limit the indemnity
16 obligations of Fidelity Corporation as defined in this chapter.
17 Indemnity coverage for those types of transactions not specified
18 in subdivision (c) shall be provided by escrow agents in accordance
19 with Section 17203.1.

20 *SEC. 107. Section 17423.1 of the Financial Code is amended*
21 *to read:*

22 17423.1. (a) (1) Whenever the commissioner takes any
23 enforcement or disciplinary action pursuant to Section 17423, upon
24 the action becoming final the commissioner shall notify the Real
25 Estate Commissioner and the Insurance Commissioner of the action
26 or actions taken. The purpose of this notification is to alert the
27 departments that enforcement or disciplinary action has been taken,
28 if the person seeks or obtains employment with entities regulated
29 by the departments.

30 (2) The commissioner shall provide the Real Estate
31 Commissioner and the Insurance Commissioner, in addition to the
32 notification of the action taken, with a copy of the written
33 accusation, statement of issues, or order issued or filed in the matter
34 and, at the request of the Real Estate Commissioner or Insurance
35 Commissioner, with any underlying factual material relevant to
36 the enforcement or disciplinary action. Any confidential
37 information provided by the commissioner to the Insurance
38 Commissioner or the Real Estate Commissioner shall not be made
39 public pursuant to this section. Notwithstanding any other provision
40 of law, the disclosure of any underlying factual material to the

1 Insurance Commissioner or the Real Estate Commissioner shall
 2 not operate as a waiver of confidentiality or any privilege that the
 3 commissioner may assert.

4 (b) The commissioner shall establish and maintain, on the Web
 5 site maintained by the Department of ~~Corporations~~ *Business*
 6 *Oversight*, a separate and readily identifiable database of all persons
 7 who have been subject to any enforcement or disciplinary action
 8 that triggers the notification requirements of this section. The
 9 database shall also contain a direct link to the databases, described
 10 in Section 10176.1 of the Business and Professions Code and
 11 Section 12414.31 of the Insurance Code and required to be
 12 maintained on the Web sites of the ~~Department of Real Estate~~
 13 *Bureau of Real Estate* and the Department of Insurance,
 14 respectively, of persons who have been subject to enforcement or
 15 disciplinary action for malfeasance or misconduct related to the
 16 escrow industry by the Insurance Commissioner and the Real
 17 Estate Commissioner.

18 (c) There shall be no liability on the part of, and no cause of
 19 action of any nature shall arise against, the State of California, the
 20 Department of ~~Corporations~~ *Business Oversight*, the Commissioner
 21 of ~~Corporations~~ *Business Oversight*, any other state agency, or any
 22 officer, agent, employee, consultant, or contractor of the state, for
 23 the release of any false or unauthorized information pursuant to
 24 this section, unless the release of that information was done with
 25 knowledge and malice, or for the failure to release any information
 26 pursuant to this section.

27 *SEC. 108. Section 18002 of the Financial Code is amended to*
 28 *read:*

29 18002. “Commissioner” means the *Deputy* Commissioner of
 30 *Business Oversight for the Division of Financial Institutions* ~~of the~~
 31 ~~State of California~~.

32 *SEC. 109. Section 18002.5 of the Financial Code is amended*
 33 *to read:*

34 18002.5. “Department” means the ~~Department~~ *Division* of
 35 *Financial Institutions in the Department of Business Oversight*.

36 *SEC. 110. Section 22005 of the Financial Code is amended to*
 37 *read:*

38 22005. “Commissioner” means the *Deputy* Commissioner of
 39 ~~Corporations~~ *Business Oversight for the Division of Corporations*.

1 *SEC. 111. Section 23001 of the Financial Code is amended to*
2 *read:*

3 23001. As used in this division, the following terms have the
4 following meanings:

5 (a) “Deferred deposit transaction” means a transaction whereby
6 a person defers depositing a customer’s personal check until a
7 specific date, pursuant to a written agreement for a fee or other
8 charge, as provided in Section 23035.

9 (b) “Commissioner” means the Commissioner of ~~Corporations~~
10 *Business Oversight.*

11 (c) “Department” means the ~~Department of Corporations~~
12 *Division of Corporations within the Department of Business*
13 *Oversight.*

14 (d) “Licensee” means any person who offers, originates, or
15 makes a deferred deposit transaction, who arranges a deferred
16 deposit transaction for a deferred deposit originator, who acts as
17 an agent for a deferred deposit originator, or who assists a deferred
18 deposit originator in the origination of a deferred deposit
19 transaction. However, “licensee” does not include a state or
20 federally chartered bank, thrift, savings association, industrial loan
21 company, or credit union. “Licensee” also does not include a retail
22 seller engaged primarily in the business of selling consumer goods,
23 including consumables, to retail buyers that cashes checks or issues
24 money orders for a minimum fee not exceeding two dollars (\$2)
25 as a service to its customers that is incidental to its main purpose
26 or business. “Licensee” also does not include an employee regularly
27 employed by a licensee at the licensee’s place of business. An
28 employee, when acting under the scope of the employee’s
29 employment, shall be exempt from any other law from which the
30 employee’s employer is exempt.

31 (e) “Person” means an individual, a corporation, a partnership,
32 a limited liability company, a joint venture, an association, a joint
33 stock company, a trust, an unincorporated organization, a
34 government entity, or a political subdivision of a government
35 entity.

36 (f) “Deferred deposit originator” means a person who offers,
37 originates, or makes a deferred deposit transaction.

38 *SEC. 112. Section 30002 of the Financial Code is amended to*
39 *read:*

1 30002. “Commissioner” means the ~~Commissioner~~ of
2 ~~Corporations~~ Deputy Commissioner of Business Oversight for the
3 Division of Corporations.

4 SEC. 113. Section 30005 of the Financial Code is amended to
5 read:

6 30005. This division does not apply to:

7 (a) A securities depository which is operated by a corporation,
8 all of the capital stock (other than directors’ qualifying shares, if
9 any) of which is held by or for a national securities exchange or
10 association registered under a statute of the United States such as
11 the Securities Exchange Act of 1934, or by a corporation all of the
12 capital stock (other than directors’ qualifying shares, if any) of
13 which is held by or for such a wholly owned subsidiary of a
14 registered national securities exchange.

15 (b) A securities depository which is registered with the Securities
16 and Exchange Commission pursuant to any provision of federal
17 law or which is regulated by the Comptroller of the Currency, the
18 Federal Reserve Board, or the Federal Deposit Insurance
19 Corporation pursuant to any provision of federal law, or which is
20 regulated by the Commissioner of ~~Financial Institutions~~ Business
21 Oversight under Division 1 (commencing with Section ~~99~~ 1000)
22 of the Financial Code.

23 SEC. 114. Section 31055 of the Financial Code is amended to
24 read:

25 31055. “Commissioner” means the ~~Commissioner~~ of Deputy
26 Commissioner of Business Oversight for the Division of Financial
27 Institutions or any person to whom the ~~Commissioner~~ of Financial
28 Institutions deputy commissioner delegates the authority to act for
29 him or her in the particular matter.

30 SEC. 115. Section 50003 of the Financial Code, as amended
31 by Section 9 of Chapter 264 of the Statutes of 2012, is amended
32 to read:

33 50003. (a) “Annual audit” means a certified audit of the
34 licensee’s books, records, and systems of internal control performed
35 by an independent certified public accountant in accordance with
36 generally accepted accounting principles and generally accepted
37 auditing standards.

38 (b) “Borrower” means the loan applicant.

39 (c) “Buy” includes exchange, offer to buy, or solicitation to
40 buy.

1 (d) “Commissioner” means the ~~Commissioner of Corporations~~
2 *Deputy Commissioner of Business Oversight for the Division of*
3 *Corporations*.

4 (e) “Control” means the possession, directly or indirectly, of
5 the power to direct, or cause the direction of, the management and
6 policies of a licensee under this division, whether through voting
7 or through the ownership of voting power of an entity that
8 possesses voting power of the licensee, or otherwise. Control is
9 presumed to exist if a person, directly or indirectly, owns, controls,
10 or holds 10 percent or more of the voting power of a licensee or
11 of an entity that owns, controls, or holds, with power to vote, 10
12 percent or more of the voting power of a licensee. No person shall
13 be deemed to control a licensee solely by reason of his or her status
14 as an officer or director of the licensee.

15 (f) “Depository institution” has the same meaning as in Section
16 3 of the Federal Deposit Insurance Act, and includes any credit
17 union.

18 (g) “Engage in the business” means the dissemination to the
19 public, or any part of the public, by means of written, printed, or
20 electronic communication or any communication by means of
21 recorded telephone messages or spoken on radio, television, or
22 similar communications media, of any information relating to the
23 making of residential mortgage loans, the servicing of residential
24 mortgage loans, or both. “Engage in the business” also means,
25 without limitation, making residential mortgage loans or servicing
26 residential mortgage loans, or both.

27 (h) “Federal banking agencies” means the Board of Governors
28 of the Federal Reserve System, the Comptroller of the Currency,
29 the Director of the Office of Thrift Supervision, the National Credit
30 Union Administration, and the Federal Deposit Insurance
31 Corporation.

32 (i) “In this state” includes any activity of a person relating to
33 making or servicing a residential mortgage loan that originates
34 from this state and is directed to persons outside this state, or that
35 originates from outside this state and is directed to persons inside
36 this state, or that originates inside this state and is directed to
37 persons inside this state, or that leads to the formation of a contract
38 and the offer or acceptance thereof is directed to a person in this
39 state (whether from inside or outside this state and whether the
40 offer was made inside or outside the state).

1 (j) “Institutional investor” means the following:

2 (1) The United States or any state, district, territory, or
3 commonwealth thereof, or any city, county, city and county, public
4 district, public authority, public corporation, public entity, or
5 political subdivision of a state, district, territory, or commonwealth
6 of the United States, or any agency or other instrumentality of any
7 one or more of the foregoing, including, by way of example, the
8 Federal National Mortgage Association and the Federal Home
9 Loan Mortgage Corporation.

10 (2) Any bank, trust company, savings bank or savings and loan
11 association, credit union, industrial bank or industrial loan
12 company, personal property broker, consumer finance lender,
13 commercial finance lender, or insurance company, or subsidiary
14 or affiliate of one of the preceding entities, doing business under
15 the authority of or in accordance with a license, certificate, or
16 charter issued by the United States or any state, district, territory,
17 or commonwealth of the United States.

18 (3) Trustees of pension, profit-sharing, or welfare funds, if the
19 pension, profit-sharing, or welfare fund has a net worth of not less
20 than fifteen million dollars (\$15,000,000), except pension,
21 profit-sharing, or welfare funds of a licensee or its affiliate,
22 self-employed individual retirement plans, or individual retirement
23 accounts.

24 (4) A corporation or other entity with outstanding securities
25 registered under Section 12 of the federal Securities Exchange Act
26 of 1934 or a wholly owned subsidiary of that corporation or entity,
27 provided that the purchaser represents either of the following:

28 (A) That it is purchasing for its own account for investment and
29 not with a view to, or for sale in connection with, any distribution
30 of a promissory note.

31 (B) That it is purchasing for resale pursuant to an exemption
32 under Rule 144A (17 C.F.R. 230.144A) of the Securities and
33 Exchange Commission.

34 (5) An investment company registered under the Investment
35 Company Act of 1940; or a wholly owned and controlled subsidiary
36 of that company, provided that the purchaser makes either of the
37 representations provided in paragraph (4).

38 (6) A residential mortgage lender or servicer licensed to make
39 residential mortgage loans under this law or an affiliate or
40 subsidiary of that person.

1 (7) Any person who is licensed as a securities broker or
2 securities dealer under any law of this state, or of the United States,
3 or any employee, officer, or agent of that person, if that person is
4 acting within the scope of authority granted by that license or an
5 affiliate or subsidiary controlled by that broker or dealer, in
6 connection with a transaction involving the offer, sale, purchase,
7 or exchange of one or more promissory notes secured directly or
8 indirectly by liens on real property or a security representing an
9 ownership interest in a pool of promissory notes secured directly
10 or indirectly by liens on real property, and the offer and sale of
11 those securities is qualified under the California Corporate
12 Securities Law of 1968 or registered under federal securities laws,
13 or exempt from qualification or registration.

14 (8) A licensed real estate broker selling the loan to an
15 institutional investor specified in paragraphs (1) to (7), inclusive,
16 or paragraph (9) or (10).

17 (9) A business development company as defined in Section
18 2(a)(48) of the Investment Company Act of 1940 or a Small
19 Business Investment Company licensed by the United States Small
20 Business Administration under Section 301(c) or (d) of the Small
21 Business Investment Act of 1958.

22 (10) A syndication or other combination of any of the foregoing
23 entities that is organized to purchase a promissory note.

24 (11) A trust or other business entity established by an
25 institutional investor for the purpose of issuing or facilitating the
26 issuance of securities representing undivided interests in, or rights
27 to receive payments from or to receive payments primarily from,
28 a pool of financial assets held by the trust or business entity,
29 provided that all of the following apply:

30 (A) The business entity is not a sole proprietorship.

31 (B) The pool of assets consists of one or more of the following:

32 (i) Interest-bearing obligations.

33 (ii) Other contractual obligations representing the right to receive
34 payments from the assets.

35 (iii) Surety bonds, insurance policies, letters of credit, or other
36 instruments providing credit enhancement for the assets.

37 (C) The securities will be either one of the following:

38 (i) Rated as “investment grade” by Standard and Poor’s
39 Corporation or Moody’s Investors Service, Inc. “Investment grade”
40 means that the securities will be rated by Standard and Poor’s

1 Corporation as AAA, AA, A, or BBB or by Moody's Investors
2 Service, Inc. as Aaa, Aa, A, or Baa, including any of those ratings
3 with "+" or "-" designation or other variations that occur within
4 those ratings.

5 (ii) Sold to an institutional investor.

6 (D) The offer and sale of the securities is qualified under the
7 California Corporate Securities Law of 1968 or registered under
8 federal securities laws, or exempt from qualification or registration.

9 (k) "Institutional lender" means the following:

10 (1) The United States or any state, district, territory, or
11 commonwealth thereof, or any city, county, city and county, public
12 district, public authority, public corporation, public entity, or
13 political subdivision of a state, district, territory, or commonwealth
14 of the United States, or any agency or other instrumentality of any
15 one or more of the foregoing, including, by way of example, the
16 Federal National Mortgage Association and the Federal Home
17 Loan Mortgage Corporation.

18 (2) Any bank, trust company, savings bank or savings and loan
19 association, credit union, industrial loan company, or insurance
20 company, or service or investment company that is wholly owned
21 and controlled by one of the preceding entities, doing business
22 under the authority of and in accordance with a license, certificate,
23 or charter issued by the United States or any state, district, territory,
24 or commonwealth of the United States.

25 (3) Any corporation with outstanding securities registered under
26 Section 12 of the Securities Exchange Act of 1934 or any wholly
27 owned subsidiary of that corporation.

28 (4) A residential mortgage lender or servicer licensed to make
29 residential mortgage loans under this law.

30 (l) "Law" means the California Residential Mortgage Lending
31 Act.

32 (m) "Lender" means a person that (1) is an approved lender for
33 the Federal Housing Administration, Veterans Administration,
34 Farmers Home Administration, Government National Mortgage
35 Association, Federal National Mortgage Association, or Federal
36 Home Loan Mortgage Corporation, (2) directly makes residential
37 mortgage loans, and (3) makes the credit decision in the loan
38 transactions.

39 (n) "Licensee" means, depending on the context, a person
40 licensed under Chapter 2 (commencing with Section 50120),

1 Chapter 3 (commencing with Section 50130), or Chapter 3.5
2 (commencing with Section 50140).

3 (o) “Makes or making residential mortgage loans” or “mortgage
4 lending” means processing, underwriting, or as a lender using or
5 advancing one’s own funds, or making a commitment to advance
6 one’s own funds, to a loan applicant for a residential mortgage
7 loan.

8 (p) “Mortgage loan,” “residential mortgage loan,” or “home
9 mortgage loan” means a federally related mortgage loan as defined
10 in Section 3500.2 of Title 24 of the Code of Federal Regulations,
11 or a loan made to finance construction of a one-to-four family
12 dwelling.

13 (q) “Mortgage servicer” or “residential mortgage loan servicer”
14 means a person that (1) is an approved servicer for the Federal
15 Housing Administration, Veterans Administration, Farmers Home
16 Administration, Government National Mortgage Association,
17 Federal National Mortgage Association, or Federal Home Loan
18 Mortgage Corporation, and (2) directly services or offers to service
19 mortgage loans.

20 (r) “Nationwide Mortgage Licensing System and Registry”
21 means a mortgage licensing system developed and maintained by
22 the Conference of State Bank Supervisors and the American
23 Association of Residential Mortgage Regulators for the licensing
24 and registration of licensed mortgage loan originators.

25 (s) “Net worth” has the meaning set forth in Section 50201.

26 (t) “Own funds” means (1) cash, corporate capital, or warehouse
27 credit lines at commercial banks, savings banks, savings and loan
28 associations, industrial loan companies, or other sources that are
29 liability items on a lender’s financial statements, whether secured
30 or unsecured, or (2) a lender’s affiliate’s cash, corporate capital,
31 or warehouse credit lines at commercial banks or other sources
32 that are liability items on the affiliate’s financial statements,
33 whether secured or unsecured. “Own funds” does not include funds
34 provided by a third party to fund a loan on condition that the third
35 party will subsequently purchase or accept an assignment of that
36 loan.

37 (u) “Person” means a natural person, a sole proprietorship, a
38 corporation, a partnership, a limited liability company, an
39 association, a trust, a joint venture, an unincorporated organization,

1 a joint stock company, a government or a political subdivision of
2 a government, and any other entity.

3 (v) “Residential real property” or “residential real estate” means
4 real property located in this state that is improved by a one-to-four
5 family dwelling.

6 (w) “SAFE Act” means the federal Secure and Fair Enforcement
7 for Mortgage Licensing Act of 2008 (Public Law 110-289).

8 (x) “Service” or “servicing” means receiving more than three
9 installment payments of principal, interest, or other amounts placed
10 in escrow, pursuant to the terms of a mortgage loan and performing
11 services by a licensee relating to that receipt or the enforcement
12 of its receipt, on behalf of the holder of the note evidencing that
13 loan.

14 (y) “Sell” includes exchange, offer to sell, or solicitation to sell.

15 (z) “Unique identifier” means a number or other identifier
16 assigned by protocols established by the Nationwide Mortgage
17 Licensing System and Registry.

18 (aa) For purposes of Sections 50142, 50143, and 50145,
19 “nontraditional mortgage product” means any mortgage product
20 other than a 30-year fixed rate mortgage.

21 (ab) For purposes of Section 50141, “expungement” means the
22 subsequent order under the provisions of Section 1203.4 of the
23 Penal Code allowing such individual to withdraw his or her plea
24 of guilty and to enter a plea of not guilty, or setting aside the verdict
25 of guilty or dismissing the accusation, information, or indictment.
26 With respect to criminal convictions in another state, that state’s
27 definition of expungement will apply.

28 *SEC. 116. Section 50702 of the Financial Code is amended to*
29 *read:*

30 50702. (a) The annual report required by Section 50401(a)
31 shall include both of the following:

32 (1) The number and the aggregate principal amount of closed
33 residential mortgage loans secured by residential real estate in
34 which the licensee provides brokerage services, as defined in this
35 chapter.

36 (2) The number and aggregate principal amount of residential
37 mortgage loans made by the licensee under this division.

38 (b) The sum total of the aggregate principal loan amounts
39 reported in paragraphs (1) and (2) of subdivision (a) shall be
40 deemed the aggregate principal amount of mortgage loans secured

1 by residential real property originated by the licensee, for purposes
2 of determining a licensee's annual assessment under subdivision
3 (a) of Section 50401.

4 (c) The commissioner shall provide copies of the annual reports
5 required by subdivision (a) of Section 50401 to the ~~Department~~
6 ~~of Real Estate Bureau of Real Estate~~ upon request of the Real
7 Estate Commissioner.

8 *SEC. 117. Section 1389 of the Fish and Game Code is amended*
9 *to read:*

10 1389. The preservation and enhancement of riparian habitat
11 shall be a primary concern of the Wildlife Conservation Board and
12 the department, and of all state agencies whose activities impact
13 riparian habitat, including the Department of Conservation, ~~the~~
14 ~~Department of Boating and Waterways~~, the Department of Parks
15 and Recreation, the Department of Water Resources, the
16 Department of Forestry and Fire Protection, the State Coastal
17 Conservancy, the California Conservation Corps, the California
18 Tahoe Conservancy, the Santa Monica Mountains Conservancy,
19 the California Coastal Commission, the San Francisco Bay
20 Conservation and Development Commission, and the State Lands
21 Commission.

22 *SEC. 118. Section 2301 of the Fish and Game Code is amended*
23 *to read:*

24 2301. (a) (1) Except as authorized by the department, a person
25 shall not possess, import, ship, or transport in the state, or place,
26 plant, or cause to be placed or planted in any water within the state,
27 dreissenid mussels.

28 (2) The director or his or her designee may do all of the
29 following:

30 (A) Conduct inspections of conveyances, which include vehicles,
31 boats and other watercraft, containers, and trailers, that may carry
32 or contain adult or larval dreissenid mussels. Included as part of
33 this authority to conduct inspections is the authority to temporarily
34 stop conveyances that may carry or contain adult or larval
35 dreissenid mussels on any roadway or waterway in order to conduct
36 inspections.

37 (B) Order that areas in a conveyance that contain water be
38 drained, dried, or decontaminated pursuant to procedures approved
39 by the department.

1 (C) Impound or quarantine conveyances in locations designated
2 by the department for up to five days or the period of time
3 necessary to ensure that dreissenid mussels can no longer live on
4 or in the conveyance.

5 (D) (i) Conduct inspections of waters of the state and facilities
6 located within waters of the state that may contain dreissenid
7 mussels. If dreissenid mussels are detected or may be present, the
8 director or his or her designee may order the affected waters or
9 facilities closed to conveyances or otherwise restrict access to the
10 affected waters or facilities, and shall order that conveyances
11 removed from, or introduced to, the affected waters or facilities
12 be inspected, quarantined, or disinfected in a manner and for a
13 duration necessary to detect and prevent the spread of dreissenid
14 mussels within the state.

15 (ii) For the purpose of implementing clause (i), the director or
16 his or her designee shall order the closure or quarantine of, or
17 restrict access to, these waters, areas, or facilities in a manner and
18 duration necessary to detect and prevent the spread of dreissenid
19 mussels within the state. No closure, quarantine, or restriction shall
20 be authorized by the director or his or her designee without the
21 concurrence of the Secretary of the Natural Resources Agency. If
22 a closure lasts longer than seven days, the department shall update
23 the operator of the affected facility every 10 days on efforts to
24 address the dreissenid infestation. The department shall provide
25 these updates in writing and also post these updates on the
26 department's Internet Web site in an easily accessible manner.

27 (iii) The department shall develop procedures to ensure proper
28 notification of affected local and federal agencies, and, as
29 appropriate, ~~the Department of Boating and Waterways,~~ the
30 Department of Water Resources, the Department of Parks and
31 Recreation, and the State Lands Commission in the event of a
32 decision to close, quarantine, or restrict a facility pursuant to this
33 paragraph. These procedures shall include the reasons for the
34 closure, quarantine, or restriction, and methods for providing
35 updated information to those affected. These procedures shall also
36 include protocols for the posting of the notifications on the
37 department's Internet Web site required by clause (ii).

38 (iv) When deciding the scope, duration, level, and type of
39 restrictions, and specific location of a closure or quarantine, the
40 director shall consult with the agency, entity, owner, or operator

1 with jurisdiction, control, or management responsibility over the
2 marina, boat launch facility, or other facility, in order to focus the
3 closure or quarantine to specific areas and facilities so as to avoid
4 or minimize disruption of economic or recreational activity in the
5 vicinity.

6 (b) (1) Upon a determination by the director that it would further
7 the purposes of this section, other state agencies, including, but
8 not limited to, the Department of Parks and Recreation, the
9 Department of Water Resources, the Department of Food and
10 Agriculture, and the State Lands Commission, may exercise the
11 authority granted to the department in subdivision (a).

12 (2) A determination made pursuant to paragraph (1) shall be in
13 writing and shall remain in effect until withdrawn, in writing, by
14 the director.

15 (c) (1) Except as provided in paragraph (2), Division 13
16 (commencing with Section 21000) of the Public Resources Code
17 does not apply to the implementation of this section.

18 (2) An action undertaken pursuant to subparagraph (B) of
19 paragraph (2) of subdivision (a) involving the use of chemicals
20 other than salt or hot water to decontaminate a conveyance or a
21 facility is subject to Division 13 (commencing with Section 21000)
22 of the Public Resources Code.

23 (d) (1) A public or private agency that operates a water supply
24 system shall cooperate with the department to implement measures
25 to avoid infestation by dreissenid mussels and to control or
26 eradicate any infestation that may occur in a water supply system.
27 If dreissenid mussels are detected, the operator of the water supply
28 system, in cooperation with the department, shall prepare and
29 implement a plan to control or eradicate dreissenid mussels within
30 the system. The approved plan shall contain the following
31 minimum elements:

32 (A) Methods for delineation of infestation, including both adult
33 mussels and veligers.

34 (B) Methods for control or eradication of adult mussels and
35 decontamination of water containing larval mussels.

36 (C) A systematic monitoring program to determine any changes
37 in conditions.

38 (D) The requirement that the operator of the water supply system
39 permit inspections by the department as well as cooperate with the
40 department to update or revise control or eradication measures in

1 the approved plan to address scientific advances in the methods
2 of controlling or eradicating mussels and veligers.

3 (2) If the operator of water delivery and storage facilities for
4 public water supply purposes has prepared, initiated, and is in
5 compliance with all the elements of an approved plan to control
6 or eradicate dreissenid mussels in accordance with paragraph (1),
7 the requirements of subdivision (a) do not apply to the operation
8 of those water delivery and storage facilities, and the operator is
9 not subject to any civil or criminal liability for the introduction of
10 dreissenid mussel species as a result of those operations. The
11 department may require the operator of a facility to update its plan,
12 and if the plan is not updated or revised as described in
13 subparagraph (D) of paragraph (1), subdivision (a) shall apply to
14 the operation of the water delivery and storage facilities covered
15 by the plan until the operator updates or revises the plan and
16 initiates and complies with all of the elements of the updated or
17 revised plan.

18 (e) Any entity that discovers dreissenid mussels within this state
19 shall immediately report the discovery to the department.

20 (f) (1) In addition to any other penalty provided by law, any
21 person who violates this section, *violates* any verbal or written
22 order or regulation adopted pursuant to this section, or who resists,
23 delays, obstructs, or interferes with the implementation of this
24 section, is subject to a penalty, in an amount not to exceed one
25 thousand dollars (\$1,000), that is imposed administratively by the
26 department.

27 (2) A penalty shall not be imposed pursuant to paragraph (1)
28 unless the department has adopted regulations specifying the
29 amount of the penalty and the procedure for imposing and
30 appealing the penalty.

31 (g) The department may adopt regulations to carry out this
32 section.

33 (h) Pursuant to Section 818.4 of the Government Code, the
34 department and any other state agency exercising authority under
35 this section shall not be liable with regard to any determination or
36 authorization made pursuant to this section.

37 (i) This section shall remain in effect only until January 1, 2017,
38 and as of that date is repealed, unless a later enacted statute, that
39 is enacted before January 1, 2017, deletes or extends that date.

1 *SEC. 119. Section 3862 of the Fish and Game Code is amended*
2 *to read:*

3 3862. The Natural Resources Agency, in consultation with the
4 department, the Department of Food and Agriculture, the State
5 Department of *Public Health Services*, the ~~California Emergency~~
6 ~~Management Agency Office of Emergency Services~~, and the
7 University of California, shall develop and implement a plan for
8 the surveillance, monitoring, sampling, diagnostic testing, and
9 reporting of avian influenza in wild birds and animals in the state.
10 The *Natural Resources Agency* shall consult with the United States
11 Fish and Wildlife Service and the United States Department of
12 Food and Agriculture in developing the plan.

13 *SEC. 120. Section 3863 of the Fish and Game Code is amended*
14 *to read:*

15 3863. (a) The Secretary of the Natural Resources Agency shall
16 formally establish the Avian Influenza Working Group to assist
17 in the development of the plan described in Section 3862. The
18 Avian Influenza Working Group shall utilize, as guidance for early
19 detection, the national protocol that has been developed to guide
20 states in developing state-specific plans, known as the Early
21 Detection System for Asian H5N1 Highly Pathogenic Avian
22 Influenza in Wild Migratory Birds. The Avian Influenza Working
23 Group shall also continue, enhance, and facilitate the work already
24 begun by the department, other state departments, and the
25 University of California, to coordinate communication of
26 information and response plans for highly pathogenic avian
27 influenza in wild birds.

28 (b) The Avian Influenza Working Group shall be composed of
29 all of the following members:

30 (1) The Secretary of the Natural Resources Agency, or a
31 designee.

32 (2) The director, or a designee.

33 (3) The Secretary of Food and Agriculture, or a designee.

34 (4) ~~The Director of Health Services~~ *State Public Health Officer*,
35 or a designee.

36 ~~The Secretary of Emergency Management~~ *Director of*
37 *Emergency Services*, or a designee.

38 (6) One representative appointed by the Regents of the
39 University of California.

1 (7) Two representatives from a qualified research organization
2 or other qualified nongovernmental organization appointed by the
3 Secretary of the Natural Resources Agency.

4 (c) The director shall chair the Avian Influenza Working Group.

5 (d) A majority of the Avian Influenza Working Group shall
6 constitute a quorum for the transaction of business.

7 (e) The duties of the Avian Influenza Working Group shall
8 include all of the following:

9 (1) Developing strategies for the detection of, and response to,
10 the avian influenza virus in wild birds in California.

11 (2) Fostering communication among state and federal agencies
12 regarding the avian influenza surveillance program.

13 (3) Developing strategies for public outreach and education.

14 (f) The Avian Influenza Working Group may consult with other
15 public and nonprofit groups potentially affected by avian influenza
16 in wild birds.

17 *SEC. 121. Section 3806 of the Food and Agricultural Code is*
18 *amended to read:*

19 3806. For the purposes of Article 1 (commencing with Section
20 4101) of Chapter 6 of this part, “agency” means the ~~State and~~
21 ~~Consumer Services~~ Natural Resources Agency.

22 *SEC. 122. Section 4101.4 of the Food and Agricultural Code*
23 *is amended to read:*

24 4101.4. (a) The Legislature finds and declares that the
25 operation of the California Science Center may require individual
26 skills not generally available in state civil service to support
27 specialized functions, such as exhibit maintenance, and educational
28 and guest services programs, including animal care and
29 horticulture.

30 (b) Notwithstanding any other provision of law, the California
31 Science Center may enter into a personal services contract or
32 contracts with the California Science Center Foundation without
33 a competitive bidding process. These contracts shall be subject to
34 approval by the ~~State and Consumer Services~~ Natural Resources
35 Agency and the Department of General Services and be subject to
36 all state audit requirements.

37 *SEC. 123. Section 11451.5 of the Food and Agricultural Code*
38 *is repealed.*

39 ~~11451.5. The Department of Pesticide Regulation shall have~~
40 ~~jurisdiction over the Structural Pest Control Board as established~~

1 under the Structural Pest Control Act (Chapter 14 (commencing
2 with Section 8500) of Division 3 of the Business and Professions
3 Code).

4 *SEC. 124. Section 58509 of the Food and Agricultural Code*
5 *is amended to read:*

6 58509. (a) The Secretary of the State and Consumer Services
7 Agency Food and Agriculture shall consult with four food bank
8 representatives, two from the northern portion of the state, all of
9 whom have been active members of a nationwide network of food
10 banks for a minimum of two years immediately prior to
11 appointment, and two from the southern portion of the state, all of
12 whom have been active members of a nationwide network of food
13 banks for a minimum of two years immediately prior to
14 appointment, and two food industry representatives, one wholesaler
15 and one manufacturer, all of whom shall be selected by the
16 Governor and referred to as the Food Bank Advisory Committee.

17 (b) Members of the committee who are not state employees
18 shall be paid per diem for their actual expenses in attending
19 committee meetings.

20 (c) The committee shall do all of the following:

21 (1) Advise the State and Consumer Services Agency Department
22 of Food and Agriculture in the establishment of new food banks.

23 (2) Advise in the adequate and efficient distribution of surplus
24 food commodities to all areas of the state.

25 *SEC. 125. Section 179.7 of the Government Code is amended*
26 *to read:*

27 179.7. (a) Notwithstanding Article 6 of the Emergency
28 Management Assistance Compact, as set forth in Section 179.5,
29 the state shall indemnify and make whole any officer or employee
30 who is a resident of California, or his or her heirs, if the officer or
31 employee is injured or killed in another state when rendering aid
32 pursuant to the compact, as if the act or acts occurred in California,
33 less any recovery obtained under the provisions of Article 6 of the
34 Emergency Management Assistance Compact.

35 (b) Local government or special district personnel who are
36 officially deployed under the provisions of the Emergency
37 Management Assistance Compact pursuant to an assignment of
38 the California Office of Emergency Management Agency Services
39 shall be defended by the Attorney General or other legal counsel

1 provided by the state, and shall be indemnified subject to the same
2 conditions and limitations applicable to state employees.

3 *SEC. 126. Section 955.1 of the Government Code is amended*
4 *to read:*

5 955.1. (a) The science of earthquake prediction is developing
6 rapidly and, although still largely in a research stage, ~~such~~ *these*
7 predictions are now being initiated and are certain to continue into
8 the future. Administrative procedures exist within the ~~California~~
9 *Office of Emergency Management Agency Services* to advise the
10 Governor on the validity of earthquake predictions. Numerous
11 important actions can be taken by state and local governments and
12 special districts to protect life and property in response to
13 earthquake predictions and associated warnings. It is the intent of
14 this legislation to ensure that ~~such~~ *those* actions are taken in the
15 public interest by government agencies acting in a responsible
16 manner without fear of consequent financial liabilities.

17 (b) The Governor may, at his or her discretion, issue a warning
18 as to the existence of an earthquake or volcanic prediction
19 determined to have scientific validity. The state and its agencies
20 and employees shall not be liable for any injury resulting from the
21 issuance or nonissuance of a warning pursuant to this subdivision
22 or for any acts or omissions in fact gathering, evaluation, or other
23 activities leading up to the issuance or nonissuance of a warning.

24 (c) Public entities and public employees may, on the basis of a
25 warning issued pursuant to subdivision (b), take, or fail or refuse
26 to take, any action or execute or fail or refuse to execute any
27 earthquake or volcanic prediction response plan with relation to
28 the warning which is otherwise authorized by law. In taking, or
29 failing or refusing to take, such action, neither public entities nor
30 public employees shall be liable for any injuries caused thereby
31 or for any injuries resulting from the preparation of, or failure or
32 refusal to prepare, any earthquake hazard or damage prediction
33 maps, plans for evacuation of endangered areas, and other plan
34 elements.

35 (d) An earthquake or volcanic warning issued by the Governor
36 pursuant to subdivision (b) is a sufficient basis for a declaration
37 of a state of emergency or local emergency as defined by Section
38 8558. Public entities and public employees shall be immune from
39 liability in accordance with all immunity provisions applicable
40 during such state of emergency or local emergency.

1 *SEC. 127. Section 3101 of the Government Code is amended*
2 *to read:*

3 3101. For the purpose of this chapter the term “disaster service
4 worker” includes all public employees and all volunteers in any
5 disaster council or emergency organization accredited by the
6 ~~California Office of Emergency Management Agency Services.~~
7 The term “public employees” includes all persons employed by
8 the state or any county, city, city and county, state agency or public
9 district, excluding aliens legally employed.

10 *SEC. 128. Section 3102 of the Government Code is amended*
11 *to read:*

12 3102. (a) All disaster service workers shall, before they enter
13 upon the duties of their employment, take and subscribe to the
14 oath or affirmation required by this chapter.

15 (b) In the case of intermittent, temporary, emergency or
16 successive employments, then in the discretion of the employing
17 agency, an oath taken and subscribed as required by this chapter
18 shall be effective for the purposes of this chapter for all successive
19 periods of employment which commence within one calendar year
20 from the date of that subscription.

21 (c) Notwithstanding subdivision (b), the oath taken and
22 subscribed by a person who is a member of an emergency
23 organization sanctioned by a state agency or an accredited disaster
24 council, whose members are duly enrolled or registered with the
25 ~~California Office of Emergency Management Agency Services,~~ or
26 any accredited disaster council of any political subdivision, shall
27 be effective for the period the person remains a member with that
28 organization.

29 *SEC. 129. Section 6253.4 of the Government Code is amended*
30 *to read:*

31 6253.4. (a) Every agency may adopt regulations stating the
32 procedures to be followed when making its records available in
33 accordance with this section.

34 The following state and local bodies shall establish written
35 guidelines for accessibility of records. A copy of these guidelines
36 shall be posted in a conspicuous public place at the offices of these
37 bodies, and a copy of the guidelines shall be available upon request
38 free of charge to any person requesting that body’s records:

39 *Bureau of Real Estate*
40 Department of Motor Vehicles

- 1 Department of Consumer Affairs
- 2 ~~Department of Transportation~~
- 3 ~~Department of Real Estate~~
- 4 Department of Corrections *and Rehabilitation*
- 5 Department of ~~the~~ *Corrections and Rehabilitation, Division of*
- 6 Youth Authority
- 7 Department of Justice
- 8 Department of Insurance
- 9 Department of ~~Corporations~~ *Business Oversight*
- 10 Department of Managed Health Care
- 11 Secretary of State
- 12 State Air Resources Board
- 13 Department of Water Resources
- 14 Department of Parks and Recreation
- 15 San Francisco Bay Conservation and Development Commission
- 16 State Board of Equalization
- 17 State Department of Health Care Services
- 18 Employment Development Department
- 19 State Department of Public Health
- 20 State Department of Social Services
- 21 State Department of State Hospitals
- 22 State Department of Developmental Services
- 23 State Department of Alcohol and Drug Abuse
- 24 Office of Statewide Health Planning and Development
- 25 Public Employees' Retirement System
- 26 Teachers' Retirement Board
- 27 *Transportation Agency*
- 28 Department of Industrial Relations
- 29 Department of General Services
- 30 Department of Veterans Affairs
- 31 Public Utilities Commission
- 32 California Coastal Commission
- 33 State Water Resources Control Board
- 34 San Francisco Bay Area Rapid Transit District
- 35 All regional water quality control boards
- 36 Los Angeles County Air Pollution Control District
- 37 Bay Area Air Pollution Control District
- 38 Golden Gate Bridge, Highway and Transportation District
- 39 Department of Toxic Substances Control
- 40 Office of Environmental Health Hazard Assessment

1 (b) Guidelines and regulations adopted pursuant to this section
2 shall be consistent with all other sections of this chapter and shall
3 reflect the intention of the Legislature to make the records
4 accessible to the public. The guidelines and regulations adopted
5 pursuant to this section shall not operate to limit the hours public
6 records are open for inspection as prescribed in Section 6253.

7 *SEC. 130. Section 6254 of the Government Code is amended*
8 *to read:*

9 6254. Except as provided in Sections 6254.7 and 6254.13,
10 nothing in this chapter shall be construed to require disclosure of
11 records that are any of the following:

12 (a) Preliminary drafts, notes, or interagency or intra-agency
13 memoranda that are not retained by the public agency in the
14 ordinary course of business, if the public interest in withholding
15 those records clearly outweighs the public interest in disclosure.

16 (b) Records pertaining to pending litigation to which the public
17 agency is a party, or to claims made pursuant to Division 3.6
18 (commencing with Section 810), until the pending litigation or
19 claim has been finally adjudicated or otherwise settled.

20 (c) Personnel, medical, or similar files, the disclosure of which
21 would constitute an unwarranted invasion of personal privacy.

22 (d) Contained in or related to any of the following:

23 (1) Applications filed with any state agency responsible for the
24 regulation or supervision of the issuance of securities or of financial
25 institutions, including, but not limited to, banks, savings and loan
26 associations, industrial loan companies, credit unions, and
27 insurance companies.

28 (2) Examination, operating, or condition reports prepared by,
29 on behalf of, or for the use of, any state agency referred to in
30 paragraph (1).

31 (3) Preliminary drafts, notes, or interagency or intra-agency
32 communications prepared by, on behalf of, or for the use of, any
33 state agency referred to in paragraph (1).

34 (4) Information received in confidence by any state agency
35 referred to in paragraph (1).

36 (e) Geological and geophysical data, plant production data, and
37 similar information relating to utility systems development, or
38 market or crop reports, that are obtained in confidence from any
39 person.

1 (f) Records of complaints to, or investigations conducted by,
 2 or records of intelligence information or security procedures of,
 3 the office of the Attorney General and the Department of Justice,
 4 ~~the California Emergency Management Agency Office of~~
 5 *Emergency Services*, and any state or local police agency, or any
 6 investigatory or security files compiled by any other state or local
 7 police agency, or any investigatory or security files compiled by
 8 any other state or local agency for correctional, law enforcement,
 9 or licensing purposes. However, state and local law enforcement
 10 agencies shall disclose the names and addresses of persons involved
 11 in, or witnesses other than confidential informants to, the incident,
 12 the description of any property involved, the date, time, and
 13 location of the incident, all diagrams, statements of the parties
 14 involved in the incident, the statements of all witnesses, other than
 15 confidential informants, to the victims of an incident, or an
 16 authorized representative thereof, an insurance carrier against
 17 which a claim has been or might be made, and any person suffering
 18 bodily injury or property damage or loss, as the result of the
 19 incident caused by arson, burglary, fire, explosion, larceny,
 20 robbery, carjacking, vandalism, vehicle theft, or a crime as defined
 21 by subdivision (b) of Section 13951, unless the disclosure would
 22 endanger the safety of a witness or other person involved in the
 23 investigation, or unless disclosure would endanger the successful
 24 completion of the investigation or a related investigation. However,
 25 nothing in this division shall require the disclosure of that portion
 26 of those investigative files that reflects the analysis or conclusions
 27 of the investigating officer.

28 Customer lists provided to a state or local police agency by an
 29 alarm or security company at the request of the agency shall be
 30 construed to be records subject to this subdivision.

31 Notwithstanding any other provision of this subdivision, state
 32 and local law enforcement agencies shall make public the following
 33 information, except to the extent that disclosure of a particular
 34 item of information would endanger the safety of a person involved
 35 in an investigation or would endanger the successful completion
 36 of the investigation or a related investigation:

37 (1) The full name and occupation of every individual arrested
 38 by the agency, the individual’s physical description including date
 39 of birth, color of eyes and hair, sex, height and weight, the time
 40 and date of arrest, the time and date of booking, the location of

1 the arrest, the factual circumstances surrounding the arrest, the
2 amount of bail set, the time and manner of release or the location
3 where the individual is currently being held, and all charges the
4 individual is being held upon, including any outstanding warrants
5 from other jurisdictions and parole or probation holds.

6 (2) Subject to the restrictions imposed by Section 841.5 of the
7 Penal Code, the time, substance, and location of all complaints or
8 requests for assistance received by the agency and the time and
9 nature of the response thereto, including, to the extent the
10 information regarding crimes alleged or committed or any other
11 incident investigated is recorded, the time, date, and location of
12 occurrence, the time and date of the report, the name and age of
13 the victim, the factual circumstances surrounding the crime or
14 incident, and a general description of any injuries, property, or
15 weapons involved. The name of a victim of any crime defined by
16 Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a,
17 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285,
18 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the
19 Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83
20 of the November 7, 2006, statewide general election), 288.5, 288.7,
21 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may
22 be withheld at the victim's request, or at the request of the victim's
23 parent or guardian if the victim is a minor. When a person is the
24 victim of more than one crime, information disclosing that the
25 person is a victim of a crime defined in any of the sections of the
26 Penal Code set forth in this subdivision may be deleted at the
27 request of the victim, or the victim's parent or guardian if the
28 victim is a minor, in making the report of the crime, or of any
29 crime or incident accompanying the crime, available to the public
30 in compliance with the requirements of this paragraph.

31 (3) Subject to the restrictions of Section 841.5 of the Penal Code
32 and this subdivision, the current address of every individual
33 arrested by the agency and the current address of the victim of a
34 crime, where the requester declares under penalty of perjury that
35 the request is made for a scholarly, journalistic, political, or
36 governmental purpose, or that the request is made for investigation
37 purposes by a licensed private investigator as described in Chapter
38 11.3 (commencing with Section 7512) of Division 3 of the Business
39 and Professions Code. However, the address of the victim of any
40 crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1,

1 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a,
2 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by
3 Chapter 337 of the Statutes of 2006), 288.3 (as added by Section
4 6 of Proposition 83 of the November 7, 2006, statewide general
5 election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6
6 of the Penal Code shall remain confidential. Address information
7 obtained pursuant to this paragraph may not be used directly or
8 indirectly, or furnished to another, to sell a product or service to
9 any individual or group of individuals, and the requester shall
10 execute a declaration to that effect under penalty of perjury.
11 Nothing in this paragraph shall be construed to prohibit or limit a
12 scholarly, journalistic, political, or government use of address
13 information obtained pursuant to this paragraph.

14 (g) Test questions, scoring keys, and other examination data
15 used to administer a licensing examination, examination for
16 employment, or academic examination, except as provided for in
17 Chapter 3 (commencing with Section 99150) of Part 65 of Division
18 14 of Title 3 of the Education Code.

19 (h) The contents of real estate appraisals or engineering or
20 feasibility estimates and evaluations made for or by the state or
21 local agency relative to the acquisition of property, or to
22 prospective public supply and construction contracts, until all of
23 the property has been acquired or all of the contract agreement
24 obtained. However, the law of eminent domain shall not be affected
25 by this provision.

26 (i) Information required from any taxpayer in connection with
27 the collection of local taxes that is received in confidence and the
28 disclosure of the information to other persons would result in unfair
29 competitive disadvantage to the person supplying the information.

30 (j) Library circulation records kept for the purpose of identifying
31 the borrower of items available in libraries, and library and museum
32 materials made or acquired and presented solely for reference or
33 exhibition purposes. The exemption in this subdivision shall not
34 apply to records of fines imposed on the borrowers.

35 (k) Records, the disclosure of which is exempted or prohibited
36 pursuant to federal or state law, including, but not limited to,
37 provisions of the Evidence Code relating to privilege.

38 (l) Correspondence of and to the Governor or employees of the
39 Governor's office or in the custody of or maintained by the
40 Governor's Legal Affairs Secretary. However, public records shall

1 not be transferred to the custody of the Governor's Legal Affairs
2 Secretary to evade the disclosure provisions of this chapter.

3 (m) In the custody of or maintained by the Legislative Counsel,
4 except those records in the public database maintained by the
5 Legislative Counsel that are described in Section 10248.

6 (n) Statements of personal worth or personal financial data
7 required by a licensing agency and filed by an applicant with the
8 licensing agency to establish his or her personal qualification for
9 the license, certificate, or permit applied for.

10 (o) Financial data contained in applications for financing under
11 Division 27 (commencing with Section 44500) of the Health and
12 Safety Code, where an authorized officer of the California Pollution
13 Control Financing Authority determines that disclosure of the
14 financial data would be competitively injurious to the applicant
15 and the data is required in order to obtain guarantees from the
16 United States Small Business Administration. The California
17 Pollution Control Financing Authority shall adopt rules for review
18 of individual requests for confidentiality under this section and for
19 making available to the public those portions of an application that
20 are subject to disclosure under this chapter.

21 (p) Records of state agencies related to activities governed by
22 Chapter 10.3 (commencing with Section 3512), Chapter 10.5
23 (commencing with Section 3525), and Chapter 12 (commencing
24 with Section 3560) of Division 4, that reveal a state agency's
25 deliberative processes, impressions, evaluations, opinions,
26 recommendations, meeting minutes, research, work products,
27 theories, or strategy, or that provide instruction, advice, or training
28 to employees who do not have full collective bargaining and
29 representation rights under these chapters. Nothing in this
30 subdivision shall be construed to limit the disclosure duties of a
31 state agency with respect to any other records relating to the
32 activities governed by the employee relations acts referred to in
33 this subdivision.

34 (q) (1) Records of state agencies related to activities governed
35 by Article 2.6 (commencing with Section 14081), Article 2.8
36 (commencing with Section 14087.5), and Article 2.91
37 (commencing with Section 14089) of Chapter 7 of Part 3 of
38 Division 9 of the Welfare and Institutions Code, that reveal the
39 special negotiator's deliberative processes, discussions,
40 communications, or any other portion of the negotiations with

1 providers of health care services, impressions, opinions,
2 recommendations, meeting minutes, research, work product,
3 theories, or strategy, or that provide instruction, advice, or training
4 to employees.

5 (2) Except for the portion of a contract containing the rates of
6 payment, contracts for inpatient services entered into pursuant to
7 these articles, on or after April 1, 1984, shall be open to inspection
8 one year after they are fully executed. If a contract for inpatient
9 services that is entered into prior to April 1, 1984, is amended on
10 or after April 1, 1984, the amendment, except for any portion
11 containing the rates of payment, shall be open to inspection one
12 year after it is fully executed. If the California Medical Assistance
13 Commission enters into contracts with health care providers for
14 other than inpatient hospital services, those contracts shall be open
15 to inspection one year after they are fully executed.

16 (3) Three years after a contract or amendment is open to
17 inspection under this subdivision, the portion of the contract or
18 amendment containing the rates of payment shall be open to
19 inspection.

20 (4) Notwithstanding any other ~~provision~~ of law, the entire
21 contract or amendment shall be open to inspection by the Joint
22 Legislative Audit Committee and the Legislative Analyst's Office.
23 The committee and that office shall maintain the confidentiality
24 of the contracts and amendments until the time a contract or
25 amendment is fully open to inspection by the public.

26 (r) Records of Native American graves, cemeteries, and sacred
27 places and records of Native American places, features, and objects
28 described in Sections 5097.9 and 5097.993 of the Public Resources
29 Code maintained by, or in the possession of, the Native American
30 Heritage Commission, another state agency, or a local agency.

31 (s) A final accreditation report of the Joint Commission on
32 Accreditation of Hospitals that has been transmitted to the State
33 Department of Health Care Services pursuant to subdivision (b)
34 of Section 1282 of the Health and Safety Code.

35 (t) Records of a local hospital district, formed pursuant to
36 Division 23 (commencing with Section 32000) of the Health and
37 Safety Code, or the records of a municipal hospital, formed
38 pursuant to Article 7 (commencing with Section 37600) or Article
39 8 (commencing with Section 37650) of Chapter 5 of Part 2 of
40 Division 3 of Title 4 of this code, that relate to any contract with

1 an insurer or nonprofit hospital service plan for inpatient or
2 outpatient services for alternative rates pursuant to Section 10133
3 of the Insurance Code. However, the record shall be open to
4 inspection within one year after the contract is fully executed.

5 (u) (1) Information contained in applications for licenses to
6 carry firearms issued pursuant to Section 26150, 26155, 26170,
7 or 26215 of the Penal Code by the sheriff of a county or the chief
8 or other head of a municipal police department that indicates when
9 or where the applicant is vulnerable to attack or that concerns the
10 applicant's medical or psychological history or that of members
11 of his or her family.

12 (2) The home address and telephone number of prosecutors,
13 public defenders, peace officers, judges, court commissioners, and
14 magistrates that are set forth in applications for licenses to carry
15 firearms issued pursuant to Section 26150, 26155, 26170, or 26215
16 of the Penal Code by the sheriff of a county or the chief or other
17 head of a municipal police department.

18 (3) The home address and telephone number of prosecutors,
19 public defenders, peace officers, judges, court commissioners, and
20 magistrates that are set forth in licenses to carry firearms issued
21 pursuant to Section 26150, 26155, 26170, or 26215 of the Penal
22 Code by the sheriff of a county or the chief or other head of a
23 municipal police department.

24 (v) (1) Records of the Managed Risk Medical Insurance Board
25 related to activities governed by Part 6.3 (commencing with Section
26 12695), Part 6.5 (commencing with Section 12700), Part 6.6
27 (commencing with Section 12739.5), and Part 6.7 (commencing
28 with Section 12739.70) of Division 2 of the Insurance Code, and
29 that reveal any of the following:

30 (A) The deliberative processes, discussions, communications,
31 or any other portion of the negotiations with entities contracting
32 or seeking to contract with the board, entities with which the board
33 is considering a contract, or entities with which the board is
34 considering or enters into any other arrangement under which the
35 board provides, receives, or arranges services or reimbursement.

36 (B) The impressions, opinions, recommendations, meeting
37 minutes, research, work product, theories, or strategy of the board
38 or its staff, or records that provide instructions, advice, or training
39 to employees.

1 (2) (A) Except for the portion of a contract that contains the
2 rates of payment, contracts entered into pursuant to Part 6.3
3 (commencing with Section 12695), Part 6.5 (commencing with
4 Section 12700), Part 6.6 (commencing with Section 12739.5), or
5 Part 6.7 (commencing with Section 12739.70) of Division 2 of the
6 Insurance Code, on or after July 1, 1991, shall be open to inspection
7 one year after their effective dates.

8 (B) If a contract that is entered into prior to July 1, 1991, is
9 amended on or after July 1, 1991, the amendment, except for any
10 portion containing the rates of payment, shall be open to inspection
11 one year after the effective date of the amendment.

12 (3) Three years after a contract or amendment is open to
13 inspection pursuant to this subdivision, the portion of the contract
14 or amendment containing the rates of payment shall be open to
15 inspection.

16 (4) Notwithstanding any other law, the entire contract or
17 amendments to a contract shall be open to inspection by the Joint
18 Legislative Audit Committee. The committee shall maintain the
19 confidentiality of the contracts and amendments thereto, until the
20 contracts or amendments to the contracts are open to inspection
21 pursuant to paragraph (3).

22 (w) (1) Records of the Managed Risk Medical Insurance Board
23 related to activities governed by Chapter 8 (commencing with
24 Section 10700) of Part 2 of Division 2 of the Insurance Code, and
25 that reveal the deliberative processes, discussions, communications,
26 or any other portion of the negotiations with health plans, or the
27 impressions, opinions, recommendations, meeting minutes,
28 research, work product, theories, or strategy of the board or its
29 staff, or records that provide instructions, advice, or training to
30 employees.

31 (2) Except for the portion of a contract that contains the rates
32 of payment, contracts for health coverage entered into pursuant to
33 Chapter 8 (commencing with Section 10700) of Part 2 of Division
34 2 of the Insurance Code, on or after January 1, 1993, shall be open
35 to inspection one year after they have been fully executed.

36 (3) Notwithstanding any other law, the entire contract or
37 amendments to a contract shall be open to inspection by the Joint
38 Legislative Audit Committee. The committee shall maintain the
39 confidentiality of the contracts and amendments thereto, until the

1 contracts or amendments to the contracts are open to inspection
2 pursuant to paragraph (2).

3 (x) Financial data contained in applications for registration, or
4 registration renewal, as a service contractor filed with the Director
5 of Consumer Affairs pursuant to Chapter 20 (commencing with
6 Section 9800) of Division 3 of the Business and Professions Code,
7 for the purpose of establishing the service contractor's net worth,
8 or financial data regarding the funded accounts held in escrow for
9 service contracts held in force in this state by a service contractor.

10 (y) (1) Records of the Managed Risk Medical Insurance Board
11 related to activities governed by Part 6.2 (commencing with Section
12 12693) or Part 6.4 (commencing with Section 12699.50) of
13 Division 2 of the Insurance Code, and that reveal any of the
14 following:

15 (A) The deliberative processes, discussions, communications,
16 or any other portion of the negotiations with entities contracting
17 or seeking to contract with the board, entities with which the board
18 is considering a contract, or entities with which the board is
19 considering or enters into any other arrangement under which the
20 board provides, receives, or arranges services or reimbursement.

21 (B) The impressions, opinions, recommendations, meeting
22 minutes, research, work product, theories, or strategy of the board
23 or its staff, or records that provide instructions, advice, or training
24 to employees.

25 (2) (A) Except for the portion of a contract that contains the
26 rates of payment, contracts entered into pursuant to Part 6.2
27 (commencing with Section 12693) or Part 6.4 (commencing with
28 Section 12699.50) of Division 2 of the Insurance Code, on or after
29 January 1, 1998, shall be open to inspection one year after their
30 effective dates.

31 (B) If a contract entered into pursuant to Part 6.2 (commencing
32 with Section 12693) or Part 6.4 (commencing with Section
33 12699.50) of Division 2 of the Insurance Code is amended, the
34 amendment shall be open to inspection one year after the effective
35 date of the amendment.

36 (3) Three years after a contract or amendment is open to
37 inspection pursuant to this subdivision, the portion of the contract
38 or amendment containing the rates of payment shall be open to
39 inspection.

1 (4) Notwithstanding any other law, the entire contract or
 2 amendments to a contract shall be open to inspection by the Joint
 3 Legislative Audit Committee. The committee shall maintain the
 4 confidentiality of the contracts and amendments thereto until the
 5 contract or amendments to a contract are open to inspection
 6 pursuant to paragraph (2) or (3).

7 (5) The exemption from disclosure provided pursuant to this
 8 subdivision for the contracts, deliberative processes, discussions,
 9 communications, negotiations, impressions, opinions,
 10 recommendations, meeting minutes, research, work product,
 11 theories, or strategy of the board or its staff shall also apply to the
 12 contracts, deliberative processes, discussions, communications,
 13 negotiations, impressions, opinions, recommendations, meeting
 14 minutes, research, work product, theories, or strategy of applicants
 15 pursuant to Part 6.4 (commencing with Section 12699.50) of
 16 Division 2 of the Insurance Code.

17 (z) Records obtained pursuant to paragraph (2) of subdivision
 18 (f) of Section 2891.1 of the Public Utilities Code.

19 (aa) A document prepared by or for a state or local agency that
 20 assesses its vulnerability to terrorist attack or other criminal acts
 21 intended to disrupt the public agency’s operations and that is for
 22 distribution or consideration in a closed session.

23 (ab) Critical infrastructure information, as defined in Section
 24 131(3) of Title 6 of the United States Code, that is voluntarily
 25 submitted to the ~~California Emergency Management Agency Office~~
 26 *of Emergency Services* for use by that office, including the identity
 27 of the person who or entity that voluntarily submitted the
 28 information. As used in this subdivision, “voluntarily submitted”
 29 means submitted in the absence of the office exercising any legal
 30 authority to compel access to or submission of critical infrastructure
 31 information. This subdivision shall not affect the status of
 32 information in the possession of any other state or local
 33 governmental agency.

34 (ac) All information provided to the Secretary of State by a
 35 person for the purpose of registration in the Advance Health Care
 36 Directive Registry, except that those records shall be released at
 37 the request of a health care provider, a public guardian, or the
 38 registrant’s legal representative.

39 (ad) The following records of the State Compensation Insurance
 40 Fund:

1 (1) Records related to claims pursuant to Chapter 1
2 (commencing with Section 3200) of Division 4 of the Labor Code,
3 to the extent that confidential medical information or other
4 individually identifiable information would be disclosed.

5 (2) Records related to the discussions, communications, or any
6 other portion of the negotiations with entities contracting or seeking
7 to contract with the fund, and any related deliberations.

8 (3) Records related to the impressions, opinions,
9 recommendations, meeting minutes of meetings or sessions that
10 are lawfully closed to the public, research, work product, theories,
11 or strategy of the fund or its staff, on the development of rates,
12 contracting strategy, underwriting, or competitive strategy pursuant
13 to the powers granted to the fund in Chapter 4 (commencing with
14 Section 11770) of Part 3 of Division 2 of the Insurance Code.

15 (4) Records obtained to provide workers' compensation
16 insurance under Chapter 4 (commencing with Section 11770) of
17 Part 3 of Division 2 of the Insurance Code, including, but not
18 limited to, any medical claims information, policyholder
19 information provided that nothing in this paragraph shall be
20 interpreted to prevent an insurance agent or broker from obtaining
21 proprietary information or other information authorized by law to
22 be obtained by the agent or broker, and information on rates,
23 pricing, and claims handling received from brokers.

24 (5) (A) Records that are trade secrets pursuant to Section
25 6276.44, or Article 11 (commencing with Section 1060) of Chapter
26 4 of Division 8 of the Evidence Code, including without limitation,
27 instructions, advice, or training provided by the State Compensation
28 Insurance Fund to its board members, officers, and employees
29 regarding the fund's special investigation unit, internal audit unit,
30 and informational security, marketing, rating, pricing, underwriting,
31 claims handling, audits, and collections.

32 (B) Notwithstanding subparagraph (A), the portions of records
33 containing trade secrets shall be available for review by the Joint
34 Legislative Audit Committee, the Bureau of State Audits, Division
35 of Workers' Compensation, and the Department of Insurance to
36 ensure compliance with applicable law.

37 (6) (A) Internal audits containing proprietary information and
38 the following records that are related to an internal audit:

39 (i) Personal papers and correspondence of any person providing
40 assistance to the fund when that person has requested in writing

1 that his or her papers and correspondence be kept private and
2 confidential. Those papers and correspondence shall become public
3 records if the written request is withdrawn, or upon order of the
4 fund.

5 (ii) Papers, correspondence, memoranda, or any substantive
6 information pertaining to any audit not completed or an internal
7 audit that contains proprietary information.

8 (B) Notwithstanding subparagraph (A), the portions of records
9 containing proprietary information, or any information specified
10 in subparagraph (A) shall be available for review by the Joint
11 Legislative Audit Committee, the Bureau of State Audits, Division
12 of Workers' Compensation, and the Department of Insurance to
13 ensure compliance with applicable law.

14 (7) (A) Except as provided in subparagraph (C), contracts
15 entered into pursuant to Chapter 4 (commencing with Section
16 11770) of Part 3 of Division 2 of the Insurance Code shall be open
17 to inspection one year after the contract has been fully executed.

18 (B) If a contract entered into pursuant to Chapter 4 (commencing
19 with Section 11770) of Part 3 of Division 2 of the Insurance Code
20 is amended, the amendment shall be open to inspection one year
21 after the amendment has been fully executed.

22 (C) Three years after a contract or amendment is open to
23 inspection pursuant to this subdivision, the portion of the contract
24 or amendment containing the rates of payment shall be open to
25 inspection.

26 (D) Notwithstanding any other law, the entire contract or
27 amendments to a contract shall be open to inspection by the Joint
28 Legislative Audit Committee. The committee shall maintain the
29 confidentiality of the contracts and amendments thereto until the
30 contract or amendments to a contract are open to inspection
31 pursuant to this paragraph.

32 (E) This paragraph is not intended to apply to documents related
33 to contracts with public entities that are not otherwise expressly
34 confidential as to that public entity.

35 (F) For purposes of this paragraph, "fully executed" means the
36 point in time when all of the necessary parties to the contract have
37 signed the contract.

38 This section shall not prevent any agency from opening its
39 records concerning the administration of the agency to public
40 inspection, unless disclosure is otherwise prohibited by law.

1 This section shall not prevent any health facility from disclosing
2 to a certified bargaining agent relevant financing information
3 pursuant to Section 8 of the National Labor Relations Act (29
4 U.S.C. Sec. 158).

5 *SEC. 131. Section 6254.23 of the Government Code is amended*
6 *to read:*

7 6254.23. Nothing in this chapter or any other provision of law
8 shall require the disclosure of a risk assessment or railroad
9 infrastructure protection program filed with the Public Utilities
10 Commission, the Director of Homeland Security, and the ~~California~~
11 ~~Office of Emergency Management Agency Services~~ pursuant to
12 Article 7.3 (commencing with Section 7665) of Chapter 1 of
13 Division 4 of the Public Utilities Code.

14 *SEC. 132. Section 6276.26 of the Government Code is amended*
15 *to read:*

16 6276.26. Improper governmental activities reporting,
17 confidentiality of identity of person providing information, Section
18 8547.5.

19 Improper governmental activities reporting, disclosure of
20 information, Section 8547.6.

21 Industrial loan companies, confidentiality of financial
22 information, Section 18496, Financial Code.

23 Industrial loan companies, confidentiality of investigation and
24 examination reports, Section 18394, Financial Code.

25 Influenza vaccine, trade secret information and information
26 relating to recipient of vaccine, Section 120155, Health and Safety
27 Code.

28 In forma pauperis litigant, rules governing confidentiality of
29 financial information, Section 68511.3.

30 Infrastructure information, exemption from disclosure for
31 information voluntarily submitted to the ~~California Office of~~
32 ~~Emergency Management Agency Services~~, subdivision (ab),
33 Section 6254.

34 In-Home Supportive Services Program, exemption from
35 disclosure for information regarding persons paid by the state to
36 provide in-home supportive services, Section 6253.2.

37 Initiative, referendum, recall, and other petitions, confidentiality
38 of names of signers, Section 6253.5.

39 Insurance claims analysis, confidentiality of information, Section
40 1875.16, Insurance Code.

1 Insurance Commissioner, confidential information, Sections
2 735.5, 1067.11, 1077.3, and 12919, Insurance Code.
3 Insurance Commissioner, informal conciliation of complaints,
4 confidential communications, Section 1858.02, Insurance Code.
5 Insurance Commissioner, information from examination or
6 investigation, confidentiality of, Sections 1215.7, 1433, and 1759.3,
7 Insurance Code.
8 Insurance Commissioner, writings filed with nondisclosure,
9 Section 855, Insurance Code.
10 Insurance fraud reporting, information acquired not part of public
11 record, Section 1873.1, Insurance Code.
12 Insurance licensee, confidential information, Section 1666.5,
13 Insurance Code.
14 Insurer application information, confidentiality of, Section 925.3,
15 Insurance Code.
16 Insurer financial analysis ratios and examination synopses,
17 confidentiality of, Section 933, Insurance Code.
18 ~~Integrated Waste Management Board~~ *Department of Resources*
19 *Recycling and Recovery* information, prohibition against disclosure,
20 Section 45982, Revenue and Taxation Code.
21 International wills, confidentiality of registration information
22 filed with the Secretary of State, Section 6389, Probate Code.
23 Intervention in regulatory and ratemaking proceedings, audit of
24 customer seeking and award, Section 1804, Public Utilities Code.
25 Investigation and security records, exemption from disclosure
26 for records of the Attorney General, the Department of Justice, the
27 ~~California Office of Emergency Management~~ *Agency Services*,
28 and state and local police agencies, subdivision (f), Section 6254.
29 Investigative consumer reporting agency, limitations on
30 furnishing an investigative consumer report, Section 1786.12, Civil
31 Code.
32 *SEC. 133. Section 6276.38 of the Government Code is amended*
33 *to read:*
34 6276.38. Radioactive materials, dissemination of information
35 about transportation of, Section 33002, Vehicle Code.
36 Railroad infrastructure protection program, disclosure not
37 required for risk assessments filed with the Public Utilities
38 Commission, the ~~Secretary~~ *Director* of ~~California~~ *Emergency*
39 ~~Management Services~~, or the ~~California Office of Emergency~~
40 ~~Management Agency Services~~, Section 6254.23.

- 1 Real estate broker, annual report to ~~Department~~ *Bureau* of Real
- 2 Estate of financial information, confidentiality of, Section 10232.2,
- 3 Business and Professions Code.
- 4 Real property, acquisition by state or local government,
- 5 information relating to feasibility, subdivision (h), Section 6254.
- 6 Real property, change in ownership statement, confidentiality
- 7 of, Section 27280.
- 8 Records of contract purchasers, inspection by public prohibited,
- 9 Section 85, Military and Veterans Code.
- 10 Registered public obligations, inspection of records of security
- 11 interests in, Section 5060.
- 12 Registration of exempt vehicles, nondisclosure of name of person
- 13 involved in alleged violation, Section 5003, Vehicle Code.
- 14 Rehabilitation, Department of, confidential information, Section
- 15 19016, Welfare and Institutions Code.
- 16 Reinsurance intermediary-broker license information,
- 17 confidentiality of, Section 1781.3, Insurance Code.
- 18 Relocation assistance, confidential records submitted to a public
- 19 entity by a business or farm operation, Section 7262.
- 20 Rent control ordinance, confidentiality of information concerning
- 21 accommodations sought to be withdrawn from, Section 7060.4.
- 22 Report of probation officer, inspection, copies, Section 1203.05,
- 23 Penal Code.
- 24 Repossession agency licensee application, confidentiality of
- 25 information, Sections 7503, 7504, and 7506.5, Business and
- 26 Professions Code.
- 27 Reproductive health facilities, disclosure not required for
- 28 personal information regarding employees, volunteers, board
- 29 members, owners, partners, officers, and contractors of a
- 30 reproductive health services facility who have provided requisite
- 31 notification, Section 6254.18.
- 32 Residence address in any record of Department of Housing and
- 33 Community Development, confidentiality of, Section 6254.1.
- 34 Residence address in any record of Department of Motor
- 35 Vehicles, confidentiality of, Section 6254.1, Government Code,
- 36 and Section 1808.21, Vehicle Code.
- 37 Residence and mailing addresses in records of Department of
- 38 Motor Vehicles, confidentiality of, Section 1810.7, Vehicle Code.
- 39 Residential care facilities, confidentiality of resident information,
- 40 Section 1568.08, Health and Safety Code.

1 Residential care facilities for the elderly, confidentiality of client
2 information, Section 1569.315, Health and Safety Code.

3 Respiratory care practitioner, professional competency
4 examination reports, confidentiality of, Section 3756, Business
5 and Professions Code.

6 Restraint of trade, civil action by district attorney, confidential
7 memorandum, Section 16750, Business and Professions Code.

8 Reward by governor for information leading to arrest and
9 conviction, confidentiality of person supplying information, Section
10 1547, Penal Code.

11 Safe surrender site, confidentiality of information pertaining to
12 a parent or individual surrendering a child, Section 1255.7, Health
13 and Safety Code.

14 *SEC. 134. Section 7465 of the Government Code is amended*
15 *to read:*

16 7465. For the purposes of this chapter:

17 (a) The term “financial institution” includes state and national
18 banks, state and federal savings associations, trust companies,
19 industrial loan companies, and state and federal credit unions. Such
20 term shall not include a title insurer while engaging in the conduct
21 of the “business of title insurance” as defined by Section 12340.3
22 of the Insurance Code, an underwritten title company, or an escrow
23 company.

24 (b) The term “financial records” means any original or any copy
25 of any record or document held by a financial institution pertaining
26 to a customer of the financial institution.

27 (c) The term “person” means an individual, partnership,
28 corporation, limited liability company, association, trust or any
29 other legal entity.

30 (d) The term “customer” means any person who has transacted
31 business with or has used the services of a financial institution or
32 for whom a financial institution has acted as a fiduciary.

33 (e) The term “state agency” means every state office, officer,
34 department, division, bureau, board, and commission or other state
35 agency, including the Legislature.

36 (f) The term “local agency” includes a county; city, whether
37 general law or chartered; city and county; school district; municipal
38 corporation; district; political subdivision; or any board,
39 commission or agency thereof; or other local public agency.

40 (g) The term “supervisory agency” means any of the following:

- 1 (1) The Department of Financial Institutions.
- 2 (2) The Controller.
- 3 (3) The Administrator of Local Agency Security.
- 4 (4) ~~The Department of Real Estate~~ *Bureau of Real Estate*.
- 5 (5) The Department of Insurance.

6 (h) The term “investigation” includes, but is not limited to, any
7 inquiry by a peace officer, sheriff, or district attorney, or any
8 inquiry made for the purpose of determining whether there has
9 been a violation of any law enforceable by imprisonment, fine, or
10 monetary liability.

11 (i) The term “subpoena” includes subpoena duces tecum.

12 *SEC. 135. Section 8550 of the Government Code is amended*
13 *to read:*

14 8550. The state has long recognized its responsibility to
15 mitigate the effects of natural, manmade, or war-caused
16 emergencies ~~which~~ *that* result in conditions of disaster or in
17 extreme peril to life, property, and the resources of the state, and
18 generally to protect the health and safety and preserve the lives
19 and property of the people of the state. To ensure that preparations
20 within the state will be adequate to deal with such emergencies, it
21 is hereby found and declared to be necessary:

22 (a) To confer upon the Governor and upon the chief executives
23 and governing bodies of political subdivisions of this state the
24 emergency powers provided herein; and to provide for state
25 assistance in the organization and maintenance of the emergency
26 programs of such political subdivisions.

27 (b) To provide for a state ~~agency office~~ *office* to be known and referred
28 to as the ~~California Office of Emergency Management Agency~~
29 ~~(Cal-EMA) Services~~, within the office of the Governor, and to
30 prescribe the powers and duties of the ~~secretary~~ *director* of that
31 ~~agency office~~.

32 (c) To provide for the assignment of functions to state ~~agencies~~
33 ~~entities~~ *entities* to be performed during an emergency and for the
34 coordination and direction of the emergency actions of ~~such~~
35 ~~agencies~~ *those entities*.

36 (d) To provide for the rendering of mutual aid by the state
37 government and all its departments and agencies and by the
38 political subdivisions of this state in carrying out the purposes of
39 this chapter.

1 (e) To authorize the establishment of such organizations and
2 the taking of such actions as are necessary and proper to carry out
3 the provisions of this chapter.

4 It is further declared to be the purpose of this chapter and the
5 policy of this state that all emergency services functions of this
6 state be coordinated as far as possible with the comparable
7 functions of its political subdivisions, of the federal government
8 including its various departments and agencies, of other states,
9 and of private agencies of every type, to the end that the most
10 effective use may be made of all manpower, resources, and
11 facilities for dealing with any emergency that may occur.

12 *SEC. 136. Section 8570.5 of the Government Code is amended*
13 *to read:*

14 8570.5. ~~The California Office of Emergency Management~~
15 ~~Agency Services~~ shall develop a guidance document to the state
16 emergency plan to specify the response of the state and its political
17 subdivisions to agriculture-related disasters. This document shall
18 be completed by January 2002, and updated by January 2009, and
19 shall include, but not be limited to, all of the following:

20 (a) The roles and responsibilities of the county agricultural
21 commissioners.

22 (b) The roles and responsibilities of the Department of
23 Agriculture and other relevant state agencies that are involved in
24 the response to agriculture-related disasters.

25 (c) Coordination of initial and ongoing crop damage
26 assessments.

27 (d) Disaster assistance between the time of the request for a
28 federal disaster declaration and issuance of a federal declaration.

29 (e) State assistance available if a requested federal declaration
30 is not issued.

31 (f) State assistance under a United States Department of
32 Agriculture designation rather than a federal declaration.

33 (g) State assistance for long-term unemployment in areas with
34 high unemployment rates prior to an emergency.

35 (h) Provision for the removal and elimination of extraordinary
36 numbers of dead livestock for purposes of protecting public health
37 and safety.

38 (i) Strategies to assist in the development of an integrated and
39 coordinated response by community-based organizations to the
40 victims of agriculture-related disasters.

1 (j) Procedures for the decontamination of individuals who have
2 been or may have been exposed to hazardous materials, which
3 may vary depending on the hazards posed by a particular hazardous
4 material. The report shall specify that individuals shall be assisted
5 in a humanitarian manner.

6 (k) Integration of various local and state emergency response
7 plans, including, but not limited to, plans that relate to hazardous
8 materials, oil spills, public health emergencies, and general
9 disasters.

10 *SEC. 137. Section 8574.17 of the Government Code is amended*
11 *to read:*

12 8574.17. (a) (1) A state toxic disaster contingency plan
13 established pursuant to this article shall provide for an integrated
14 and effective state procedure to respond to the occurrence of toxic
15 disasters within the state. The plan shall provide for the designation
16 of a lead agency to direct strategy to ameliorate the effects of a
17 toxic disaster, for specified state agencies to implement the plan,
18 for interagency coordination of the training conducted by state
19 agencies pursuant to the plan, and for on-scene coordination of
20 response actions.

21 (2) Notwithstanding any provision of the plan, the authority for
22 the management of the scene of an on-highway toxic spill or
23 disaster shall be vested in the appropriate law enforcement agency
24 having primary traffic investigative authority on the highway where
25 the incident occurs or in a local fire protection agency as provided
26 by Section 2454 of the Vehicle Code. During the preparation of
27 the toxic disaster contingency plan, the ~~California Office of~~
28 ~~Emergency Management Agency Services~~ shall adopt the
29 recommendations of the Department of the California Highway
30 Patrol in developing response and on-scene procedures for toxic
31 disasters which occur upon the highways, based upon previous
32 studies for such procedures, insofar as the procedures are not
33 inconsistent with the overall plan for initial notification of toxic
34 disasters by public agencies and for after-incident evaluation and
35 reporting.

36 (b) The ~~California Office of Emergency Management Agency~~
37 ~~Services~~ shall establish a central notification and reporting system
38 to facilitate operation of the state toxic disaster response procedures
39 designated by the toxic disaster contingency plan.

1 *SEC. 138. Section 8574.20 of the Government Code is amended*
2 *to read:*

3 8574.20. ~~The California Office of Emergency Management~~
4 ~~Agency Services~~ shall manage the California Hazardous Substances
5 Incident Response Training and Education Program to provide
6 approved classes in hazardous substance response, taught by trained
7 instructors, and to certify students who have completed these
8 classes. To carry out this program, ~~the California Office of~~
9 ~~Emergency Management Agency Services~~ shall do all of the
10 following:

11 (a) Adopt regulations necessary to implement the program.

12 (b) Establish a training and education program by developing
13 the curriculum to be used in the program in colleges, academies,
14 the California Specialized Training Institute, and other educational
15 institutions, as specified in Section 8574.21.

16 (c) Establish recommended minimum standards for training
17 emergency response personnel and instructors, including, but not
18 limited to, fire, police, and environmental health personnel.

19 (d) Make available a training and education program in the use
20 of hazardous substances emergency rescue, safety, and monitoring
21 equipment, on a voluntary basis, at the California Specialized
22 Training Institute.

23 (e) Train and certify instructors at the California Specialized
24 Training Institute according to standards and procedures developed
25 by the curriculum development advisory committee, as specified
26 in Section 8588.10.

27 (f) Approve classes, as meeting the requirements of the program,
28 if the classes meet the curriculum developed by ~~the California~~
29 ~~Office of Emergency Management Agency Services~~ pursuant to
30 Section 8574.21 and the instructor received training and
31 certification at the California Specialized Training Institute, as
32 specified in subdivision (e).

33 (g) Certify students who have successfully completed a class
34 approved as meeting the requirements of the program.

35 (h) Review and revise, as necessary, the program.

36 (i) Establish and collect admission fees and other fees that may
37 be necessary to be charged for advanced or specialized training
38 given at the California Specialized Training Institute. These fees
39 shall be used to offset costs incurred pursuant to this article.

1 *SEC. 139. Section 8574.21 of the Government Code is amended*
2 *to read:*

3 8574.21. (a) ~~The California Office of Emergency Management~~
4 ~~Agency Services~~ shall develop the curriculum to be used in classes
5 that meet the program requirements and shall adopt standards and
6 procedures for training instructors at the California Specialized
7 Training Institute.

8 (b) The curriculum for the training and education program
9 established pursuant to this article shall include all of the following
10 aspects of hazardous substance incident response actions:

11 (1) First responder training.

12 (2) On-scene manager training.

13 (3) Hazardous substance incident response training for
14 management personnel.

15 (4) Hazardous materials specialist training that equals or exceeds
16 the standards of the National Fire Protection Association.

17 (5) Environmental monitoring.

18 (6) Hazardous substance release investigations.

19 (7) Hazardous substance incident response activities at ports.

20 (c) The curriculum development advisory committee described
21 in Section 8588.10 shall advise the ~~California Office of Emergency~~
22 ~~Management Agency Services~~ on the development of course
23 curricula and the standards and procedures specified in subdivision
24 (a). In advising the ~~California Office of Emergency Management~~
25 ~~Agency Services~~, the committee shall do the following:

26 (1) Assist, and cooperate with, representatives of the Board of
27 Governors of the California Community Colleges in developing
28 the course curricula.

29 (2) Ensure that the curriculum developed pursuant to this section
30 is accredited by the State Board of Fire Services.

31 (3) Define equivalent training and experience considered as
32 meeting the initial training requirements as specified in subdivision
33 (a) that existing employees might have already received from actual
34 experience or formal education undertaken, and which would
35 qualify as meeting the requirements established pursuant to this
36 article.

37 (d) This article does not affect the authority of the State Fire
38 Marshal granted pursuant to Section 13142.4 or 13159 of the
39 Health and Safety Code.

1 (e) Upon completion of instructor training and certification
 2 pursuant to subdivision (e) of Section 8574.20 by any employee
 3 of the Department of the California Highway Patrol, the
 4 Commissioner of the California Highway Patrol may deem any
 5 training programs taught by that employee to be equivalent to any
 6 training program meeting the requirements established pursuant
 7 to this article.

8 *SEC. 140. Section 8574.22 of the Government Code is amended*
 9 *to read:*

10 8574.22. ~~The California Office of Emergency Management~~
 11 ~~Agency Services~~ may hire professional and clerical staff pursuant
 12 to the State Civil Service Act (Part 2 (commencing with Section
 13 18500) of Division 5 of Title 2). However, any person employed
 14 pursuant to this section shall be employed only at the California
 15 Specialized Training Institute.

16 *SEC. 141. Section 8575 of the Government Code is amended*
 17 *to read:*

18 8575. For the purposes of the California Disaster and Civil
 19 Defense Master Mutual Aid Agreement, ~~the California Office of~~
 20 ~~Emergency Management Agency Services~~ will serve as the State
 21 Disaster Council.

22 *SEC. 142. Section 8584.1 of the Government Code is amended*
 23 *to read:*

24 8584.1. (a) It is the intent of the Legislature that the state have
 25 an urban heavy rescue capability in the event of a major earthquake.
 26 It is also the intent of the Legislature that ~~the California Office of~~
 27 ~~Emergency Management Agency Services~~ and the State Fire
 28 Marshal’s Office pursue the necessary funding to carry out this
 29 article through the normal budget process.

30 (b) The Fire and Rescue Division of ~~the California Office of~~
 31 ~~Emergency Management Agency Services~~ shall acquire and
 32 maintain urban heavy rescue units and transportable caches of
 33 search and rescue gear, including hand tools and protective gear.
 34 The division shall position the units and caches to ensure a rapid
 35 response of personnel and equipment anywhere in the state, and
 36 ensure that a unit will be available on the scene within one hour
 37 of a major earthquake.

38 (c) The State Fire Marshal’s Office shall coordinate the training
 39 of personnel in the use of the units and equipment in cooperation

1 with the ~~California Office of Emergency Management Agency~~
2 ~~Services~~.

3 *SEC. 143. Section 8585 of the Government Code is amended*
4 *to read:*

5 8585. (a) (1) There is in state government, *within the office*
6 *of the Governor, the California Office of Emergency Management*
7 *Agency Services*. The ~~California Office of Emergency Management~~
8 ~~Agency Services~~ shall be under the supervision of the ~~Secretary~~
9 ~~Director of the Emergency Management Agency Services~~, who
10 shall have all rights and powers of a head of an ~~agency office~~ as
11 provided by this code, and shall be referred to as the ~~Secretary~~
12 ~~Director of Emergency Management Services~~.

13 (2) Unless the context clearly requires otherwise, whenever the
14 term ~~“Office of “California Emergency Services” Management~~
15 ~~Agency”~~ appears in any statute, regulation, or contract, *or in any*
16 *other code*, it shall be construed to refer to the ~~California Office~~
17 ~~of Emergency Management Agency Services~~, and whenever the
18 term ~~“Director “Secretary of Emergency Services” Management”~~
19 ~~or the “Director “Secretary of the Office of Emergency Services”~~
20 ~~Management Agency”~~ appears in statute, regulation, or contract,
21 *or in any other code*, it shall be construed to refer to the ~~Secretary~~
22 ~~Director of Emergency Management Services~~.

23 (3) Unless the context clearly requires otherwise, whenever the
24 term “Director of Homeland Security” or “Office of Homeland
25 Security” appears in any statute, regulation, or contract, *or in any*
26 *other code*, it shall be construed to refer to the ~~California Office~~
27 ~~of Emergency Management Agency Services~~, and whenever the
28 term “Director of Homeland Security” or “Director of the Office
29 of Homeland Security” appears in any statute, regulation, or
30 contract, *or in any other code*, it shall be construed to refer to the
31 ~~Secretary Director of Emergency Management Services~~.

32 (b) (1) The ~~California Office of Emergency Management~~
33 ~~Agency Services~~ and the ~~Secretary Director of Emergency~~
34 ~~Management Services~~ shall succeed to and are vested with all the
35 duties, powers, purposes, responsibilities, and jurisdiction vested
36 in the ~~Office of California Emergency Services Management~~
37 ~~Agency~~ and the ~~Director Secretary of the Office of Emergency~~
38 ~~Services Management~~, respectively.

39 (2) The ~~California Office of Emergency Management Agency~~
40 ~~Services~~ and the ~~Secretary Director of Emergency Management~~

1 *Services shall* succeed to and are vested with all the duties, powers,
2 purposes, responsibilities, and jurisdiction vested in the Office of
3 Homeland Security and the Director of Homeland Security,
4 respectively.

5 (c) ~~The California Office of Emergency Management Agency~~
6 *Services* shall be considered a law enforcement organization as
7 required for receipt of criminal intelligence information pursuant
8 to subdivision (f) of Section 6254 of the Government Code by
9 persons employed within the ~~agency office~~ whose duties and
10 responsibilities require the authority to access criminal intelligence
11 information.

12 (d) Persons employed by the ~~California Office of Emergency~~
13 ~~Management Agency~~ *Services* whose duties and responsibilities
14 require the authority to access criminal intelligence information
15 shall be furnished state summary criminal history information as
16 described in Section 11105 of the Penal Code, if needed in the
17 course of their duties.

18 (e) ~~The California Office of Emergency Management Agency~~
19 *Services* shall be responsible for the state's emergency and disaster
20 response services for natural, technological, or manmade disasters
21 and emergencies, including responsibility for activities necessary
22 to prevent, respond to, recover from, and mitigate the effects of
23 emergencies and disasters to people and property.

24 (f) Notwithstanding any other ~~provision of~~ law, nothing in this
25 section shall authorize an employee of the ~~California Office of~~
26 ~~Emergency Management Agency~~ *Services* to access criminal
27 intelligence information under subdivision (c) or (d) for the purpose
28 of determining eligibility for, or providing access to,
29 disaster-related assistance and services.

30 *SEC. 144. Section 8585.05 of the Government Code is amended*
31 *to read:*

32 8585.05. Unless the context otherwise requires, for purpose of
33 this article, the following definitions apply:

34 (a) "Agency" or "office" means the ~~California Office of~~
35 ~~Emergency Management Agency~~ *Services*.

36 (b) ~~"Secretary" means "California Emergency Management~~
37 ~~Agency" means the Office of Emergency~~ *Services*.

38 (c) "Director" or "secretary" means the ~~Secretary~~ Director of
39 ~~Emergency Management~~ *Services*.

1 *SEC. 145. Section 8585.1 of the Government Code is amended*
2 *to read:*

3 8585.1. (a) ~~The secretary~~ *director* shall be appointed by, and
4 hold office at the pleasure of, the Governor. The appointment of
5 ~~the secretary~~ *director* is subject to confirmation by the Senate. The
6 ~~secretary~~ *director* shall coordinate all state disaster response,
7 emergency planning, emergency preparedness, disaster recovery,
8 disaster mitigation, and homeland security activities.

9 (b) ~~The secretary~~ *director* shall receive an annual salary as set
10 forth in ~~Section 11550~~ *11552*.

11 (c) The Governor may appoint ~~an undersecretary~~ *a deputy*
12 *director* of the ~~agency~~ *office*. ~~The undersecretary~~ *deputy director*
13 shall hold office at the pleasure of the Governor.

14 (d) All positions exempt from civil service that existed in the
15 predecessor agencies shall be transferred to the ~~agency~~ *office*.

16 (e) Neither state nor federal funds may be expended to pay the
17 salary or benefits of any deputy or employee who may be appointed
18 by the ~~secretary~~ *director* or ~~undersecretary~~ *deputy director* pursuant
19 to Section 4 of Article VII of the California Constitution.

20 *SEC. 146. Section 8585.2 of the Government Code is amended*
21 *to read:*

22 8585.2. (a) All employees serving in state civil service, other
23 than temporary employees, who are engaged in the performance
24 of functions transferred to the ~~agency~~ *office* or engaged in the
25 administration of law, the administration of which ~~is transferred~~
26 ~~to~~ *was vested in the agency former California Emergency*
27 *Management Agency*, are transferred to the ~~agency~~ *office*. The
28 status, positions, and rights of those persons shall not be affected
29 by their transfer and shall continue to be retained by them pursuant
30 to the State Civil Service Act (Part 2 (commencing with Section
31 18500) of Division 5), except as to positions the duties of which
32 are vested in a position exempt from civil service. The personnel
33 records of all transferred employees shall be transferred to the
34 ~~agency~~ *office*.

35 (b) The property of any agency or department related to
36 functions *formerly* transferred to, *or vested in* the California
37 Emergency Management Agency, is transferred to the ~~agency~~
38 *office*. If any doubt arises as to where that property is transferred,
39 the Department of General Services shall determine where the
40 property is transferred.

1 (c) All unexpended balances of appropriations and other funds
2 available for use in connection with any function or the
3 administration of any law *formerly* transferred to the ~~agency~~
4 *California Emergency Management Agency* shall be transferred
5 to the ~~agency~~ *office* for use for the purpose for which the
6 appropriation was originally made or the funds were originally
7 available. If there is any doubt as to where those balances and
8 funds are transferred, the Department of Finance shall determine
9 where the balances and funds are transferred.

10 *SEC. 147. Section 8585.5 of the Government Code is amended*
11 *to read:*

12 8585.5. The ~~agency~~ *office* shall establish by rule and regulation
13 various classes of disaster service workers and the scope of the
14 duties of each class. The ~~agency~~ *office* shall also adopt rules and
15 regulations prescribing the manner in which disaster service
16 workers of each class are to be registered. All of the rules and
17 regulations shall be designed to facilitate the payment of workers'
18 compensation.

19 *SEC. 148. Section 8585.7 of the Government Code is amended*
20 *to read:*

21 8585.7. The ~~agency~~ *office* may certify the accredited status of
22 local disaster councils, subject to the requirements of Section 8612.

23 *SEC. 149. Section 8586 of the Government Code is amended*
24 *to read:*

25 8586. The Governor shall assign all or part of his or her powers
26 and duties under this chapter to the ~~California Office of Emergency~~
27 ~~Management Agency Services~~.

28 *SEC. 150. Section 8587.7 of the Government Code is amended*
29 *to read:*

30 8587.7. (a) The ~~California Office of Emergency Management~~
31 ~~Agency Services~~, in cooperation with the State Department of
32 Education, the Department of General Services, and the Seismic
33 Safety Commission, shall develop an educational pamphlet for
34 use by grades Kindergarten to 14 personnel to identify and mitigate
35 the risks posed by nonstructural earthquake hazards.

36 (b) The ~~agency~~ *office* shall print and distribute the pamphlet to
37 the governing board of each school district and community college
38 district in the state, along with a copy of the current edition of the
39 ~~agency's~~ *office's* school emergency response publication. The
40 ~~agency~~ *office* shall also make the pamphlet or the current edition

1 of the ~~agency's office's~~ school emergency response publication
2 available to a private elementary or secondary school upon request.

3 (c) The ~~agency office~~, as soon as feasible, shall make the
4 pamphlet and the current edition of the ~~agency's office's~~ school
5 emergency response publication available by electronic means,
6 including, but not limited to, the Internet.

7 *SEC. 151. Section 8588 of the Government Code is amended*
8 *to read:*

9 8588. Whenever conditions exist within any region or regions
10 of the state ~~which~~ *that* warrant the proclamation by the Governor
11 of a state of emergency and the Governor has not acted under the
12 provisions of Section 8625, by reason of the fact that the Governor
13 has been inaccessible, the ~~secretary director~~ may proclaim the
14 existence of a state of emergency in the name of the Governor as
15 to any region or regions of the state. Whenever the ~~secretary~~
16 *director* has so proclaimed a state of emergency, that action shall
17 be ratified by the Governor as soon as the Governor becomes
18 accessible, and in the event the Governor does not ratify the action,
19 the Governor shall immediately terminate the state of emergency
20 as proclaimed by the ~~secretary director~~.

21 *SEC. 152. Section 8588.1 of the Government Code is amended*
22 *to read:*

23 8588.1. (a) The Legislature finds and declares that this state
24 can only truly be prepared for the next disaster if the public and
25 private sector collaborate.

26 (b) The ~~agency office~~ may, as appropriate, include private
27 businesses and nonprofit organizations within its responsibilities
28 to prepare the state for disasters under this chapter. All participation
29 by businesses and nonprofit associations in this program shall be
30 voluntary.

31 (c) The ~~agency office~~ may do any of the following:

32 (1) Provide guidance to business and nonprofit organizations
33 representing business interests on how to integrate private sector
34 emergency preparedness measures into governmental disaster
35 planning programs.

36 (2) Conduct outreach programs to encourage business to work
37 with governments and community associations to better prepare
38 the community and their employees to survive and recover from
39 disasters.

1 (3) Develop systems so that government, businesses, and
2 employees can exchange information during disasters to protect
3 themselves and their families.

4 (4) Develop programs so that businesses and government can
5 work cooperatively to advance technology that will protect the
6 public during disasters.

7 (d) The ~~agency~~ office may share facilities and systems for the
8 purposes of subdivision (b) with the private sector to the extent
9 the costs for their use are reimbursed by the private sector.

10 (e) Proprietary information or information protected by state or
11 federal privacy laws shall not be disclosed under this program.

12 (f) Notwithstanding Section 11005, donations and private grants
13 may be accepted by the ~~agency~~ office and shall not be subject to
14 Section 11005.

15 (g) The Disaster Resistant Communities Fund is hereby created
16 in the State Treasury. Upon appropriation by the Legislature, the
17 ~~secretary~~ office may expend the money in the account for the costs
18 associated within this section.

19 (h) This section shall be implemented only to the extent that
20 in-kind contributions or donations are received from the private
21 sector, or grant funds are received from the federal government,
22 for these purposes.

23 *SEC. 153. Section 8588.2 of the Government Code is amended*
24 *to read:*

25 8588.2. (a) The ~~agency~~ office may establish a statewide registry
26 of private businesses and nonprofit organizations that are interested
27 in donating services, goods, labor, equipment, resources, or
28 dispensaries or other facilities to further the purposes of Section
29 8588.1.

30 (b) If the ~~agency~~ office establishes a statewide registry pursuant
31 to subdivision (a), the agency shall create and implement protocols
32 and procedures for inclusion onto the statewide registry that do,
33 but are not limited to, all of the following:

34 (1) Establish eligibility requirements for a private business or
35 nonprofit organization to be included on the statewide registry.

36 (2) Require the services, goods, labor, equipment, resources, or
37 dispensaries or other facilities donated by a private business or
38 nonprofit organization included on the statewide registry to be
39 provided at no cost to state governmental entities or the victims
40 of emergencies and disasters.

1 (3) Require the services, goods, labor, equipment, resources, or
2 dispensaries or other facilities donated by a private business or
3 nonprofit organization included on the statewide registry to be
4 safely collected, maintained, and managed.

5 (4) Require that federal, state, and local governmental entities
6 and nonprofit organizations that are engaged in assisting
7 communities prepare for, respond to, or recover from emergencies
8 and disasters have access to the statewide registry.

9 (c) A private business or nonprofit organization included on the
10 statewide registry shall reasonably determine all of the following:

11 (1) Donated services, goods, labor, equipment, resources, or
12 dispensaries or other facilities comply with all applicable federal
13 and state safety laws and licensing requirements.

14 (2) Donated services, goods, labor, equipment, resources, or
15 dispensaries or other facilities have not been altered, misbranded,
16 or stored under conditions contrary to the standards set forth under
17 federal or state laws or by the product manufacturer.

18 (3) Donated medicine shall be unopened, in tamper-resistant
19 packaging or modified unit dose containers that meet United States
20 Pharmacopeia standards, and show lot numbers and expiration
21 dates. Medicine that does not meet these standards shall not be
22 donated.

23 *SEC. 154. Section 8588.3 of the Government Code is amended*
24 *to read:*

25 8588.3. (a) The Legislature finds and declares that it is the
26 responsibility of the State of California to protect and preserve the
27 right of its citizens to a safe and peaceful existence. To accomplish
28 this goal and to minimize the destructive impact of disasters and
29 other massive emergencies, the actions of numerous public
30 agencies must be coordinated to effectively manage all four phases
31 of emergency activity: preparedness, mitigation, response, and
32 recovery. In order to ensure that the state's response to disasters
33 or massive emergencies is effective, specialized training is
34 necessary.

35 (b) The California Specialized Training Institute of the office
36 of the Adjutant General is hereby transferred to the ~~agency~~ *Office*
37 *of Emergency Services*. The institute shall assist the Governor in
38 providing, pursuant to subdivision (f) of Section 8570, training to
39 state agencies, cities, and counties in their planning and preparation
40 for disasters.

1 (c) The ~~secretary~~ *director* may solicit, receive, and administer
 2 funds or property from federal, state, or other public agency sources
 3 for the support and operation of the institute.

4 (d) The ~~secretary~~ *director* may solicit and receive firearms, other
 5 weaponry, explosive materials, chemical agents, and other items
 6 confiscated by or otherwise in the possession of law enforcement
 7 officers as donations to the institute if he or she deems them to be
 8 appropriate for the institute’s training purposes.

9 (e) Any moneys received by the ~~secretary~~ *director* from charges
 10 or fees imposed in connection with the operation of the institute
 11 shall be deposited in the General Fund.

12 *SEC. 155. Section 8588.5 of the Government Code is amended*
 13 *to read:*

14 8588.5. To promote an increase in the number of trained
 15 disaster search dog teams, the ~~agency~~ *office* shall do all of the
 16 following:

17 (a) Provide instruction to California disaster dog trainers in
 18 Swiss techniques.

19 (b) Work to secure authorization to conduct training for disaster
 20 search dog teams at existing facilities operated by the California
 21 National Guard and the Department of Transportation on the
 22 grounds of Camp San Luis Obispo.

23 (c) Engage in recruiting activities for the purpose of increasing
 24 the number of disaster search dog teams in southern California.

25 (d) Reimburse disaster search dog handlers and instructors for
 26 the costs of their travel and that of their dogs to training facilities
 27 within California.

28 *SEC. 156. Section 8588.7 of the Government Code is amended*
 29 *to read:*

30 8588.7. (a) The ~~California Office of Emergency Management~~
 31 ~~Agency Services~~ shall procure mobile communication translators
 32 to enable mutual-aid emergency response agencies to communicate
 33 effectively while operating on incompatible frequencies.

34 (b) Translators shall be located in the San Francisco Bay Area
 35 and the Los Angeles metropolitan area, made ready for use by
 36 local public safety officials by the ~~California Office of Emergency~~
 37 ~~Management Agency Services~~, and provided to the appropriate
 38 state-established mutual-aid region pursuant to Section 8600.

39 (c) The ~~California Office of Emergency Management Agency~~
 40 ~~Services~~ shall implement this section only to the extent that funds

1 are appropriated to the ~~agency~~ *office* for this purpose in the Budget
2 Act or in other legislation.

3 *SEC. 157. Section 8588.10 of the Government Code is amended*
4 *to read:*

5 8588.10. (a) The ~~secretary~~ *director* shall establish a Curriculum
6 Development Advisory Committee to advise the ~~agency~~ *office* on
7 the development of course curricula, as specified by the ~~secretary~~
8 *director*.

9 (b) The committee shall be chaired by the ~~secretary~~ *director*,
10 who will appoint members as appropriate. In appointing members
11 to the committee, the ~~secretary~~ *director* shall include
12 representatives from the following:

13 (1) State public safety, health, first responder, and emergency
14 services departments or agencies, as deemed appropriate by the
15 ~~secretary~~ *director*.

16 (2) Local first responder agencies.

17 (3) Local public safety agencies.

18 (4) Nonprofit organizations, as deemed appropriate by the
19 ~~secretary~~ *director*.

20 (5) Any other state, local, tribal, or nongovernmental
21 organization determined by the ~~secretary~~ *director* to be appropriate.

22 *SEC. 158. Section 8588.11 of the Government Code is amended*
23 *to read:*

24 8588.11. (a) The ~~agency~~ *office* shall contract with the
25 California Fire Fighter Joint Apprenticeship Program to develop
26 a fire service specific course of instruction on the responsibilities
27 of first responders to terrorism incidents. The course shall include
28 the criteria for the curriculum content recommended by the
29 Curriculum Development Advisory Committee established
30 pursuant to Section 8588.10 to address the training needs of both
31 of the following:

32 (1) Firefighters in conformance with the standards established
33 by the State Fire Marshal.

34 (2) Paramedics and other emergency medical services fire
35 personnel in conformance with the standards established by the
36 ~~State~~ Emergency Medical Services Authority.

37 (b) The course of instruction shall be developed in consultation
38 with individuals knowledgeable about consequence management
39 that addresses the topics of containing and mitigating the impact
40 of a terrorist incident, including, but not limited to, a terrorist act

1 using hazardous materials, as well as weapons of mass destruction,
2 including any chemical warfare agent, weaponized biological
3 agent, or nuclear or radiological agent, as those terms are defined
4 in Section 11417 of the Penal Code, by techniques including, but
5 not limited to, rescue, firefighting, casualty treatment, and
6 hazardous materials response and recovery.

7 (c) The contract shall provide for the delivery of training by the
8 California Fire Fighter Joint Apprenticeship Program through
9 reimbursement contracts with the state, local, and regional fire
10 agencies who may, in turn, contract with educational institutions.

11 (d) To maximize the availability and delivery of training, the
12 California Fire Fighter Joint Apprenticeship Program shall develop
13 a course of instruction to train the trainers in the presentation of
14 the first responder training of consequence management for fire
15 service personnel.

16 *SEC. 159. Section 8588.15 of the Government Code is amended*
17 *to read:*

18 8588.15. (a) The ~~secretary~~ *director* shall appoint
19 representatives of the disabled community to serve on the
20 evacuation, sheltering, communication, recovery, and other
21 pertinent Standardized Emergency Management System
22 committees, including one representative to the Technical Working
23 Group. Representatives of the disabled community shall, to the
24 extent practicable, be from the following groups:

- 25 (1) Persons who are blind or visually impaired.
- 26 (2) Persons with sensory or cognitive disabilities.
- 27 (3) Persons with physical disabilities.

28 (b) Within the Standardized Emergency Management System
29 structure, the ~~secretary~~ *director* shall ensure, to the extent
30 practicable, that the needs of the disabled community are met by
31 ensuring all committee recommendations regarding preparedness,
32 planning, and procedures relating to emergencies include the needs
33 of people with disabilities.

34 (c) The ~~secretary~~ *director* shall prepare and disseminate sample
35 brochures and other relevant materials on preparedness, planning,
36 and procedures relating to emergency evacuations that include the
37 needs of the disabled community, and shall work with
38 nongovernmental associations and entities to make them available
39 in accessible formats, including, but not limited to, Braille, large
40 print, and electronic media.

1 (d) The ~~secretary~~ *director* and the State Fire Marshal's office
2 shall seek research funding to assist in the development of new
3 technologies and information systems that will assist in the
4 evacuation of the groups designated in subdivision (a) during
5 emergency and disaster situations.

6 (e) It is the intent of the Legislature for the purpose of
7 implementing this section and to the extent permitted by federal
8 law, that funds may be used from the Federal Trust Fund from
9 funds received from the federal Department of Homeland Security
10 for implementation of homeland security programs.

11 *SEC. 160. Section 8589 of the Government Code is amended*
12 *to read:*

13 8589. The ~~California Office of Emergency Management Agency~~
14 *Services* shall be permitted ~~such~~ *the* use of all state and local fair
15 properties as conditions require.

16 *SEC. 161. Section 8589.1 of the Government Code is amended*
17 *to read:*

18 8589.1. (a) The ~~California Office of Emergency Management~~
19 ~~Agency Services~~ shall plan to establish the State Computer
20 Emergency Data Exchange Program (SCEDEP), which shall be
21 responsible for collection and dissemination of essential data for
22 emergency management.

23 (b) Participating agencies in SCEDEP shall include the
24 Department of Water Resources, Department of Forestry and Fire
25 Protection, Department of the California Highway Patrol,
26 Department of Transportation, Emergency Medical Services
27 Authority, the State Fire Marshal, State Department of Public
28 Health, and any other state agency that collects critical data and
29 information that affects emergency response.

30 (c) It is the intent of the Legislature that the State Computer
31 Emergency Data Exchange Program facilitate communication
32 between state agencies and that emergency information be readily
33 accessible to city and county emergency services offices. The
34 ~~California Office of Emergency Management Agency Services~~
35 shall develop policies and procedures governing the collection and
36 dissemination of emergency information and shall recommend or
37 design the appropriate software and programs necessary for
38 emergency communications with city and county emergency
39 services offices.

1 *SEC. 162. Section 8589.2 of the Government Code is amended*
2 *to read:*

3 8589.2. (a) ~~The California Office of Emergency Management~~
4 ~~Agency Services~~, in consultation with the California Highway
5 Patrol and other state and local agencies, shall establish a statewide
6 plan for the delivery of hazardous material mutual aid.

7 (b) Within 180 days of the adoption of a plan by the ~~California~~
8 ~~Office of Emergency Management Agency Services~~, an entity shall
9 only be considered a candidate for training or equipment funds
10 provided by the state for hazardous material emergency response
11 when that entity is a signatory to the plan established under this
12 section.

13 (1) For the purpose of this chapter “hazardous material
14 emergency response” includes, but is not limited to, assessment,
15 isolation, stabilization, containment, removal, evacuation,
16 neutralization, transportation, rescue procedures, or other activities
17 necessary to ensure the public safety during a hazardous materials
18 emergency.

19 (2) For the purpose of this chapter, “hazardous material” is
20 defined as in Section 25501 of the Health and Safety Code.

21 (c) Entities providing hazardous material emergency response
22 services under this chapter shall be exempt from the fee restriction
23 of Section 6103.

24 *SEC. 163. Section 8589.5 of the Government Code is amended*
25 *to read:*

26 8589.5. (a) Inundation maps showing the areas of potential
27 flooding in the event of sudden or total failure of any dam, the
28 partial or total failure of which the ~~California Office of Emergency~~
29 ~~Management Agency Services~~ determines, after consultation with
30 the Department of Water Resources, would result in death or
31 personal injury, shall be prepared and submitted as provided in
32 this subdivision within six months after the effective date of this
33 section, unless previously submitted or unless the time for
34 submission of those maps is extended for reasonable cause by the
35 ~~California Office of Emergency Management Agency Services~~.
36 The local governmental organization, utility, or other public or
37 private owner of any dam so designated shall submit to the
38 ~~California Office of Emergency Management Agency Services~~ one
39 map that shall delineate potential flood zones that could result in
40 the event of dam failure when the reservoir is at full capacity, or

1 if the local governmental organization, utility, or other public or
2 private owner of any dam shall determine it to be desirable, he or
3 she shall submit three maps that shall delineate potential flood
4 zones that could result in the event of dam failure when the
5 reservoir is at full capacity, at median-storage level, and at normally
6 low-storage level. After submission of copies of the map or maps,
7 the ~~California Office of Emergency Management Agency Services~~
8 shall review the map or maps, and shall return any map or maps
9 that do not meet the requirements of this subdivision, together with
10 recommendations relative to conforming to the requirements. Maps
11 rejected by the ~~California Office of Emergency Management~~
12 ~~Agency Services~~ shall be revised to conform to those
13 recommendations and resubmitted. The ~~California Office of~~
14 ~~Emergency Management Agency Services~~ shall keep on file those
15 maps that conform to the provisions of this subdivision. Maps
16 approved pursuant to this subdivision shall also be kept on file
17 with the Department of Water Resources. The owner of a dam
18 shall submit final copies of those maps to the ~~California Office of~~
19 ~~Emergency Management Agency Services~~ that shall immediately
20 submit identical copies to the appropriate public safety agency of
21 any city, county, or city and county likely to be affected.

22 (b) (1) Based upon a review of inundation maps submitted
23 pursuant to subdivision (a) or based upon information gained by
24 an onsite inspection and consultation with the affected local
25 jurisdiction when the requirement for an inundation map is waived
26 pursuant to subdivision (d), the ~~California Office of Emergency~~
27 ~~Management Agency Services~~ shall designate areas within which
28 death or personal injury would, in its determination, result from
29 the partial or total failure of a dam. The appropriate public safety
30 agencies of any city, county, or city and county, the territory of
31 which includes any of those areas, may adopt emergency
32 procedures for the evacuation and control of populated areas below
33 those dams. The ~~California Office of Emergency Management~~
34 ~~Agency Services~~ shall review the procedures to determine whether
35 adequate public safety measures exist for the evacuation and control
36 of populated areas below the dams, and shall make
37 recommendations with regard to the adequacy of those procedures
38 to the concerned public safety agency. In conducting the review,
39 the ~~California Office of Emergency Management Agency Services~~
40 shall consult with appropriate state and local agencies.

- 1 (2) Emergency procedures specified in this subdivision shall
 2 conform to local needs, and may be required to include any of the
 3 following elements or any other appropriate element, in the
 4 discretion of the ~~California Office of Emergency Management~~
 5 ~~Agency Services~~:
- 6 (A) Delineation of the area to be evacuated.
 - 7 (B) Routes to be used.
 - 8 (C) Traffic control measures.
 - 9 (D) Shelters to be activated for the care of the evacuees.
 - 10 (E) Methods for the movement of people without their own
 11 transportation.
 - 12 (F) Identification of particular areas or facilities in the flood
 13 zones that will not require evacuation because of their location on
 14 high ground or similar circumstances.
 - 15 (G) Identification and development of special procedures for
 16 the evacuation and care of people from unique institutions.
 - 17 (H) Procedures for the perimeter and interior security of the
 18 area, including such things as passes, identification requirements,
 19 and antilooting patrols.
 - 20 (I) Procedures for the lifting of the evacuation and reentry of
 21 the area.
 - 22 (J) Details as to which organizations are responsible for the
 23 functions described in this paragraph and the material and
 24 personnel resources required.
- 25 (3) It is the intent of the Legislature to encourage each agency
 26 that prepares emergency procedures to establish a procedure for
 27 their review every two years.
- 28 (c) “Dam,” as used in this section, has the same meaning as
 29 specified in Sections 6002, 6003, and 6004 of the Water Code.
- 30 (d) Where both of the following conditions exist, the ~~California~~
 31 ~~Office of Emergency Management Agency Services~~ may waive
 32 the requirement for an inundation map:
- 33 (1) Where the effects of potential inundation in terms of death
 34 or personal injury, as determined through onsite inspection by the
 35 ~~California Office of Emergency Management Agency Services~~ in
 36 consultation with the affected local jurisdictions, can be ascertained
 37 without an inundation map.
 - 38 (2) Where adequate evacuation procedures can be developed
 39 without benefit of an inundation map.

1 (e) If development should occur in any exempted area after a
2 waiver has been granted, the local jurisdiction shall notify the
3 ~~California Office of Emergency Management Agency Services~~ of
4 that development. All waivers shall be reevaluated every two years
5 by the ~~California Office of Emergency Management Agency~~
6 ~~Services~~.

7 (f) A notice may be posted at the offices of the county recorder,
8 county assessor, and county planning agency that identifies the
9 location of the map, and of any information received by the county
10 subsequent to the receipt of the map regarding changes to
11 inundation areas within the county.

12 *SEC. 164. Section 8589.6 of the Government Code is amended*
13 *to read:*

14 8589.6. (a) ~~The California Office of Emergency Management~~
15 ~~Agency Services~~ shall develop model guidelines for local
16 government agencies and community-based organizations planning
17 to develop a disaster registry program. Adoption of the model
18 guidelines shall be voluntary. Local governmental agencies or
19 community-based organizations wishing to establish a disaster
20 registry program may consult with the ~~California Office of~~
21 ~~Emergency Management Agency Services~~ for further guidance.

22 (b) The guidelines required by subdivision (a) shall address, at
23 a minimum, all of the following issues:

24 (1) A purpose statement specifying that the intent of the registry
25 is not to provide immediate assistance during a local, state, or
26 national disaster, to those who are registered, but to encourage that
27 those registered will receive a telephone call or visit from
28 neighborhood disaster volunteers or other organizations specified
29 in the final local plan as soon as possible after the disaster in order
30 to check on their well-being and ask if they need assistance. This
31 statement shall also specify that persons registered should be
32 prepared to be self-sufficient for at least 72 hours.

33 (2) A list of persons eligible for the registry. This list shall
34 include, but not be limited to, disabled persons, including those
35 with developmental disabilities, the elderly, those for whom
36 English is not a first language, persons who are unskilled or
37 deficient in the English language, long-term health care facilities,
38 residential community care facilities, and residential care facilities
39 for the elderly.

1 (3) A statement specifying that the party responsible for
 2 responding to those registered will not be held liable for not
 3 responding.

4 (4) A plan for ensuring that hard data is available if computers
 5 shut down.

6 (5) A recommendation for those persons or organizations that
 7 would be appropriate to respond to persons on the disaster registry,
 8 and a plan for training the responsible party.

9 (6) A plan for community outreach to encourage those eligible
 10 to participate.

11 (7) A plan for distribution of preparedness materials to those
 12 eligible to participate in the disaster registry.

13 (8) Recommendations and assistance for obtaining federal and
 14 state moneys to establish a disaster registry.

15 (9) A recommendation that organizations currently providing
 16 services to persons who are eligible for the disaster registry
 17 program be encouraged to alter their information form to include
 18 a space on the form where the person has the option of registering
 19 for the program. By checking the box and giving approval to be
 20 registered for the program the person waives confidentiality rights.
 21 Despite this waiver of confidentiality rights, local government
 22 agencies and community-based organizations planning to develop
 23 a disaster registry are encouraged to do everything possible to
 24 maintain the confidentiality of their registries. Organizations that
 25 currently have lists of people who would be eligible to register for
 26 the program should be encouraged to share this information with
 27 persons establishing a disaster registry.

28 *SEC. 165. Section 8589.7 of the Government Code is amended*
 29 *to read:*

30 8589.7. (a) In carrying out its responsibilities pursuant to
 31 subdivision (b) of Section 8574.17, the ~~California Office of~~
 32 ~~Emergency Management Agency Services~~ shall serve as the central
 33 point in state government for the emergency reporting of spills,
 34 unauthorized releases, or other accidental releases of hazardous
 35 materials and shall coordinate the notification of the appropriate
 36 state and local administering agencies that may be required to
 37 respond to those spills, unauthorized releases, or other accidental
 38 releases. The ~~California Office of Emergency Management Agency~~
 39 ~~Services~~ is the only state ~~agency~~ *entity* required to make the
 40 notification required by subdivision (b).

1 (b) Upon receipt of a report concerning a spill, unauthorized
2 release, or other accidental release involving hazardous materials,
3 as defined in Section 25501 of the Health and Safety Code, or
4 concerning a rupture of, or an explosion or fire involving, a pipeline
5 reportable pursuant to Section 51018, the ~~California Office of~~
6 ~~Emergency Management Agency Services~~ shall immediately
7 inform the following agencies of the incident:

8 (1) For an oil spill reportable pursuant to Section 8670.25.5, the
9 ~~California Office of Emergency Management Agency Services~~
10 shall inform the administrator for oil spill response, the State Lands
11 Commission, the California Coastal Commission, and the
12 California regional water quality control board having jurisdiction
13 over the location of the discharged oil.

14 (2) For a rupture, explosion, or fire involving a pipeline
15 reportable pursuant to Section 51018, the ~~California Office of~~
16 ~~Emergency Management Agency Services~~ shall inform the State
17 Fire Marshal.

18 (3) For a discharge in or on any waters of the state of a
19 hazardous substance or sewage reportable pursuant to Section
20 13271 of the Water Code, the ~~California Office of Emergency~~
21 ~~Management Agency Services~~ shall inform the appropriate
22 California regional water quality control board.

23 (4) For a spill or other release of petroleum reportable pursuant
24 to Section 25270.8 of the Health and Safety Code, the ~~California~~
25 ~~Office of Emergency Management Agency Services~~ shall inform
26 the local administering agency that has jurisdiction over the spill
27 or release.

28 (5) For a crude oil spill reportable pursuant to Section 3233 of
29 the Public Resources Code, the ~~California Office of Emergency~~
30 ~~Management Agency Services~~ shall inform the Division of Oil,
31 Gas, and Geothermal Resources and the appropriate California
32 regional water quality control board.

33 (c) This section does not relieve a person who is responsible
34 for an incident specified in subdivision (b) from the duty to make
35 an emergency notification to a local agency, or the 911 emergency
36 system, under any other law.

37 (d) A person who is subject to Section 25507 of the Health and
38 Safety Code shall immediately report all releases or threatened
39 releases pursuant to that section to the appropriate local
40 administering agency and each local administering agency shall

1 notify the ~~California Office of Emergency Management Agency~~
 2 *Services* and businesses in their jurisdiction of the appropriate
 3 emergency telephone number that can be used for emergency
 4 notification to the administering agency on a 24-hour basis. The
 5 administering agency shall notify other local agencies of releases
 6 or threatened releases within their jurisdiction, as appropriate.

7 (e) No facility, owner, operator, or other person required to
 8 report an incident specified in subdivision (b) to the ~~California~~
 9 *Office of Emergency Management Agency Services* shall be liable
 10 for any failure of the ~~California Office of Emergency Management~~
 11 *Agency Services* to make a notification required by this section or
 12 to accurately transmit the information reported.

13 *SEC. 166. Section 8589.9 of the Government Code is amended*
 14 *to read:*

15 8589.9. (a) The Legislature finds and declares that there is a
 16 growing need to find new ways to acquire firefighting apparatus
 17 and equipment for use by local agencies. Local agencies,
 18 particularly those that serve rural areas, have had, and are likely
 19 to continue to have, difficulty acquiring firefighting apparatus and
 20 equipment. The Legislature further finds and declares that this
 21 situation presents a statewide problem for the protection of the
 22 public safety.

23 (b) In enacting this article, the Legislature intends to create new
 24 ways for the ~~California Office of Emergency Management Agency~~
 25 *Services* to help local agencies acquire firefighting apparatus and
 26 equipment. Through the identification of available apparatus and
 27 equipment, the acquisition of new and used apparatus and
 28 equipment, the refurbishing and resale of used apparatus and
 29 equipment, and assisting the financing of resales, the ~~California~~
 30 *Office of Emergency Management Agency Services* will help local
 31 agencies meet public safety needs.

32 *SEC. 167. Section 8589.10 of the Government Code is amended*
 33 *to read:*

34 8589.10. As used in this article:

35 (a) “Acquire” means acquisition by purchase, grant, gift, or any
 36 other lawful means.

37 (b) ~~“Agency”~~—“Office” means the ~~California Office of~~
 38 *Emergency Management Agency Services*.

39 (c) “Firefighting apparatus and equipment” means any vehicle
 40 and its associated equipment ~~which~~ *that* is designed and intended

1 for use primarily for firefighting. “Firefighting apparatus and
2 equipment” does not include vehicles that are designed and
3 intended for use primarily for emergency medical services, rescue
4 services, communications and command operations, or hazardous
5 materials operations.

6 (d) “Indirect expenses” means those items that are identified as
7 indirect costs in the federal Office of Management and Budget,
8 Circular A-87 on January 1, 1985.

9 (e) “Local agency” means any city, county, special district, or
10 any joint powers agency composed exclusively of those agencies,
11 that provides fire suppression services. “Local agency” also
12 includes a fire company organized pursuant to Part 4 (commencing
13 with Section 14825) of Division 12 of the Health and Safety Code.

14 (f) “Rural area” means territory that is outside of any urbanized
15 area designated by the United States Census Bureau from the 1980
16 federal census.

17 (g) ~~“Secretary”~~ “Director” means the ~~Secretary~~ Director of
18 Emergency Management Services.

19 *SEC. 168. Section 8589.11 of the Government Code is amended*
20 *to read:*

21 8589.11. The ~~agency office~~ may acquire new or used
22 firefighting apparatus and equipment for resale to local agencies.
23 If the apparatus or equipment is in a used condition, the ~~agency~~
24 *office* may contract with the Prison Industry Authority to repair or
25 refurbish the apparatus or equipment to acceptable fire service
26 standards before resale. The resale price shall recover the ~~agency’s~~
27 *office’s* cost of acquisition, repairing, refurbishing, and associated
28 indirect expenses.

29 *SEC. 169. Section 8589.12 of the Government Code is amended*
30 *to read:*

31 8589.12. If a state agency, including the ~~agency office~~, proposes
32 to make firefighting apparatus or equipment which is currently
33 owned and operated by the state available to the ~~agency office~~ for
34 use under this article, the Department of General Services shall
35 determine whether there is any immediate need by any state agency
36 for the apparatus or equipment. If there is no immediate need, the
37 Department of General Services shall release the apparatus or
38 equipment to the ~~agency office~~. If the office acquires firefighting
39 apparatus or equipment from another state agency, the ~~agency~~
40 *office* shall pay the fair market value of the apparatus or equipment,

1 as determined by the Department of General Services, unless the
 2 state agency agrees to a lesser payment.

3 *SEC. 170. Section 8589.13 of the Government Code is amended*
 4 *to read:*

5 8589.13. (a) The ~~agency~~ *office* shall give first priority for the
 6 sale of new or used firefighting apparatus and equipment to a local
 7 agency that serves a rural area, and is authorized to contract with
 8 a local agency that serves a rural area for this purpose. The ~~agency~~
 9 *office* shall give second priority for the sale of new or used
 10 firefighting apparatus and equipment to any local agency. If after
 11 reasonable efforts by the ~~agency~~ *office* to sell new or used
 12 firefighting apparatus and equipment to any local agency, and not
 13 less than 90 days after providing notice to these local agencies,
 14 the ~~agency~~ *office* may sell any remaining firefighting apparatus
 15 and equipment to public agencies outside of California, the federal
 16 government, and Indian tribes, subject to any applicable federal
 17 requirements.

18 (b) If a contract for the sale of new or used firefighting apparatus
 19 and equipment under subdivision (a) provides for the local agency
 20 to pay the sale price in more than one installment, the local agency
 21 shall pay interest at a rate specified in the contract, which shall not
 22 exceed 1 percent less than the rate earned by the Pooled Money
 23 Investment Board, and the term of a contract shall not exceed five
 24 years.

25 (c) If a contract for the sale of new or used firefighting apparatus
 26 and equipment under subdivision (a) provides for a local agency
 27 to obtain a loan from another source, the ~~agency~~ *office* may insure
 28 the other loan.

29 *SEC. 171. Section 8589.14 of the Government Code is amended*
 30 *to read:*

31 8589.14. The ~~agency~~ *office* shall operate an information system
 32 which is capable of identifying firefighting apparatus and
 33 equipment which is available for acquisition, and local agencies
 34 which are interested in acquiring apparatus and equipment.

35 *SEC. 172. Section 8589.15 of the Government Code is amended*
 36 *to read:*

37 8589.15. The ~~agency~~ *office* may contract with the Prison
 38 Industry Authority to perform any of the responsibilities or services
 39 required or authorized by this article.

1 *SEC. 173. Section 8589.16 of the Government Code is amended*
2 *to read:*

3 8589.16. There is hereby created in the General Fund the State
4 Assistance for Fire Equipment Account, which, notwithstanding
5 Section 13340, is continuously appropriated to the ~~agency office~~
6 for the purposes of Sections 8589.11 and 8589.13. All proceeds
7 from the resale of firefighting apparatus and equipment shall be
8 paid to the account.

9 *SEC. 174. Section 8589.17 of the Government Code is amended*
10 *to read:*

11 8589.17. Every contract with a local agency for the resale of
12 firefighting apparatus and equipment shall specify that the local
13 agency shall make the apparatus or equipment available to other
14 local agencies in the same county as part of a mutual aid agreement.
15 The apparatus or equipment shall be available for mutual aid
16 responses for the length of the term of the contract with the ~~agency~~
17 *office.*

18 *SEC. 175. Section 8589.18 of the Government Code is amended*
19 *to read:*

20 8589.18. If a local agency defaults on a contract for the resale
21 of firefighting apparatus and equipment, the ~~agency office~~ may
22 either renegotiate the contract or take possession of the apparatus
23 or equipment for subsequent resale to another local agency.

24 *SEC. 176. Section 8589.19 of the Government Code is amended*
25 *to read:*

26 8589.19. (a) After consultation with the California Emergency
27 Management Agency Fire Advisory Committee, *hereafter to be*
28 *referred as the Office of Emergency Services Fire Advisory*
29 *Committee*, the ~~secretary~~ *director* shall adopt rules and regulations
30 governing the operation of the programs created by this article
31 pursuant to the Administrative Procedure Act, Chapter 3.5
32 (commencing with Section 11340) of Part 1 of Division 3.

33 (b) The rules and regulations adopted pursuant to subdivision
34 (a) shall include, but not be limited to, all of the following:

35 (1) The specific types of firefighting apparatus and equipment
36 which may be acquired, rehabilitated, and resold.

37 (2) The amount and terms of resale contracts.

38 (3) The time, format, and manner in which local agencies may
39 apply for resale contracts.

1 (4) Priorities for assisting local agencies, which shall give
2 preference to local agencies which meet all of the following:

3 (A) Demonstrated need for primary response firefighting
4 apparatus and equipment.

5 (B) Will be adequately able to operate and maintain the
6 firefighting apparatus and equipment.

7 (C) Have already used other means of financing the firefighting
8 apparatus and equipment.

9 *SEC. 177. Section 8589.20 of the Government Code is amended*
10 *to read:*

11 8589.20. All state agencies, boards, and commissions shall
12 cooperate with the ~~agency office~~ in implementing the programs
13 created by this article.

14 *SEC. 178. Section 8589.21 of the Government Code is amended*
15 *to read:*

16 8589.21. The ~~secretary~~ director shall be responsible for the
17 programs created by this article which, except as provided by
18 Sections 8589.12 and 8589.15, shall not be subject to the
19 requirements of the State Equipment Council or the Office of Fleet
20 Administration of the Department of General Services.

21 *SEC. 179. Section 8590.1 of the Government Code is amended*
22 *to read:*

23 8590.1. As used in this article, the following terms have the
24 following meanings:

25 (a) "Agency" or "office" means the ~~California Office of~~
26 ~~Emergency Management Agency Services.~~

27 (b) "Local agency" means any city, county, city and county,
28 fire district, special district, or joint powers agency that provides
29 fire suppression services. "Local agency" also includes a fire
30 company organized pursuant to Part 4 (commencing with Section
31 14825) of Division 12 of the Health and Safety Code.

32 (c) "Secretary" or "director" means the ~~Secretary~~ Director of
33 ~~Emergency Management Services.~~

34 (d) "State agency" means any state agency providing residential
35 or institutional fire protection, including, but not limited to, the
36 Department of Forestry and Fire Protection.

37 *SEC. 180. Section 8590.2 of the Government Code is amended*
38 *to read:*

39 8590.2. There is established in the ~~agency office~~ a thermal
40 imaging equipment purchasing program under which the ~~agency~~

1 *office* shall acquire firefighting thermal imaging equipment on
2 behalf of local and state agencies that are interested in obtaining
3 this equipment.

4 *SEC. 181. Section 8590.3 of the Government Code is amended*
5 *to read:*

6 8590.3. In administering the purchasing program, the ~~secretary~~
7 *director* shall do all of the following:

8 (a) No later than 45 days after the effective date of this article,
9 establish an advisory committee, which shall be comprised of
10 representatives of organizations including, but not limited to, the
11 California Fire Chiefs Association, the Fire Districts Association
12 of California, the California Professional Firefighters, the CDF
13 Firefighters, and the California State Firefighters Association, Inc.
14 The committee shall meet no later than 30 days after all members
15 are appointed.

16 (b) Consult with the advisory committee regarding equipment
17 specifications and other matters relating to the acquisition of
18 thermal imaging equipment, and require the advisory committee
19 to formulate specifications no later than 120 days after its initial
20 meeting.

21 (c) Notify all local and state agencies about the purchasing
22 program, including the opportunity to purchase additional units at
23 the contract price, and determine whether those agencies are
24 interested in obtaining thermal imaging equipment.

25 (d) Purchase thermal imaging equipment at the lowest possible
26 price from a reliable vendor that meets specified requirements. It
27 is the intent of the Legislature that the director enter into a
28 multiyear contract for this purpose no later than 180 days after the
29 committee formulates specifications pursuant to subdivision (b).

30 (e) Include a provision in the vendor contract allowing any local
31 or state agency to purchase additional units directly from the vendor
32 at the contract price.

33 (f) Any local agency that elects to participate in the thermal
34 imaging equipment purchasing program shall pay one-half of the
35 contract price for each piece of equipment purchased on its behalf
36 by the state.

37 *SEC. 182. Section 8590.4 of the Government Code is amended*
38 *to read:*

1 8590.4. (a) The ~~secretary~~ *director* shall seek funding for the
 2 program from the private sector, grant programs, and other
 3 appropriate sources.

4 (b) The ~~secretary~~, *director*, after consultation with the advisory
 5 commission, shall distribute equipment purchased under the
 6 program in order to maximize its utilization by firefighters based
 7 on consideration of the following factors:

8 (1) Ability to share or move the equipment to fire locations.

9 (2) Availability of existing thermal imaging equipment.

10 (3) Geography.

11 (4) Need based on frequency of fires.

12 *SEC. 183. Section 8591 of the Government Code is amended*
 13 *to read:*

14 8591. Nothing in this chapter shall operate to prevent the
 15 Governor or *the Office of Emergency Management Services* from
 16 formally recognizing committees or boards established by or with
 17 segments of the private sector, public agencies, or both the private
 18 sector and public agencies, that control facilities, resources, or the
 19 provision of services essential to the mitigation of the effects of
 20 an emergency or recovery therefrom, or from assigning
 21 administrative authority or responsibility to those committees or
 22 boards or to members thereof with respect to the provision and
 23 effective utilization of those resources to meet needs resulting from
 24 an emergency.

25 *SEC. 184. Section 8592.1 of the Government Code is amended*
 26 *to read:*

27 8592.1. For purposes of this article, the following terms have
 28 the following meanings:

29 (a) “Backward compatibility” means that the equipment is able
 30 to function with older, existing equipment.

31 (b) “Committee” means the Public Safety Radio Strategic
 32 Planning Committee, that was established in December 1994 in
 33 recognition of the need to improve existing public radio systems
 34 and to develop interoperability among public safety departments
 35 and between state public safety departments and local or federal
 36 entities, and that consists of representatives of the following state
 37 entities:

38 (1) The ~~California Office of Emergency Management Agency~~
 39 *Services*, ~~who~~ *whose director or his or her representative* shall
 40 serve as chairperson.

- 1 (2) The Department of the California Highway Patrol.
- 2 (3) The Department of Transportation.
- 3 (4) The Department of Corrections and Rehabilitation.
- 4 (5) The Department of Parks and Recreation.
- 5 (6) The Department of Fish and Game.
- 6 (7) The Department of Forestry and Fire Protection.
- 7 (8) The Department of Justice.
- 8 (9) The Department of Water Resources.
- 9 (10) The State Department of Public Health.
- 10 (11) The Emergency Medical Services Authority.
- 11 (12) ~~The California Department of Technology Agency.~~
- 12 (13) The Military Department.
- 13 (14) The Department of Finance.

14 (c) “First response agencies” means public agencies that, in the
15 early stages of an incident, are responsible for, among other things,
16 the protection and preservation of life, property, evidence, and the
17 environment, including, but not limited to, state fire agencies, state
18 and local emergency medical services agencies, local sheriffs’
19 departments, municipal police departments, county and city fire
20 departments, and police and fire protection districts.

21 (d) “Nonproprietary equipment or systems” means equipment
22 or systems that are able to function with another manufacturer’s
23 equipment or system regardless of type or design.

24 (e) “Open architecture” means a system that can accommodate
25 equipment from various vendors because it is not a proprietary
26 system.

27 (f) “Public safety radio subscriber” means the ultimate end user.
28 Subscribers include individuals or organizations, including, for
29 example, local police departments, fire departments, and other
30 operators of a public safety radio system. Typical subscriber
31 equipment includes end instruments, including mobile radios,
32 hand-held radios, mobile repeaters, fixed repeaters, transmitters,
33 or receivers that are interconnected to utilize assigned public safety
34 communications frequencies.

35 (g) “Public safety spectrum” means the spectrum allocated by
36 the Federal Communications Commission for operation of
37 interoperable and general use radio communication systems for
38 public safety purposes within the state.

39 *SEC. 185. Section 8592.5 of the Government Code is amended*
40 *to read:*

1 8592.5. (a) Except as provided in subdivision (c), a state
 2 department that purchases public safety radio communication
 3 equipment shall ensure that the equipment purchased complies
 4 with applicable provisions of the following:

5 (1) The common system standards for digital public safety radio
 6 communications commonly referred to as the “Project 25
 7 Standard,” as that standard may be amended, revised, or added to
 8 in the future jointly by the Association of Public-Safety
 9 Communications Officials, Inc., National Association of State
 10 Telecommunications Directors, and agencies of the federal
 11 government, commonly referred to as “APCO/NASTD/FED.”

12 (2) The operational and functional requirements delineated in
 13 the Statement of Requirements for Public Safety Wireless
 14 Communications and Interoperability developed by the SAFECOM
 15 Program under the United States Department of Homeland
 16 Security.

17 (b) Except as provided in subdivision (c), a local first response
 18 agency that purchases public safety radio communication
 19 equipment, in whole or in part, with state funds or federal funds
 20 administered by the state, shall ensure that the equipment purchased
 21 complies with paragraphs (1) and (2) of subdivision (a).

22 (c) Subdivision (a) or (b) shall not apply to either of the
 23 following:

24 (1) Purchases of equipment to operate with existing state or
 25 local communications systems where the latest applicable standard
 26 will not be compatible, as verified by the ~~California Department~~
 27 ~~of Technology Agency~~.

28 (2) Purchases of equipment for existing statewide low-band
 29 public safety communications systems.

30 (d) This section may not be construed to require an affected
 31 state or local governmental agency to compromise its immediate
 32 mission or ability to function and carry out its existing
 33 responsibilities.

34 *SEC. 186. Section 8592.7 of the Government Code is amended*
 35 *to read:*

36 8592.7. (a) A budget proposal submitted by a state agency for
 37 support of a new or modified radio system shall be accompanied
 38 by a technical project plan that includes all of the following:

- 39 (1) The scope of the project.
- 40 (2) Alternatives considered.

1 (3) Justification for the proposed solution.

2 (4) A project implementation plan.

3 (5) A proposed timeline.

4 (6) Estimated costs by fiscal year.

5 (b) The committee shall review the plans submitted pursuant to
6 subdivision (a) for consistency with the statewide integrated public
7 safety communication strategic plan included in the annual report
8 required pursuant to Section 8592.6.

9 (c) ~~The California Department of Technology Agency~~ shall
10 review the plans submitted pursuant to subdivision (a) for
11 consistency with the technical requirements of the statewide
12 integrated public safety communication strategic plan included in
13 the annual report required pursuant to Section 8592.6.

14 *SEC. 187. Section 8593 of the Government Code is amended*
15 *to read:*

16 8593. ~~The California Office of Emergency Management Agency~~
17 *Services* shall work with advocacy groups representing the deaf
18 and hearing impaired, including, but not limited to, the California
19 Association of the Deaf and the Coalition of Deaf Access
20 Providers, California television broadcasters, city and county
21 emergency services coordinators, and, as appropriate, the Federal
22 Emergency Management Agency and the Federal Communications
23 Commission, to improve communication with deaf and
24 hearing-impaired persons during emergencies, including the use
25 of open captioning by California television broadcasters when
26 transmitting emergency information.

27 *SEC. 188. Section 8593.1 of the Government Code is amended*
28 *to read:*

29 8593.1. ~~The California Office of Emergency Management~~
30 ~~Agency Services~~ shall investigate the feasibility of, and the funding
31 requirements for, establishing a “Digital Emergency Broadcast
32 System” network, to be used by local and state government
33 agencies for the provision of warnings and instructions in digital
34 or printed form to California broadcast outlets for relay to the
35 public both orally and visually, through television, and orally,
36 through radio, during emergencies.

37 *SEC. 189. Section 8593.2 of the Government Code is amended*
38 *to read:*

39 8593.2. ~~The California Office of Emergency Management~~
40 ~~Agency Services~~ shall investigate the feasibility of establishing a

1 toll-free 800 telephone hotline, including TDD
2 (telecommunications device for the deaf) accessibility, which
3 would be accessible to the public, including deaf, hearing-impaired,
4 and non-English speaking persons, for use during nonemergency
5 and emergency periods to respond to inquiries about emergency
6 preparedness and disaster status.

7 *SEC. 190. Section 8593.6 of the Government Code is amended*
8 *to read:*

9 8593.6. (a) No later than six months after securing funding
10 for the purposes of this section, the ~~Secretary~~ *Director* of
11 Emergency ~~Management~~ *Services* shall convene a working group
12 for the purpose of assessing existing and future technologies
13 available in the public and private sectors for the expansion of
14 transmission of emergency alerts to the public through a
15 public-private partnership. The working group shall advise the
16 secretary and assist in the development of policies, procedures,
17 and protocols that will lay the framework for an improved warning
18 system for the public.

19 (b) (1) The working group shall consist of the following
20 membership, to be appointed by the ~~secretary~~ *director*:

21 (A) A representative of the ~~California Office of Emergency~~
22 ~~Management Agency Services~~.

23 (B) A representative of the Attorney General's office.

24 (C) A representative of the State Department of Public Health.

25 (D) A representative of the State Emergency Communications
26 Committee.

27 (E) A representative of the Los Angeles County Office of
28 Emergency Management, at the option of that agency.

29 (F) A representative or representatives of local government, at
30 the option of the local government or governments.

31 (G) Representatives of the private sector who possess
32 technology, experience, or insight that will aid in the development
33 of a public-private partnership to expand an alert system to the
34 public, including, but not limited to, representatives of providers
35 of mass communication systems, first responders, and broadcasters.

36 (H) Additional representatives of any public or private entity
37 as deemed appropriate by the ~~Secretary of Emergency Management~~
38 *director*.

39 (2) In performing its duties, the working group shall consult
40 with the Federal Communications Commission, and with respect

1 to grants and fiscal matters, the ~~California~~ *Office of Emergency*
2 *Management Agency Services*.

3 (c) The working group shall consider and make
4 recommendations with respect to all of the following:

5 (1) Private and public programs, including pilot projects that
6 attempt to integrate a public-private partnership to expand an alert
7 system.

8 (2) Protocols, including formats, source or originator
9 identification, threat severity, hazard description, and response
10 requirements or recommendations, for alerts to be transmitted via
11 an alert system that ensures that alerts are capable of being utilized
12 across the broadest variety of communication technologies, at state
13 and local levels.

14 (3) Protocols and guidelines to prioritize assurance of the
15 greatest level of interoperability for first responders and families
16 of first responders.

17 (4) Procedures for verifying, initiating, modifying, and canceling
18 alerts transmitted via an alert system.

19 (5) Guidelines for the technical capabilities of an alert system.

20 (6) Guidelines for technical capability that provides for the
21 priority transmission of alerts.

22 (7) Guidelines for other capabilities of an alert system.

23 (8) Standards for equipment and technologies used by an alert
24 system.

25 (9) Cost estimates.

26 (10) Standards and protocols in accordance with, or in
27 anticipation of, Federal Communications Commission requirements
28 and federal statutes or regulations.

29 (11) Liability issues.

30 (d) The ~~secretary~~ *director* may accept private monetary or
31 in-kind donations for the purposes of this section.

32 *SEC. 191. Section 8596 of the Government Code is amended*
33 *to read:*

34 8596. (a) Each department, division, bureau, board,
35 commission, officer, and employee of this state shall render all
36 possible assistance to the Governor and to the ~~Secretary~~ *Director*
37 *of Emergency Management Services* in carrying out the provisions
38 of this chapter.

39 (b) In providing that assistance, state agencies shall cooperate
40 to the fullest possible extent with each other and with political

1 subdivisions, relief agencies, and the American National Red Cross,
2 but nothing contained in this chapter shall be construed to limit or
3 in any way affect the responsibilities of the American National
4 Red Cross under the federal act approved January 5, 1905 (33 Stat.
5 599), as amended.

6 (c) Entities providing disaster-related services and assistance
7 shall strive to ensure that all victims receive the assistance that
8 they need and for which they are eligible. Public employees shall
9 assist evacuees and other individuals in securing disaster-related
10 assistance and services without eliciting any information or
11 document that is not strictly necessary to determine eligibility
12 under state and federal laws. Nothing in this subdivision shall
13 prevent public employees from taking reasonable steps to protect
14 the health or safety of evacuees and other individuals during an
15 emergency.

16 (d) State personnel, equipment, and facilities may be used to
17 clear and dispose of debris on private property only after the
18 Governor finds: (1) that the use is for a state purpose; (2) that the
19 use is in the public interest, serving the general welfare of the state;
20 and (3) that the personnel, equipment, and facilities are already in
21 the emergency area.

22 *SEC. 192. Section 8599 of the Government Code is amended*
23 *to read:*

24 8599. ~~The California Office of Emergency Management Agency~~
25 *Services* shall develop a plan for state and local governmental
26 agencies to utilize volunteer resources during a state of emergency
27 proclaimed by the Governor. ~~The agency office~~ shall consult with
28 appropriate state and local governmental agencies and volunteer
29 organizations in the development of this plan.

30 *SEC. 193. Section 8600 of the Government Code is amended*
31 *to read:*

32 8600. The Governor with the advice of the ~~California Office~~
33 *of Emergency Management Agency Services* is hereby authorized
34 and empowered to divide the state into mutual aid regions for the
35 more effective application, administration, and coordination of
36 mutual aid and other emergency-related activities.

37 *SEC. 194. Section 8607 of the Government Code is amended*
38 *to read:*

39 8607. (a) ~~The California Office of Emergency Management~~
40 *Agency Services*, in coordination with all interested state agencies

1 with designated response roles in the state emergency plan and
2 interested local emergency management agencies shall jointly
3 establish by regulation a standardized emergency management
4 system for use by all emergency response agencies. The public
5 water systems identified in Section 8607.2 may review and
6 comment on these regulations prior to adoption. This system shall
7 be applicable, but not limited to, those emergencies or disasters
8 referenced in the state emergency plan. The standardized
9 emergency management system shall include all of the following
10 systems as a framework for responding to and managing
11 emergencies and disasters involving multiple jurisdictions or
12 multiple agency responses:

13 (1) The Incident Command Systems adapted from the systems
14 originally developed by the FIRESCOPE Program, including those
15 currently in use by state agencies.

16 (2) The multiagency coordination system as developed by the
17 FIRESCOPE Program.

18 (3) The mutual aid agreement, as defined in Section 8561, and
19 related mutual aid systems such as those used in law enforcement,
20 fire service, and coroners operations.

21 (4) The operational area concept, as defined in Section 8559.

22 (b) Individual agencies' roles and responsibilities agreed upon
23 and contained in existing laws or the state emergency plan are not
24 superseded by this article.

25 (c) ~~The California Office of Emergency Management Agency~~
26 *Services*, in coordination with the State Fire Marshal's office, the
27 Department of the California Highway Patrol, the Commission on
28 Peace Officer Standards and Training, the Emergency Medical
29 Services Authority, and all other interested state agencies with
30 designated response roles in the state emergency plan, shall jointly
31 develop an approved course of instruction for use in training all
32 emergency response personnel, consisting of the concepts and
33 procedures associated with the standardized emergency
34 management system described in subdivision (a).

35 (d) All state agencies shall use the standardized emergency
36 management system as adopted pursuant to subdivision (a), to
37 coordinate multiple jurisdiction or multiple agency emergency and
38 disaster operations.

39 (e) (1) Each local agency, in order to be eligible for any funding
40 of response-related costs under disaster assistance programs, shall

1 use the standardized emergency management system as adopted
2 pursuant to subdivision (a) to coordinate multiple jurisdiction or
3 multiple agency operations.

4 (2) Notwithstanding paragraph (1), local agencies shall be
5 eligible for repair, renovation, or any other nonpersonnel costs
6 resulting from an emergency.

7 (f) ~~The California Office of Emergency Management Agency~~
8 *Services* shall, in cooperation with involved state and local
9 agencies, complete an after-action report within 120 days after
10 each declared disaster. This report shall review public safety
11 response and disaster recovery activities and shall be made
12 available to all interested public safety and emergency management
13 organizations.

14 *SEC. 195. Section 8607.2 of the Government Code is amended*
15 *to read:*

16 8607.2. (a) All public water systems, as defined in subdivision
17 (f) of Section 116275 of the Health and Safety Code, with 10,000
18 or more service connections shall review and revise their disaster
19 preparedness plans in conjunction with related agencies, including,
20 but not limited to, local fire departments and the ~~California Office~~
21 *of Emergency Management Agency Services* to ensure that the
22 plans are sufficient to address possible disaster scenarios. These
23 plans should examine and review pumping station and distribution
24 facility operations during an emergency, water pressure at both
25 pumping stations and hydrants, and whether there is sufficient
26 water reserve levels and alternative emergency power, including,
27 but not limited to, onsite backup generators and portable generators.

28 (b) All public water systems, as defined in subdivision (f) of
29 Section 116275 of the Health and Safety Code, with 10,000 or
30 more service connections following a declared state of emergency
31 shall furnish an assessment of their emergency response and
32 recommendations to the Legislature within six months after each
33 disaster, as well as implementing the recommendations in a timely
34 manner.

35 (c) ~~The California Office of Emergency Management Agency~~
36 *Services* shall establish appropriate and insofar as practical,
37 emergency response and recovery plans, including mutual aid
38 plans, in coordination with public water systems, as defined in
39 subdivision (f) of Section 116275 of the Health and Safety Code,
40 with 10,000 or more service connections.

1 *SEC. 196. Section 8608 of the Government Code is amended*
2 *to read:*

3 8608. ~~The California Office of Emergency Management Agency~~
4 *Services* shall approve and adopt, and incorporate the California
5 Animal Response Emergency System (CARES) program developed
6 under the oversight of the Department of Food and Agriculture
7 into the standardized emergency management system established
8 pursuant to subdivision (a) of Section 8607.

9 *SEC. 197. Section 8610 of the Government Code is amended*
10 *to read:*

11 8610. Counties, cities and counties, and cities may create
12 disaster councils by ordinance. A disaster council shall develop
13 plans for meeting any condition constituting a local emergency or
14 state of emergency, including, but not limited to, earthquakes,
15 natural or manmade disasters specific to that jurisdiction, or state
16 of war emergency; those plans shall provide for the effective
17 mobilization of all of the resources within the political subdivision,
18 both public and private. The disaster council shall supply a copy
19 of any plans developed pursuant to this section to the ~~California~~
20 *Office of Emergency Management Agency Services*. The governing
21 body of a county, city and county, or city may, in the ordinance
22 or by resolution adopted pursuant to the ordinance, provide for the
23 organization, powers and duties, divisions, services, and staff of
24 the emergency organization. The governing body of a county, city
25 and county, or city may, by ordinance or resolution, authorize
26 public officers, employees, and registered volunteers to command
27 the aid of citizens when necessary in the execution of their duties
28 during a state of war emergency, a state of emergency, or a local
29 emergency.

30 Counties, cities and counties, and cities may enact ordinances
31 and resolutions and either establish rules and regulations or
32 authorize disaster councils to recommend to the director of the
33 local emergency organization rules and regulations for dealing
34 with local emergencies that can be adequately dealt with locally;
35 and further may act to carry out mutual aid on a voluntary basis
36 and, to this end, may enter into agreements.

37 *SEC. 198. Section 8610.3 of the Government Code is amended*
38 *to read:*

39 8610.3. The Legislature hereby finds and declares as follows:

1 (a) The ~~California Emergency Management Agency Office of~~
2 ~~Emergency Services~~, in consultation with the State Department of
3 Health Services and affected counties, investigated the
4 consequences of a serious nuclear powerplant accident for each
5 of the nuclear powerplants in California with a generating capacity
6 of 50 megawatts or more.

7 (b) This study culminated in the establishment of emergency
8 planning zones for nuclear powerplant emergency preparedness.

9 (c) All state and local government nuclear powerplant
10 emergency response plans have been revised to reflect the
11 information provided in the study.

12 *SEC. 199. Section 8610.5 of the Government Code is amended*
13 *to read:*

14 8610.5. (a) For purposes of this section, the following
15 definitions shall apply:

16 (1) “Agency” or “office” means the ~~California Office of~~
17 ~~Emergency Management Agency Services~~.

18 (2) “Previous fiscal year” means the fiscal year immediately
19 prior to the current fiscal year.

20 (3) “Utility” means an “electrical corporation” as defined in
21 Section 218 of the Public Utilities Code, and “utilities” means
22 more than one electrical corporation.

23 (b) (1) State and local costs to carry out activities pursuant to
24 this section and Chapter 4 (commencing with Section 114650) of
25 Part 9 of Division 104 of the Health and Safety Code that are not
26 reimbursed by federal funds shall be borne by utilities operating
27 nuclear powerplants with a generating capacity of 50 megawatts
28 or more.

29 (2) The Public Utilities Commission shall develop and transmit
30 to the ~~agency office~~ an equitable method of assessing the utilities
31 operating the powerplants for their reasonable pro rata share of
32 state agency costs specified in paragraph (1).

33 (3) Each local government involved shall submit a statement
34 of its costs specified in paragraph (1), as required, to the ~~agency~~
35 ~~office~~.

36 (4) Upon each utility’s notification by the ~~agency office~~, from
37 time to time, of the amount of its share of the actual or anticipated
38 state and local agency costs, the utility shall pay this amount to
39 the Controller for deposit in the Nuclear Planning Assessment
40 Special Account, which is continued in existence, for allocation

1 by the Controller, upon appropriation by the Legislature, to carry
2 out activities pursuant to this section and Chapter 4 (commencing
3 with Section 114650) of Part 9 of Division 104 of the Health and
4 Safety Code. The Controller shall pay from this account the state
5 and local costs relative to carrying out this section and Chapter 4
6 (commencing with Section 114650) of Part 9 of Division 104 of
7 the Health and Safety Code, upon certification thereof by the
8 *agency office*.

9 (5) Upon appropriation by the Legislature, the Controller may
10 disburse up to 80 percent of a fiscal year allocation from the
11 Nuclear Planning Assessment Special Account, in advance, for
12 anticipated local expenses, as certified by the agency pursuant to
13 paragraph (4). The *agency office* shall review program expenditures
14 related to the balance of funds in the account and the Controller
15 shall pay the portion, or the entire balance, of the account, based
16 upon those approved expenditures.

17 (c) (1) The total annual disbursement of state costs from the
18 utilities operating the nuclear powerplants within the state for
19 activities pursuant to this section and Chapter 4 (commencing with
20 Section 114650) of Part 9 of Division 104 of the Health and Safety
21 Code, shall not exceed the lesser of the actual costs or the
22 maximum funding levels established in this section, subject to
23 subdivisions (e) and (f), to be shared equally among the utilities.

24 (2) Of the annual amount of two million forty-seven thousand
25 dollars (\$2,047,000) for the 2009–10 fiscal year, the sum of one
26 million ninety-four thousand dollars (\$1,094,000) shall be for
27 support of the *agency office* for activities pursuant to this section
28 and Chapter 4 (commencing with Section 114650) of Part 9 of
29 Division 104 of the Health and Safety Code, and the sum of nine
30 hundred fifty-three thousand dollars (\$953,000) shall be for support
31 of the State Department of Public Health for activities pursuant to
32 this section and Chapter 4 (commencing with Section 114650) of
33 Part 9 of Division 104 of the Health and Safety Code.

34 (d) (1) The total annual disbursement for each fiscal year,
35 commencing July 1, 2009, of local costs from the utilities shall
36 not exceed the lesser of the actual costs or the maximum funding
37 levels established in this section, in support of activities pursuant
38 to this section and Chapter 4 (commencing with Section 114650)
39 of Part 9 of Division 104 of the Health and Safety Code. The
40 maximum annual amount available for disbursement for local

1 costs, subject to subdivisions (e) and (f), shall, for the fiscal year
2 beginning July 1, 2009, be one million seven hundred thirty-two
3 thousand dollars (\$1,732,000) for the Diablo Canyon site and one
4 million six hundred thousand dollars (\$1,600,000) for the San
5 Onofre site.

6 (2) The amounts paid by the utilities under this section shall be
7 allowed for ratemaking purposes by the Public Utilities
8 Commission.

9 (e) (1) Except as provided in paragraph (2), the amounts
10 available for disbursement for state and local costs as specified in
11 this section shall be adjusted and compounded each fiscal year by
12 the percentage increase in the California Consumer Price Index of
13 the previous fiscal year.

14 (2) For the Diablo Canyon site, the amounts available for
15 disbursement for state and local costs as specified in this section
16 shall be adjusted and compounded each fiscal year by the larger
17 of the percentage change in the prevailing wage for San Luis
18 Obispo County employees, not to exceed 5 percent, or the
19 percentage increase in the California Consumer Price Index from
20 the previous fiscal year.

21 (f) Through the inoperative date specified in subdivision (g),
22 the amounts available for disbursement for state and local costs
23 as specified in this section shall be cumulative biennially. Any
24 unexpended funds from a year shall be carried over for one year.
25 The funds carried over from the previous year may be expended
26 when the current year's funding cap is exceeded.

27 (g) This section shall become inoperative on July 1, 2019, and,
28 as of January 1, 2020, is repealed, unless a later enacted statute,
29 which becomes effective on or before July 1, 2019, deletes or
30 extends the dates on which it becomes inoperative and is repealed.

31 (h) Upon inoperation of this section, any amounts remaining in
32 the special account shall be refunded pro rata to the utilities
33 contributing thereto, to be credited to the utility's ratepayers.

34 *SEC. 200. Section 8612 of the Government Code is amended*
35 *to read:*

36 8612. Any disaster council that both agrees to follow the rules
37 and regulations established by the ~~California~~ *Office of Emergency*
38 ~~Management Agency Services~~ pursuant to Section 8585.5 and
39 substantially complies with those rules and regulations shall be

1 certified by the ~~agency~~ office. Upon that certification, and not
2 before, the disaster council becomes an accredited disaster council.

3 *SEC. 201. Section 8613 of the Government Code is amended*
4 *to read:*

5 8613. Should an accredited disaster council fail to comply with
6 the rules and regulations of the ~~California~~ Office of Emergency
7 ~~Management Agency~~ Services in any material degree, the ~~agency~~
8 office may revoke its certification and, upon the act of revocation,
9 the disaster council shall lose its accredited status. It may again
10 become an accredited disaster council in the same manner as is
11 provided for a disaster council that has not previously been
12 accredited.

13 *SEC. 202. Section 8614 of the Government Code is amended*
14 *to read:*

15 8614. (a) Each department, division, bureau, board,
16 commission, officer, and employee of each political subdivision
17 of the state shall render all possible assistance to the Governor and
18 to the ~~Secretary~~ Director of Emergency ~~Management~~ Services in
19 carrying out the provisions of this chapter.

20 (b) The emergency power that may be vested in a local public
21 official during a state of war emergency or a state of emergency
22 shall be subject or subordinate to the powers vested in the Governor
23 under this chapter when exercised by the Governor.

24 (c) Ordinances, orders, and regulations of a political subdivision
25 shall continue in effect during a state of war emergency or a state
26 of emergency, except as to any provision suspended or superseded
27 by an order or regulation issued by the Governor.

28 *SEC. 203. Section 8639 of the Government Code is amended*
29 *to read:*

30 8639. The qualifications of each standby officer should be
31 carefully investigated, and the governing body may request the
32 ~~Secretary of Emergency Management~~ Director of Emergency
33 Services to aid in the investigation of any prospective appointee.
34 No examination or investigation shall be made without the consent
35 of the prospective appointee.

36 Consideration shall be given to places of residence and work,
37 so that for each office for which standby officers are appointed
38 there shall be the greatest probability of survivorship. Standby
39 officers may be residents or officers of a political subdivision other
40 than that to which they are appointed as standby officers.

1 *SEC. 204. Section 8649 of the Government Code is amended*
2 *to read:*

3 8649. Subject to the approval of the Department of Finance,
4 any state agency may use its personnel, property, equipment, and
5 appropriations for carrying out the purposes of this chapter, and
6 in that connection may loan personnel to the ~~California Office of~~
7 ~~Emergency-Management-Agency Services~~. The Department of
8 Finance shall determine whether reimbursement shall be made to
9 any state agency for expenditures heretofore or hereafter made or
10 incurred for those purposes from any appropriation available for
11 the ~~California Office of Emergency-Management-Agency Services~~,
12 except that as to any expenditure made or incurred by any state
13 agency the funds of which are subject to constitutional restriction
14 that would prohibit their use for those purposes, that reimbursement
15 shall be provided and the original expenditure shall be considered
16 a temporary loan to the General Fund.

17 *SEC. 205. Section 8651 of the Government Code is amended*
18 *to read:*

19 8651. The ~~Secretary Director~~ of ~~Emergency-Management~~
20 ~~Services~~ may procure from the federal government or any of its
21 agencies such surplus equipment, apparatus, supplies, and storage
22 facilities therefor as may be necessary to accomplish the purposes
23 of this chapter.

24 *SEC. 206. Section 8657 of the Government Code is amended*
25 *to read:*

26 8657. (a) Volunteers duly enrolled or registered with the
27 ~~California Office of Emergency-Management-Agency Services~~ or
28 any disaster council of any political subdivision, or unregistered
29 persons duly impressed into service during a state of war
30 emergency, a state of emergency, or a local emergency, in carrying
31 out, complying with, or attempting to comply with, any order or
32 regulation issued or promulgated pursuant to the provisions of this
33 chapter or any local ordinance, or performing any of their
34 authorized functions or duties or training for the performance of
35 their authorized functions or duties, shall have the same degree of
36 responsibility for their actions and enjoy the same immunities as
37 officers and employees of the state and its political subdivisions
38 performing similar work for their respective entities.

39 (b) No political subdivision or other public agency under any
40 circumstances, nor the officers, employees, agents, or duly enrolled

1 or registered volunteers thereof, or unregistered persons duly
2 impressed into service during a state of war emergency, a state of
3 emergency, or a local emergency, acting within the scope of their
4 official duties under this chapter or any local ordinance shall be
5 liable for personal injury or property damage sustained by any
6 duly enrolled or registered volunteer engaged in or training for
7 emergency preparedness or relief activity, or by any unregistered
8 person duly impressed into service during a state of war emergency,
9 a state of emergency, or a local emergency and engaged in such
10 service. The foregoing shall not affect the right of any such person
11 to receive benefits or compensation which may be specifically
12 provided by the provisions of any federal or state statute nor shall
13 it affect the right of any person to recover under the terms of any
14 policy of insurance.

15 (c) The California Earthquake Prediction Evaluation Council,
16 an advisory committee established pursuant to Section 8590 of
17 this chapter, may advise the Governor of the existence of an
18 earthquake or volcanic prediction having scientific validity. In its
19 review, hearings, deliberations, or other validation procedures,
20 members of the council, jointly and severally, shall have the same
21 degree of responsibility for their actions and enjoy the same
22 immunities as officers and employees of the state and its political
23 subdivisions engaged in similar work in their respective entities.
24 Any person making a presentation to the council as part of the
25 council's validation process, including presentation of a prediction
26 for validation, shall be deemed a member of the council until the
27 council has found the prediction to have or not have scientific
28 validity.

29 *SEC. 207. Section 8657.5 of the Government Code is amended*
30 *to read:*

31 8657.5. (a) (1) A private business included on the statewide
32 registry pursuant to Section 8588.2 that voluntarily and without
33 expectation and receipt of compensation donates services, goods,
34 labor, equipment, resources, or dispensaries or other facilities, in
35 compliance with Section 8588.2, during a declared state of war,
36 state of emergency, or state of local emergency shall not be civilly
37 liable for a death, injury, illness, or other damage to a person or
38 property caused by the private business's donation of services,
39 goods, labor, equipment, resources, or dispensaries or other
40 facilities.

1 (2) A private business included on the statewide registry that
 2 voluntarily and without expectation and receipt of compensation
 3 donates services, goods, labor, equipment, resources, or
 4 dispensaries or other facilities, in compliance with Section 8588.2,
 5 during an emergency medical services training program conducted
 6 by the ~~California Office of Emergency Management Agency~~
 7 *Services* and a city, a county, or a city and county shall not be
 8 civilly liable for damages alleged to have resulted from those
 9 training programs, as described in Section 1799.100 of the Health
 10 and Safety Code.

11 (b) (1) A nonprofit organization included on the statewide
 12 registry pursuant to Section 8588.2 that voluntarily and without
 13 expectation and receipt of compensation from victims of
 14 emergencies and disasters donates services, goods, labor,
 15 equipment, resources, or dispensaries or other facilities, in
 16 compliance with Section 8588.2, during a declared state of war,
 17 state of emergency, or state of local emergency shall not be civilly
 18 liable for a death, injury, illness, or other damage to a person or
 19 property caused by the nonprofit organization’s donation of
 20 services, goods, labor, equipment, resources, or dispensaries or
 21 other facilities.

22 (2) A nonprofit organization included on the statewide registry
 23 that voluntarily and without expectation and receipt of
 24 compensation donates services, goods, labor, equipment, resources,
 25 or dispensaries or other facilities, in compliance with Section
 26 8588.2, during an emergency medical services training program
 27 conducted by the ~~California Office of Emergency Management~~
 28 *Agency Services* and a city, a county, or a city and county, shall
 29 not be civilly liable for damages alleged to have resulted from
 30 those training programs, as described in Section 1799.100 of the
 31 Health and Safety Code.

32 (c) A private business or nonprofit organization that
 33 discriminates against a victim of an emergency or disaster based
 34 on a protected classification under federal or state law shall not be
 35 entitled to the protections in subdivision (a) or (b).

36 (d) This section shall not relieve a private business or nonprofit
 37 organization from liability caused by its grossly negligent act or
 38 omission, or willful or wanton misconduct.

39 *SEC. 208. Section 8670.20 of the Government Code is amended*
 40 *to read:*

1 8670.20. (a) For the purposes of this section, “vessel” means
2 a vessel, as defined in Section 21 of the Harbors and Navigation
3 Code, of 300 gross registered tons or more.

4 (b) Any party responsible for a vessel shall notify the Coast
5 Guard within one hour of a disability if the disabled vessel is within
6 12 miles of the shore of this state. The administrator and the
7 ~~California Office of Emergency Management Agency Services~~
8 shall request the Coast Guard to notify the ~~California Office of~~
9 ~~Emergency Management Agency Services~~ as soon as possible after
10 the Coast Guard receives notice of a disabled vessel within 12
11 miles of the shore of this state. The administrator shall attempt to
12 negotiate an agreement with the Coast Guard governing procedures
13 for Coast Guard notification to the state regarding disabled vessels.

14 (c) Whenever the ~~California Office of Emergency Management~~
15 ~~Agency Services~~ receives notice of a disabled vessel, the office
16 shall immediately notify the administrator. If the administrator
17 receives notice from any other source regarding the presence of a
18 disabled vessel within 12 miles of the shore of this state, the
19 administrator shall immediately notify the ~~California Office of~~
20 ~~Emergency Management Agency Services~~.

21 (d) For the purposes of this section, a vessel shall be considered
22 disabled if any of the following occurs:

23 (1) Any accidental or intentional grounding that creates a hazard
24 to the environment or the safety of the vessel.

25 (2) Loss of main propulsion or primary steering or any
26 component or control system that causes a reduction in the
27 maneuvering capabilities of the vessel. For the purposes of this
28 paragraph, “loss” means that any system, component, part,
29 subsystem, or control system does not perform the specified or
30 required function.

31 (3) An occurrence materially and adversely affecting the vessel’s
32 seaworthiness or fitness for service, including, but not limited to,
33 fire, flooding, or collision with another vessel.

34 (4) Any occurrence not meeting the above criteria, but that
35 creates the serious possibility of an oil spill or an occurrence that
36 may result in an oil spill.

37 (e) For the purposes of this section, a tank barge shall be
38 considered disabled if any of the following occur:

39 (1) The towing mechanism becomes disabled.

1 (2) The tugboat towing the tank barge becomes disabled through
2 occurrences specified in subdivision (d).

3 *SEC. 209. Section 8670.25.5 of the Government Code is*
4 *amended to read:*

5 8670.25.5. (a) (1) Without regard to intent or negligence, any
6 party responsible for the discharge or threatened discharge of oil
7 in marine waters shall report the discharge immediately to the
8 ~~California Office of Emergency Management Agency Services~~
9 pursuant to Section 25507 of the Health and Safety Code.

10 (2) If the information initially reported pursuant to paragraph
11 (1) was inaccurate or incomplete, or if the quantity of oil discharged
12 has changed, any party responsible for the discharge or threatened
13 discharge of oil in marine waters shall report the updated
14 information immediately to the ~~California Office of Emergency~~
15 ~~Management Agency Services~~ pursuant to paragraph (1). The
16 report shall contain the accurate or complete information, or the
17 revised quantity of oil discharged.

18 (b) Immediately upon receiving notification pursuant to
19 subdivision (a), the ~~California Office of Emergency Management~~
20 ~~Agency Services~~ shall notify the administrator, the State Lands
21 Commission, the California Coastal Commission, the California
22 regional water quality control board having jurisdiction over the
23 location of the discharged oil, and the appropriate local
24 governmental agencies in the area surrounding the discharged oil,
25 and take the actions required by subdivision (d) of Section 8589.7.
26 If the spill has occurred within the jurisdiction of the San Francisco
27 Bay Conservation and Development Commission, the ~~California~~
28 ~~Office of Emergency Management Agency Services~~ shall notify
29 that commission. Each public agency specified in this subdivision
30 shall adopt an internal protocol over communications regarding
31 the discharge of oil and file the internal protocol with the ~~California~~
32 ~~Office of Emergency Management Agency Services~~.

33 (c) The 24-hour emergency telephone number of the ~~California~~
34 ~~Office of Emergency Management Agency Services~~ shall be posted
35 at every terminal, at the area of control of every marine facility,
36 and on the bridge of every tankship in marine waters.

37 (d) This section does not apply to discharges, or potential
38 discharges, of less than one barrel (42 gallons) of oil unless a more
39 restrictive reporting standard is adopted in the California oil spill
40 contingency plan prepared pursuant to Section 8574.1.

1 (e) Except as otherwise provided in this section and Section
2 8589.7, a notification made pursuant to this section shall satisfy
3 any immediate notification requirement contained in any permit
4 issued by a permitting agency.

5 *SEC. 210. Section 8670.26 of the Government Code is amended*
6 *to read:*

7 8670.26. Any local or state agency responding to a spill of oil
8 shall notify the ~~California Office of Emergency Management~~
9 ~~Agency Services~~, if notification as required under Section
10 8670.25.5, Section 13272 of the Water Code, or any other
11 notification procedure adopted in the California oil spill
12 contingency plan has not occurred.

13 *SEC. 211. Section 8670.64 of the Government Code is amended*
14 *to read:*

15 8670.64. (a) A person who commits any of the following acts,
16 shall, upon conviction, be punished by imprisonment in a county
17 jail for not more than one year or by imprisonment pursuant to
18 subdivision (h) of Section 1170 of the Penal Code:

19 (1) Except as provided in Section 8670.27, knowingly fails to
20 follow the direction or orders of the administrator in connection
21 with an oil spill.

22 (2) Knowingly fails to notify the Coast Guard that a vessel is
23 disabled within one hour of the disability and the vessel, while
24 disabled, causes a discharge of oil which enters marine waters.
25 For the purposes of this paragraph, "vessel" means a vessel, as
26 defined in Section 21 of the Harbors and Navigation Code, of 300
27 gross registered tons or more.

28 (3) Knowingly engages in or causes the discharge or spill of oil
29 into marine waters, or a person who reasonably should have known
30 that he or she was engaging in or causing the discharge or spill of
31 oil into marine waters, unless the discharge is authorized by the
32 United States, the state, or another agency with appropriate
33 jurisdiction.

34 (4) Knowingly fails to begin cleanup, abatement, or removal of
35 spilled oil as required in Section 8670.25.

36 (b) The court shall also impose upon a person convicted of
37 violating subdivision (a), a fine of not less than five thousand
38 dollars (\$5,000) or more than five hundred thousand dollars
39 (\$500,000) for each violation. For purposes of this subdivision,

1 each day or partial day that a violation occurs is a separate
2 violation.

3 (c) (1) A person who knowingly does any of the acts specified
4 in paragraph (2) shall, upon conviction, be punished by a fine of
5 not less than two thousand five hundred dollars (\$2,500) or more
6 than two hundred fifty thousand dollars (\$250,000), or by
7 imprisonment in a county jail for not more than one year, or by
8 both the fine and imprisonment. Each day or partial day that a
9 violation occurs is a separate violation. If the conviction is for a
10 second or subsequent violation of this subdivision, the person shall
11 be punished by imprisonment pursuant to subdivision (h) of Section
12 1170 of the Penal Code, or in a county jail for not more than one
13 year, or by a fine of not less than five thousand dollars (\$5,000)
14 or more than five hundred thousand dollars (\$500,000), or by both
15 that fine and imprisonment:

16 (2) The acts subject to this subdivision are all of the following:

17 (A) Failing to notify the ~~California Office of Emergency~~
18 ~~Management Agency Services~~ in violation of Section 8670.25.5.

19 (B) Knowingly making a false or misleading marine oil spill
20 report to the ~~California Office of Emergency Management Agency~~
21 ~~Services~~.

22 (C) Continuing operations for which an oil spill contingency
23 plan is required without an oil spill contingency plan approved
24 pursuant to Article 5 (commencing with Section 8670.28).

25 (D) Except as provided in Section 8670.27, knowingly failing
26 to follow the material provisions of an applicable oil spill
27 contingency plan.

28 *SEC. 212. Section 8680.7 of the Government Code is amended*
29 *to read:*

30 8680.7. ~~“Secretary”~~ *“Director”* means the ~~Secretary~~ *Director*
31 ~~of Emergency Management Services~~.

32 *SEC. 213. Section 8682 of the Government Code is amended*
33 *to read:*

34 8682. The ~~secretary director~~ shall administer this chapter. The
35 ~~secretary director~~ may delegate any power or duty vested in him
36 or her under this chapter to a state agency or to any other officer
37 or employee of the ~~California Office of Emergency Management~~
38 ~~Agency Services~~.

39 *SEC. 214. Section 8682.2 of the Government Code is amended*
40 *to read:*

1 8682.2. To the extent that funds are allocated therefor, a state
2 agency, when requested by the ~~secretary~~ *director*, shall render
3 services and perform duties within its area of responsibility when
4 considered necessary to carry out the purposes of this chapter.

5 *SEC. 215. Section 8682.6 of the Government Code is amended*
6 *to read:*

7 8682.6. The project proposal executed between a local agency
8 and the ~~secretary~~ *director* pursuant to Section 8685.6 shall contain
9 a provision under which the local agency agrees to hold the state
10 harmless from damages due to the work for which funds are
11 allocated.

12 *SEC. 216. Section 8682.8 of the Government Code is amended*
13 *to read:*

14 8682.8. When certified by the ~~secretary~~ *director*, claims of
15 local agencies for payment shall be presented to the Controller for
16 payment out of funds made available therefor. The ~~secretary~~
17 *director* may request the Controller to audit any claim to ensure
18 that funds were expended in accordance with the requirements and
19 purposes of this chapter.

20 *SEC. 217. Section 8682.9 of the Government Code is amended*
21 *to read:*

22 8682.9. The ~~secretary~~ *director* shall adopt regulations, as
23 necessary, to govern the administration of the disaster assistance
24 program authorized by this chapter in accordance with the
25 Administrative Procedure Act (Chapter 3.5 (commencing with
26 Section 11340) of Part 1 of Division 3). These regulations shall
27 include specific project eligibility requirements, a procedure for
28 local governments to request the implementation of programs
29 under this chapter, and a method for evaluating these requests by
30 the ~~California Office of Emergency Management Agency Services~~.

31 *SEC. 218. Section 8685 of the Government Code is amended*
32 *to read:*

33 8685. From any moneys appropriated for that purpose, and
34 subject to the conditions specified in this article, the ~~secretary~~
35 *director* shall allocate funds to meet the cost of any one or more
36 projects as defined in Section 8680.4. Applications by school
37 districts shall be submitted to the Superintendent of Public
38 Instruction for review and approval, in accordance with instructions
39 or regulations developed by the ~~California Office of Emergency~~

1 ~~Management Agency Services~~, prior to the allocation of funds by
 2 ~~the secretary director~~.

3 Moneys appropriated for the purposes of this chapter may be
 4 used to provide financial assistance for the following local agency
 5 and state costs:

6 (a) Local agency personnel costs, equipment costs, and the cost
 7 of supplies and materials used during disaster response activities,
 8 incurred as a result of a state of emergency proclaimed by the
 9 Governor, excluding the normal hourly wage costs of employees
 10 engaged in emergency work activities.

11 (b) To repair, restore, reconstruct, or replace facilities belonging
 12 to local agencies damaged as a result of disasters as defined in
 13 Section 8680.3. Mitigation measures performed pursuant to
 14 subdivision (b) of Section 8686.4 shall qualify for funding pursuant
 15 to this chapter.

16 (c) Matching fund assistance for cost sharing required under
 17 federal disaster assistance programs, as otherwise eligible under
 18 this act.

19 (d) Indirect administrative costs and any other assistance deemed
 20 necessary by the director.

21 (e) Necessary and required site preparation costs for
 22 mobilehomes, travel trailers, and other manufactured housing units
 23 provided and operated by the Federal Emergency Management
 24 Agency.

25 *SEC. 219. Section 8685.2 of the Government Code is amended*
 26 *to read:*

27 8685.2. An allocation may be made to a local agency for a
 28 project when, within 10 days after the actual occurrence of a
 29 disaster, the local agency has proclaimed a local emergency and
 30 that proclamation is acceptable to the ~~secretary director~~ or upon
 31 the order of the Governor when a state of emergency proclamation
 32 has been issued, and if the Legislature has appropriated money for
 33 allocation for purposes of this chapter.

34 *SEC. 220. Section 8685.4 of the Government Code is amended*
 35 *to read:*

36 8685.4. A local agency shall make application to the ~~secretary~~
 37 *director* for state financial assistance within 60 days after the date
 38 of the proclamation of a local emergency. The ~~secretary director~~
 39 may extend the time for this filing only under unusual
 40 circumstances. No financial aid shall be provided until a state

1 agency, upon the request of the ~~secretary~~ *director*, has first
2 investigated and reported upon the proposed work, has estimated
3 the cost of the work, and has filed its report with the ~~secretary~~
4 *director* within 60 days from the date the local agency made
5 application, unless the ~~secretary~~ *director* extends the time because
6 of unusual circumstances. The estimate of cost of the work may
7 include expenditures made by the local agency for the work prior
8 to the making of the estimate. If the reporting state agency fails to
9 report its findings within the 60-day period, and time is not
10 extended by the ~~secretary~~ *director*, the ~~secretary~~ *director* may
11 complete the investigation and recover a proportionate amount
12 allocated to the state agency for the balance of the investigation.
13 “Unusual circumstances,” as used above, are unavoidable delays
14 that result from recurrence of a disaster, prolonged severe weather
15 within a one-year period, or other conditions beyond the control
16 of the applicant. Delays resulting from administrative procedures
17 are not unusual circumstances which warrant extensions of time.

18 *SEC. 221. Section 8685.6 of the Government Code is amended*
19 *to read:*

20 8685.6. No money shall be allocated for a project until the
21 local agency has indicated in writing its acceptance of the project
22 proposal and the cost-sharing related thereto in such form as the
23 ~~secretary~~ *director* prescribes. The project proposal shall provide
24 for the performance of the work by the local agency, or by the
25 state agency in whose area of responsibility such work falls, if the
26 local agency and such state agency determine that the work should
27 be performed by the state agency. The project proposal shall also
28 provide for the methods of handling the funds allocated and the
29 matching funds provided by the local agency. It shall also contain
30 such other provisions as are deemed necessary to assure completion
31 of the work included in the project and the proper expenditure of
32 funds as provided herein.

33 *SEC. 222. Section 8685.8 of the Government Code is amended*
34 *to read:*

35 8685.8. Under procedures to be prescribed by the ~~secretary~~
36 *director*, a local agency may receive an advance of funds to initiate
37 a project. Such advances shall be limited to not more than 90
38 percent of the estimated state’s share of the project, as determined
39 pursuant to Section 8686.

1 *SEC. 223. Section 8686.2 of the Government Code is amended*
 2 *to read:*

3 8686.2. When the United States or any agency thereof is to
 4 provide disaster relief funds for any portion of the cost of a project,
 5 the amount so provided shall be deducted from the cost of the
 6 project in determining the amount to be allocated by the state and
 7 the amount to be contributed by the local agency under Section
 8 8686. It shall not be required that the disaster relief funds to be
 9 provided from federal sources shall be paid into the State Treasury,
 10 but the secretary shall, if state funds are available, authorize the
 11 work to be commenced when the ~~secretary~~ *director* has received
 12 assurance, adequate in his or her opinion, that the federal disaster
 13 relief matching funds will be made available for expenditure for
 14 the work, or for payment to the state for performance thereof.

15 *SEC. 224. Section 8686.3 of the Government Code is amended*
 16 *to read:*

17 8686.3. Local agencies shall undertake to recover maximum
 18 federal participation in funding projects. No funds allocated under
 19 this chapter shall be used to supplant federal funds otherwise
 20 available in the absence of state financial relief. State contributions
 21 for such projects as determined by Section 8686 will be reduced
 22 by an amount equal to the amount local agencies would have
 23 recovered from federal disaster relief sources if they had applied
 24 for that funding and had executed the eligible projects in
 25 conformity with federal requirements. When a local agency applies
 26 for federal disaster relief funds, the ~~secretary~~ *director* shall inform
 27 the agency of available state funds.

28 *SEC. 225. Section 8686.4 of the Government Code is amended*
 29 *to read:*

30 8686.4. (a) Whenever the local agency and the ~~secretary~~
 31 *director* determine for projects that the general public and state
 32 interest will be better served by replacing a damaged or destroyed
 33 facility with a facility that will more adequately serve the present
 34 and future public needs than would be accomplished merely by
 35 repairing or restoring the damaged or destroyed facility, the
 36 ~~secretary~~ *director* shall authorize the replacement, including, in
 37 the case of a public building, an increase in the square footage of
 38 the building replaced, but the cost of the betterment of the facility,
 39 to the extent that it exceeds the cost of repairing or restoring the
 40 damaged or destroyed facility, shall be borne and contributed by

1 the local agency, and the excess cost shall be excluded in
2 determining the amount to be allocated by the state. The state
3 contribution shall not exceed the net cost of restoring each facility
4 on the basis of the design of the facility as it existed immediately
5 prior to the disaster in conformity with current codes,
6 specifications, and standards.

7 (b) Notwithstanding subdivision (a), when the ~~secretary~~ *director*
8 determines there are mitigation measures that are cost effective
9 and that substantially reduce the risk of future damage, hardship,
10 loss, or suffering in any area where a state of emergency has been
11 proclaimed by the Governor, the ~~secretary~~ *director* may authorize
12 the implementation of those measures.

13 *SEC. 226. Section 8686.8 of the Government Code is amended*
14 *to read:*

15 8686.8. If the ~~secretary~~ *director* determines that a local agency
16 is financially unable to meet the matching requirements set forth
17 in Section 8686, or unable to provide funds for replacement of a
18 facility pursuant to Section 8686.4, the ~~secretary~~ *director* may, if
19 that loan would not result in a violation of Section 18 of Article
20 XVI of the California Constitution and out of any state money
21 made available for purposes of this chapter, lend funds, for the
22 completion of a project or projects. The local agency shall be
23 required by the ~~secretary~~ *director* to make its contribution by means
24 of deferred payments. The deferred payments shall be made in the
25 amounts and at the times provided by the agreement executed in
26 connection with the application, but in any event providing full
27 repayment within 10 years, and shall include a charge to be fixed
28 by the ~~secretary~~ *director* in an amount estimated by him or her to
29 equal the revenue that the state would have derived by investing
30 the total amounts loaned at the interest rate prevailing for legal
31 state investments as of the date of the loan.

32 *SEC. 227. Section 8687 of the Government Code is amended*
33 *to read:*

34 8687. Deferred payments made by a local agency pursuant to
35 Section 8686.8 shall be made by the agency:

36 (a) Out of the current revenues of the local agency.

37 (b) If the current revenues of a city, county, or city and county,
38 prove insufficient to enable the agency to meet the payments, the
39 ~~secretary~~ *director* may order the State Controller to withhold from
40 the local agency funds that the local agency would be entitled from

1 the state, including, as to street and highway projects as defined
 2 by Sections 590 and 592 of the Vehicle Code, from the Motor
 3 Vehicle License Fee Fund to the extent necessary to meet the
 4 deficiency.

5 Those sums shall be credited to the funds in the State Treasury
 6 from which the loans were made.

7 *SEC. 228. Section 8687.2 of the Government Code is amended*
 8 *to read:*

9 8687.2. Notwithstanding Section 8686, whenever the ~~secretary~~
 10 *director* determines that a local agency to which funds are proposed
 11 to be allocated for a public facilities project is financially unable
 12 to meet the matching requirements set forth in Section 8686 due
 13 to exhaustion of its financial resources because of disaster
 14 expenditures, the provisions of Section 8686 may be suspended,
 15 and the ~~secretary~~ *director* may allocate funds to pay all of the cost
 16 of the project or that portion of the cost which the ~~secretary~~ *director*
 17 determines is necessary to accomplish the project, taking into
 18 consideration the financial ability of the local agency to meet the
 19 matching requirements of Section 8686 and the public benefit of
 20 the proposed work, less any money provided by the United States
 21 or any agency thereof for any portion of the cost of the project.

22 *SEC. 229. Section 8687.4 of the Government Code is amended*
 23 *to read:*

24 8687.4. Whenever the ~~secretary~~ *director* determines that a local
 25 agency which would otherwise be eligible for funds under the
 26 formula of Section 8686 is unable to finance a project due to
 27 exhaustion of its financial resources because of disaster
 28 expenditures, the ~~secretary~~ *director* may allocate funds to pay such
 29 portion of the cost of the project as the ~~secretary~~ *director*
 30 determines is necessary to accomplish the projects.

31 *SEC. 230. Section 8687.7 of the Government Code is amended*
 32 *to read:*

33 8687.7. (a) As used in this section, the following terms have
 34 the following meanings:

35 (1) “Agency” or “office” means the ~~California Office of~~
 36 ~~Emergency Management Agency Services.~~

37 (2) “Community” means a geographic area impacted by an
 38 emergency proclaimed by the Governor that includes the
 39 jurisdiction of one or more local agencies.

1 (3) “Community recovery partners” means local, state, and
2 federal agencies, private nonprofit organizations, nongovernmental
3 agencies, faith-based organizations, and other private entities.

4 (b) The ~~agency~~ *office* may establish a model process that would
5 be made available to assist a community in recovering from an
6 emergency proclaimed by the Governor. The model process may
7 include the following:

8 (1) The role of the ~~agency~~ *office* in the community recovery
9 process.

10 (2) Procedures for the ~~agency~~ *office* to have representation onsite
11 as soon as practicable after the Governor proclaims a state of
12 emergency.

13 (3) The role of the ~~agency~~ *office* to facilitate the use of temporary
14 services, including, but not limited to, direct assistance to
15 individuals, families, and businesses, crisis counseling, disaster
16 unemployment assistance, food and clothing vouchers,
17 communications systems, replacement of personal identification
18 documents, provision of potable water, housing, farm service
19 assistance, tax relief, insurance, and legal services.

20 (4) The role of the ~~agency~~ *office* to facilitate the establishment
21 of temporary structures, including local assistance centers, showers
22 and bathroom facilities, and temporary administrative offices.

23 (5) Measures to encourage the participation of nongovernmental
24 organizations in the community recovery process to supplement
25 recovery activities undertaken by federal or local agencies.

26 (6) The ~~agency~~ *office* may refer the model process to the
27 standardized Emergency Management System (SEMS) Advisory
28 Board, or any other advisory board it deems appropriate, for review
29 and modifications.

30 (7) It is the intent of the Legislature that the model process
31 assists and complements local procedures. The model process
32 should allow the ~~agency~~ *office* to offer additional assistance when
33 that assistance is needed but not available through local agencies.

34 *SEC. 231. Section 8692 of the Government Code is amended*
35 *to read:*

36 8692. (a) If a state of emergency is proclaimed, an eligible
37 private nonprofit organization may receive state assistance for
38 distribution of supplies and other disaster or emergency assistance
39 activities resulting in extraordinary cost.

1 (b) A private nonprofit organization is eligible for assistance
2 under this section if it is eligible for disaster assistance under the
3 *federal* Robert T. Stafford Disaster Relief and Emergency
4 Assistance Act (42 U.S.C. Sec. 5121).

5 (c) An organization is not eligible for assistance under this
6 section if it employs religious content in the provision of
7 emergency assistance.

8 (d) Any grant of assistance under this section shall comply with
9 Section 4 of Article I and Section 5 of Article XVI of the California
10 Constitution, state and federal civil rights laws, and the First
11 Amendment to the United States Constitution in regard to the
12 funding of religious organizations and activities. These legal
13 constraints include prohibitions on the discrimination against
14 beneficiaries and staff based on protected categories, on the use
15 of public funds for proselytizing of religious doctrine, religious
16 instruction, or worship, and on the use of other religious means to
17 accomplish programmatic goals.

18 (e) ~~The California Office of Emergency Management Agency~~
19 *Services* shall adopt regulations to implement this section.

20 *SEC. 232. Section 8696.5 of the Government Code is amended*
21 *to read:*

22 8696.5. As used in this chapter, the term “disaster” means those
23 conditions specified in subdivisions (b) and (c) of Section 8558 if
24 the estimated damage exceeds three billion dollars
25 (\$3,000,000,000) or the Governor orders the ~~Secretary of~~
26 ~~Emergency Management~~ *Director of Emergency Services* to carry
27 out the provisions of this chapter.

28 *SEC. 233. Section 8697 of the Government Code is amended*
29 *to read:*

30 8697. (a) Upon the completion of the emergency phase and
31 the immediate recovery phase of a disaster, appropriate state
32 agencies shall take actions to provide continuity of effort conducive
33 to long-range economic recovery.

34 (b) ~~The Secretary of Emergency Management~~ *Director of*
35 *Emergency Services* shall invoke the assignments made pursuant
36 to Section 8595, specifying the emergency functions of each agency
37 or department.

38 (c) ~~The Secretary of Emergency Management~~ *Director of*
39 *Emergency Services* may make assignments to assist local agencies
40 in implementing Chapter 12.4 (commencing with Section 8877.1).

1 *SEC. 234. Section 8697.5 of the Government Code is amended*
2 *to read:*

3 8697.5. ~~The Secretary of Emergency Management~~ *Director of*
4 *Emergency Services*, in executing the purposes of this chapter,
5 shall establish appropriate task forces or emergency teams to
6 include concerned elements of federal, state, and local governments
7 and the private sector.

8 *SEC. 235. Section 8711 of the Government Code is amended*
9 *to read:*

10 8711. (a) The California-Mexico Border Relations Council is
11 hereby established in state government. The council shall consist
12 of the Secretary of the *Natural Resources Agency*, the Secretary
13 for Environmental Protection, the Secretary of Health and Human
14 Services, the Secretary of ~~Business, Transportation and Housing,~~
15 *Transportation*, the Secretary of Food and Agriculture, and the
16 Director of Emergency Services.

17 (b) The Secretary for Environmental Protection shall chair the
18 council.

19 *SEC. 236. Section 8840 of the Government Code is amended*
20 *to read:*

21 8840. For purposes of this article, “eligible radio station” means
22 a radio station that, at the time of applying for a grant under this
23 article, meets both of the following requirements:

24 (a) It has met all of the following requirements for a period of
25 two years unless another time is specified:

26 (1) It is licensed by the Federal Communications Commission
27 as a noncommercial educational station, or is operating under
28 program test authority pending the grant of a license.

29 (2) It has its community of license and principal administrative
30 offices in this state and is not owned, controlled, managed, or
31 primarily financed by any corporation or entity outside of this
32 state.

33 (3) It provides a program service that meets the requirements
34 for a Community Service Grant from the Corporation for Public
35 Broadcasting.

36 (4) It provides significant locally originated programming in its
37 community of license.

38 (5) It broadcasts not less than 15 hours per day, 365 days per
39 year.

40 (6) It participates in statewide public broadcasting projects.

1 (7) It has provided, prior to its application for a grant under this
 2 article, an audited financial statement for the years on which the
 3 grant is based.

4 (8) It does either of the following:

5 (A) Meets the criteria for receipt of a Community Service Grant
 6 from the Corporation for Public Broadcasting that were in effect
 7 on June 30, 1995.

8 (B) Two months prior to applying for a grant, the station has a
 9 full-time staff of at least one professional paid not less than the
 10 California minimum wage, and is certified by the council as
 11 providing a needed service to its community of license.

12 (b) It enters into a permanent agreement with the ~~California~~
 13 ~~Office of Emergency Management Agency Services~~ to dedicate,
 14 as necessary, a broadcast channel for the provision of emergency
 15 information, to broadcast that information, and to ensure that it is
 16 presented in a format that makes it accessible to the deaf,
 17 hearing-impaired, and non-English-speaking populations
 18 throughout its broadcast area, including rural and isolated
 19 populations.

20 *SEC. 237. Section 8841 of the Government Code is amended*
 21 *to read:*

22 8841. For purposes of this article, “eligible television station”
 23 means a television station that, at the time of applying for a grant
 24 under this article, unless another time is specified, meets all of the
 25 following requirements:

26 (a) It has met all of the following requirements for a period of
 27 two years:

28 (1) It is licensed by the Federal Communications Commission
 29 as a noncommercial educational television station, or is operating
 30 under program test authority pending the grant of a license.

31 (2) It has its community of license and principal administrative
 32 offices in this state, and is not owned, controlled, managed, or
 33 primarily financed by any corporation or entity outside of this
 34 state.

35 (3) It provides a program service that meets the requirements
 36 for a Community Service Grant from the Corporation for Public
 37 Broadcasting.

38 (4) It provides substantial and significant locally originated
 39 programming in its community of license.

40 (5) It broadcasts not less than 2,500 hours per year.

1 (6) It participates in statewide public broadcasting projects.

2 (7) It meets the criteria for receipt of a Community Service
3 Grant or base grant from the Corporation for Public Broadcasting
4 that were in effect on June 30, 1994.

5 (8) It has provided, prior to its application for a grant under this
6 article, an audited financial statement for the years on which the
7 grant is based.

8 (b) It enters into a permanent agreement with the ~~California~~
9 ~~Office of Emergency Management Agency Services~~ to dedicate,
10 as necessary, a broadcast channel for the provision of emergency
11 information, to broadcast that information, and to ensure that it is
12 presented in a format that makes it accessible to the deaf,
13 hearing-impaired, and non-English-speaking populations
14 throughout its broadcast area, including rural and isolated
15 populations.

16 (c) At the time of disbursement of the funds, it certifies in
17 writing by the station manager or an officer of the licensee that it
18 has in its public file a plan to address the needs of significant
19 linguistic minorities in its service area.

20 *SEC. 238. Section 8844 of the Government Code is amended*
21 *to read:*

22 8844. (a) Recognizing the necessity of converting California
23 stations to the technologies of digital broadcasting, the Legislature
24 intends that funds may be appropriated to the ~~California Office of~~
25 ~~Emergency Management Agency Services~~ for the purchase of
26 equipment by eligible stations, the installation of that equipment,
27 or purchase of other materials related to that equipment, pursuant
28 to this article.

29 (b) The ~~agency office~~ shall solicit applications for grant funds
30 from eligible stations throughout the state, and shall allocate funds
31 appropriated pursuant to subdivision (a) as follows:

32 (1) Seventy-five percent of any equipment purchase funds
33 appropriated pursuant to subdivision (a) shall be placed in an
34 equipment grant pool for eligible television stations, and 25 percent
35 shall be placed in an equipment grant pool for eligible radio
36 stations.

37 (2) Fifty percent of the funds in each grant pool shall be divided
38 equally among the stations in that grant pool.

1 (3) The remaining 50 percent of the funds in each grant pool
2 shall be divided among stations in that grant pool in proportion to
3 their nonfederal financial support.

4 (c) (1) Funds provided under this section shall be granted on a
5 matching basis, with each station required to raise from other
6 sources an amount equal to the funds provided to it under this
7 section.

8 (2) If any funds remain in either grant pool because of the
9 limitations set forth in paragraph (1), the remaining funds shall be
10 returned to the same pool for distribution to other stations that
11 have raised the required matching funds, in amounts proportionate
12 to the nonfederal financial support of those stations.

13 *SEC. 239. Section 8870.4 of the Government Code is amended*
14 *to read:*

15 8870.4. (a) Except as provided in subdivision (d), the members
16 of the Alfred E. Alquist Seismic Safety Commission shall serve
17 without compensation but shall be paid per diem expenses of one
18 hundred dollars (\$100) for each day’s attendance at a meeting of
19 the commission, plus actual necessary travel expenses as
20 determined by Department of Human Resources rules.

21 (b) The members of the commission who represent the
22 ~~California Office of Emergency Management Agency Services~~,
23 the California Building Standards Commission, and the Division
24 of the State Architect shall be employees in good standing of those
25 respective entities. Any per diem and travel expenses of those
26 members of the commission shall be paid by the agencies that they
27 represent on the commission, in compliance with applicable
28 conditions or regulations set by the Department of Human
29 Resources.

30 *SEC. 240. Section 8870.7 of the Government Code is amended*
31 *to read:*

32 8870.7. The commission is responsible for all of the following
33 in connection with earthquake hazard mitigation:

34 (a) Setting goals and priorities in the public and private sectors.

35 (b) Requesting appropriate state agencies to devise criteria to
36 promote earthquake and disaster safety.

37 (c) Scheduling a report on disaster mitigation issues from the
38 ~~California Office of Emergency Management Agency Services~~, on
39 the commission agenda as required. For the purposes of this

1 subdivision, the term disaster refers to all natural hazards which
2 could have an impact on public safety.

3 (d) Recommending program changes to state agencies, local
4 agencies, and the private sector where such changes would improve
5 earthquake hazards and reduction.

6 (e) Reviewing the recovery and reconstruction efforts after
7 damaging earthquakes.

8 (f) Gathering, analyzing, and disseminating information.

9 (g) Encouraging research.

10 (h) Sponsoring training to help improve the competence of
11 specialized enforcement and other technical personnel.

12 (i) Helping to coordinate the earthquake safety activities of
13 government at all levels.

14 (j) Establishing and maintaining necessary working relationships
15 with any boards, commissions, departments, and agencies, or other
16 public or private organizations.

17 *SEC. 241. Section 8870.71 of the Government Code is amended*
18 *to read:*

19 8870.71. To implement the foregoing responsibilities, the
20 commission may do any of the following:

21 (a) Review state budgets and review grant proposals, other than
22 those grant proposals submitted by institutions of postsecondary
23 education to the federal government, for earthquake-related
24 activities and to advise the Governor and Legislature thereon.

25 (b) Review legislative proposals related to earthquake safety to
26 advise the Governor and the Legislature concerning the proposals
27 and to propose needed legislation.

28 (c) Recommend the addition, deletion, or changing of state
29 agency standards when, in the commission's view, the existing
30 situation creates undue hazards or when new developments would
31 promote earthquake hazard mitigation, and conduct public hearings
32 as deemed necessary on the subjects.

33 (d) In the conduct of any hearing, investigation, inquiry, or study
34 that is ordered or undertaken in any part of the state, administer
35 oaths and issue subpoenas for the attendance of witnesses and the
36 production of papers, records, reports, books, maps, accounts,
37 documents, and testimony.

38 (e) In addition, the commission may perform any of the
39 functions contained in subdivisions (a) to (d), inclusive, in relation
40 to disasters, as defined in subdivision (c) of Section 8870.7, in

1 connection with issues or items reported or discussed with the
2 ~~California Office of Emergency Management Agency Services~~ at
3 any commission meeting.

4 *SEC. 242. Section 8871.3 of the Government Code is amended*
5 *to read:*

6 8871.3. (a) ~~The California Emergency Management Agency~~
7 *office* shall establish an interim state operations center in southern
8 California to coordinate response to a major earthquake. The
9 ~~agency office~~ shall also develop an operational communications
10 plan for the center based upon an inventory of current
11 communications capabilities and an assessment of structural
12 vulnerabilities.

13 (b) ~~The California Emergency Management Agency office~~ shall
14 undertake a design analysis regarding construction of a permanent
15 state operations center in southern California, including an
16 evaluation of telecommunications and information technology
17 systems for emergency management functions.

18 (c) All appropriations for the purposes of subdivision (a) or (b)
19 shall be reviewed by the Department of Finance prior to obligation
20 of funds.

21 *SEC. 243. Section 8871.4 of the Government Code is amended*
22 *to read:*

23 8871.4. The commission shall prepare the California
24 Earthquake Hazard Reduction Program, in consultation with the
25 ~~California Office of Emergency Management Agency Services~~,
26 the Division of Mines and Geology in the Department of
27 Conservation, the Office of the State Architect, the Emergency
28 Medical Services Authority, the University of California and other
29 appropriate institutions of higher learning, the California National
30 Guard, the Department of Finance, other appropriate state and
31 local agencies, the private sector, volunteer groups, and the
32 Legislature.

33 The commission may hold public hearings or joint hearings with
34 other groups and conduct other activities as necessary for the
35 development of the program.

36 *SEC. 244. Section 8876.7 of the Government Code is amended*
37 *to read:*

38 8876.7. In carrying out its responsibilities under this chapter,
39 the Seismic Safety Commission, in close consultation with the
40 ~~Business, Transportation and Housing Agency~~, the ~~California~~

1 ~~Office of Emergency Management Agency Services, and the State~~
2 ~~and Consumers Services Business, Consumer Services and Housing~~
3 Agency, may do the following:

- 4 (a) Monitor the work of the center on behalf of the state.
5 (b) Produce and deliver for each year that the center is in
6 operation, an independent evaluation of the work conducted at the
7 center as it pertains to the objectives of the center and reducing
8 earthquake losses and earthquake risk in the state recognizing that
9 as a national center it will undertake basic research of national and
10 international consequence as well. The report shall include the
11 following tasks:

- 12 (1) Interpret the results of research to indicate how the research
13 may affect state law and policy.
14 (2) Recommend ways to promote the application of research.
15 (3) Recommend priorities that would contribute to achieving
16 the center's objectives, provide direct benefits to California
17 residents and businesses, and lead to the completion of specific
18 recommendations in the state's earthquake risk reduction program.

19 *SEC. 245. Section 8878.52 of the Government Code is amended*
20 *to read:*

21 8878.52. As used in this chapter, the following terms have the
22 following meanings:

23 (a) "Agency" or "office" means the ~~California Office of~~
24 ~~Emergency Management Agency Services.~~

25 (b) "Committee" means the Earthquake Safety and Public
26 Buildings Rehabilitation Finance Committee created pursuant to
27 subdivision (a) of Section 8878.111.

28 (c) "Commission" means the Seismic Safety Commission.

29 (d) "Fund" means the Earthquake Safety and Public Buildings
30 Rehabilitation Fund of 1990 created pursuant to Section 8878.55.

31 (e) "Local government" means any city, county, city and county,
32 or special district.

33 (f) "Project" means a program of work to retrofit, reconstruct,
34 repair, replace, or relocate, for local government-owned facilities
35 only, a building, facility, or both, which is owned by any city,
36 county, city and county, or special district and which is included
37 in an application for a grant of funds.

38 (g) "State Architect" means the Office of the State Architect.

39 (h) "State building or facility" means any building or structure
40 owned by a state agency, which is identified pursuant to Section

1 8878.60, except for vehicular bridges, roadways, highways, or any
 2 facilities or buildings owned by the University of California or the
 3 California State University.

4 (i) “Local government building or facility” means an existing
 5 essential services building, as defined in Section 16007 of the
 6 Health and Safety Code, or an emergency or public safety local
 7 building as identified in Section 8878.99, which is owned by a
 8 city, county, city and county, or special district.

9 (j) State or local government buildings shall not include those
 10 owned by private for-profit or private nonprofit corporations, or
 11 those owned by any combination, consortium, or joint powers
 12 agreement that includes a private nonprofit corporation.

13 (k) “Retrofit” means to either strengthen the structure of a
 14 building or facility, or to provide the means necessary to reduce
 15 the seismic force level experienced by a building or facility during
 16 an earthquake, so as to significantly reduce hazards to life and
 17 safety while concomitantly providing for the substantially safe
 18 egress of occupants during and immediately after such an
 19 earthquake.

20 *SEC. 246. Section 8878.90 of the Government Code is amended*
 21 *to read:*

22 8878.90. (a) The State Architect, with the consultation of the
 23 Seismic Safety Commission and the ~~agency~~ office, shall establish
 24 criteria for projects potentially eligible for an appropriation from
 25 the Legislature, pursuant to subdivision (b) of Section 8878.55
 26 based on factors including the populations at risk of injury and the
 27 cost-effectiveness of remedial actions.

28 (b) The State Architect shall establish the criteria for potential
 29 funding pursuant to subdivision (b) of Section 8878.55 based upon
 30 the following order of seismic hazard reduction priorities:

31 (1) Abatement of falling hazards, as defined by the State
 32 Architect with the consultation of the Seismic Safety Commission,
 33 that are structural or nonstructural components of buildings or
 34 facilities and that pose serious threats to life, including, but not
 35 limited to, parapets, appendages, cornices, hanging objects, and
 36 building cladding.

37 (2) The seismic retrofitting of those buildings or facilities for
 38 which partial, localized, or phased seismic retrofits will
 39 significantly reduce collapse hazards with minimal disruption to

1 either the operation of the buildings or facilities or disruption of
2 the occupants of the buildings or facilities.

3 (3) All other buildings or facilities requiring seismic retrofitting.

4 *SEC. 247. Section 8878.100 of the Government Code is*
5 *amended to read:*

6 8878.100. Funds shall be distributed by the State Architect in
7 the following manner:

8 (a) Upon receipt of an application by a local government for a
9 grant pursuant to this article, the office or the State Architect may
10 propose improvements to the project which will meet regional
11 needs in a cost-effective manner. These improvements may include,
12 but need not be limited to, structural strengthening, hardening of
13 communication equipment, providing emergency power equipment,
14 and other capital improvements which can be demonstrated as part
15 of an emergency response plan which has a description of the
16 critical facilities needed to support emergency response. The office,
17 the State Architect, and the applicant may agree to include these
18 capital improvements in the grant.

19 (b) In coordination with the Seismic Safety Commission and
20 ~~agency the office~~, and with the input of the potentially eligible
21 local governments, the State Architect, consistent with Section
22 8878.90, shall establish a priority list of the types of potentially
23 eligible local government buildings and facilities which are eligible
24 to receive a state grant pursuant to this article.

25 (c) After completion of the priority list, the State Architect shall
26 present this list of potentially eligible local government buildings
27 and facilities to the Department of Finance for its review and
28 consideration of whether to recommend to the Governor to include
29 this list in the Budget Bill or other legislative proposal. The
30 Legislature may review and appropriate funds available under this
31 bond act for specific projects on the list which it deems appropriate.

32 (d) The State Architect shall allocate funds to local governments
33 for the seismic retrofit of buildings or facilities based upon projects
34 and appropriations approved in the Budget Bill or some other bill
35 by the Legislature as provided in this section. Payments shall be
36 made on a progress basis.

37 *SEC. 248. Section 8878.125 of the Government Code is*
38 *amended to read:*

39 8878.125. (a) The proceeds from the sale of the bonds pursuant
40 to this chapter shall not replace or supplant funds available from

1 the Federal Emergency Management Agency (FEMA). If funds
2 are received from FEMA for costs applied for under this chapter,
3 then proceeds from the fund shall not be allocated, or if already
4 allocated, then the fund shall be reimbursed for any ineligible
5 amount.

6 (b) No allocations shall be made from the fund for local
7 buildings or facilities that qualified for state or federal assistance
8 under the Disaster Assistance Act (Chapter 7.5 (commencing with
9 Section 8680)) for retrofitting, reconstruction, repair, replacement,
10 or relocation of structures damaged by a disaster until the agency
11 office determines either: (1) that reasonable efforts have been made
12 to secure other state and federal funds, or (2) that the other sources
13 of funding are insufficient to make the necessary seismic
14 improvements. Similarly, no allocations from the fund shall be
15 made for state buildings or facilities unless the Department of
16 Finance determines either: (1) the responsible agency has made
17 reasonable efforts to secure other state and federal funds, or (2)
18 that the other sources of funding are insufficient to correct state
19 buildings or facilities that are seismically unsafe or suffer from
20 other safety deficiencies.

21 *SEC. 249. Section 8879.7 of the Government Code is amended*
22 *to read:*

23 8879.7. (a) Solely for the purpose of authorizing the issuance
24 and sale, pursuant to the State General Obligation Bond Law, of
25 the bonds authorized by this chapter, the Seismic Retrofit Finance
26 Committee is hereby created. For the purposes of this chapter, the
27 Seismic Retrofit Finance Committee is “the committee” as that
28 term is used in the State General Obligation Bond Law. The
29 committee consists of the Treasurer, the Controller, the Director
30 of Finance, and the Secretary of ~~the Business, Transportation and~~
31 ~~Housing Agency, Transportation~~, or a designated representative
32 of each of those officials. The Treasurer shall serve as the
33 chairperson of the committee. A majority of the committee may
34 act for the committee.

35 (b) The committee may adopt guidelines establishing
36 requirements for administration of its financing programs to the
37 extent necessary to protect the validity of, and tax exemption for,
38 interest on the bonds. The guidelines shall not constitute rules,
39 regulations, orders, or standards of general application.

1 (c) For the purposes of the State General Obligation Bond Law,
2 any department receiving an allocation from the Department of
3 Finance is designated to be the “board.”

4 *SEC. 250. Section 8879.23 of the Government Code is amended*
5 *to read:*

6 8879.23. The Highway Safety, Traffic Reduction, Air Quality,
7 and Port Security Fund of 2006 is hereby created in the State
8 Treasury. The Legislature intends that the proceeds of bonds
9 deposited in the fund shall be used to fund the mobility, safety,
10 and air quality improvements described in this article over the
11 course of the next decade. The proceeds of bonds issued and sold
12 pursuant to this chapter for the purposes specified in this chapter
13 shall be allocated in the following manner:

14 (a) (1) Four billion five hundred million dollars
15 (\$4,500,000,000) shall be deposited in the Corridor Mobility
16 Improvement Account, which is hereby created in the fund. Funds
17 in the account shall be available to the California Transportation
18 Commission, upon appropriation in the annual Budget Bill by the
19 Legislature, for allocation for performance improvements on highly
20 congested travel corridors in California. Funds in the account shall
21 be used for performance improvements on the state highway
22 system, or major access routes to the state highway system on the
23 local road system that relieve congestion by expanding capacity,
24 enhancing operations, or otherwise improving travel times within
25 these high-congestion travel corridors, as identified by the
26 department and regional or local transportation agencies, pursuant
27 to the process in paragraph (3) or (4), as applicable.

28 (2) The commission shall develop and adopt guidelines, by
29 December 1, 2006, including regional programming targets, for
30 the program funded by this subdivision, and shall allocate funds
31 from the account to projects after reviewing project nominations
32 submitted by the Department of Transportation and by regional
33 transportation planning agencies or county transportation
34 commissions or authorities pursuant to paragraph (4).

35 (3) Subject to the guidelines adopted pursuant to paragraph (2),
36 the department shall nominate, by no later than January 15, 2007,
37 projects for the allocation of funds from the account on a statewide
38 basis. The department’s nominations shall be geographically
39 balanced and shall reflect the department’s assessment of a program
40 that best meets the policy objectives described in paragraph (1).

1 (4) Subject to the guidelines adopted pursuant to paragraph (2),
2 a regional transportation planning agency or county transportation
3 commission or authority responsible for preparing a regional
4 transportation improvement plan under Section 14527 may
5 nominate projects identified pursuant to paragraph (1) that best
6 meet the policy objectives described in that paragraph for funding
7 from the account. Projects nominated pursuant to this paragraph
8 shall be submitted to the commission for consideration for funding
9 by no later than January 15, 2007.

10 (5) All nominations to the California Transportation Commission
11 shall be accompanied by documentation regarding the quantitative
12 and qualitative measures validating each project's consistency
13 with the policy objectives described in paragraph (1). All projects
14 nominated to the commission for funds from this account shall be
15 included in a regional transportation plan.

16 (6) After review of the project nominations, and supporting
17 documentation, the commission, by no later than March 1, 2007,
18 shall adopt an initial program of projects to be funded from the
19 account. This program may be updated every two years in
20 conjunction with the biennial process for adoption of the state
21 transportation improvement program pursuant to guidelines adopted
22 by the commission. The inclusion of a project in the program shall
23 be based on a demonstration that the project meets all of the
24 following criteria:

25 (A) Is a high-priority project in the corridor as demonstrated by
26 either of the following: (i) its inclusion in the list of nominated
27 projects by both the department pursuant to paragraph (3) and the
28 regional transportation planning agency or county transportation
29 commission or authority, pursuant to paragraph (4); or (ii) if needed
30 to fully fund the project, the identification and commitment of
31 supplemental funding to the project from other state, local, or
32 federal funds.

33 (B) Can commence construction or implementation no later
34 than December 31, 2012.

35 (C) Improves mobility in a high-congestion corridor by
36 improving travel times or reducing the number of daily vehicle
37 hours of delay, improves the connectivity of the state highway
38 system between rural, suburban, and urban areas, or improves the
39 operation or safety of a highway or road segment.

40 (D) Improves access to jobs, housing, markets, and commerce.

1 (7) Where competing projects offer similar mobility
2 improvements to a specific corridor, the commission shall consider
3 additional benefits when determining which project shall be
4 included in the program for funding. These benefits shall include,
5 but are not limited to, the following:

6 (A) A finding that the project provides quantifiable air quality
7 benefits.

8 (B) A finding that the project substantially increases the safety
9 for travelers in the corridor.

10 (8) In adopting a program for funding pursuant to this
11 subdivision, the commission shall make a finding that the program
12 is geographically balanced, consistent with the geographic split
13 for funding described in Section 188 of the Streets and Highways
14 Code; provides mobility improvements in highly traveled or highly
15 congested corridors in all regions of California; and targets bond
16 proceeds in a manner that provides the increment of funding
17 necessary, when combined with other state, local, or federal funds,
18 to provide the mobility benefit in the earliest possible timeframe.

19 (9) The commission shall include in its annual report to the
20 Legislature, required by Section 14535, a summary of its activities
21 related to the administration of this program. The summary should,
22 at a minimum, include a description and the location of the projects
23 contained in the program, the amount of funds allocated to each
24 project, the status of each project, and a description of the mobility
25 improvements the program is achieving.

26 (b) One billion dollars (\$1,000,000,000) shall be made available,
27 upon appropriation in the annual Budget Bill by the Legislature,
28 to the department for improvements to State Route 99. Funds may
29 be used for safety, operational enhancements, rehabilitation, or
30 capacity improvements necessary to improve the State Route 99
31 corridor traversing approximately 400 miles of the central valley
32 of this state.

33 (c) Three billion one hundred million dollars (\$3,100,000,000)
34 shall be deposited in the California Ports Infrastructure, Security,
35 and Air Quality Improvement Account, which is hereby created
36 in the fund. The money in the account shall be available, upon
37 appropriation by the Legislature and subject to such conditions
38 and criteria as the Legislature may provide by statute, as follows:

39 (1) (A) Two billion dollars (\$2,000,000,000) shall be transferred
40 to the Trade Corridors Improvement Fund, which is hereby created.

1 The money in this fund shall be available, upon appropriation in
2 the annual Budget Bill by the Legislature and subject to such
3 conditions and criteria as the Legislature may provide by statute,
4 for allocation by the California Transportation Commission for
5 infrastructure improvements along federally designated “Trade
6 Corridors of National Significance” in this state or along other
7 corridors within this state that have a high volume of freight
8 movement, as determined by the commission. In determining
9 projects eligible for funding, the commission shall consult the trade
10 infrastructure and goods movement plan submitted to the
11 commission by the Secretary of ~~Business, Transportation and~~
12 ~~Housing~~ and the Secretary for Environmental Protection. No
13 moneys shall be allocated from this fund until the report is
14 submitted to the commission for its consideration, provided the
15 report is submitted no later than January 1, 2007. The commission
16 shall also consult trade infrastructure and goods movement plans
17 adopted by regional transportation planning agencies, adopted
18 regional transportation plans required by state and federal law, and
19 the statewide port master plan prepared by the California Marine
20 and Intermodal Transportation System Advisory Council
21 (Cal-MITSAC) pursuant to Section 1760 of the Harbors and
22 Navigation Code, when determining eligible projects for funding.
23 Eligible projects for these funds include, but are not limited to, all
24 of the following:

25 (i) Highway capacity improvements and operational
26 improvements to more efficiently accommodate the movement of
27 freight, particularly for ingress and egress to and from the state’s
28 seaports, including navigable inland waterways used to transport
29 freight between seaports, land ports of entry, and airports, and to
30 relieve traffic congestion along major trade or goods movement
31 corridors.

32 (ii) Freight rail system improvements to enhance the ability to
33 move goods from seaports, land ports of entry, and airports to
34 warehousing and distribution centers throughout California,
35 including projects that separate rail lines from highway or local
36 road traffic, improve freight rail mobility through mountainous
37 regions, relocate rail switching yards, and other projects that
38 improve the efficiency and capacity of the rail freight system.

39 (iii) Projects to enhance the capacity and efficiency of ports.

1 (iv) Truck corridor improvements, including dedicated truck
2 facilities or truck toll facilities.

3 (v) Border access improvements that enhance goods movement
4 between California and Mexico and that maximize the state's
5 ability to access coordinated border infrastructure funds made
6 available to the state by federal law.

7 (vi) Surface transportation improvements to facilitate the
8 movement of goods to and from the state's airports.

9 (B) The commission shall allocate funds for trade infrastructure
10 improvements from the account in a manner that (i) addresses the
11 state's most urgent needs, (ii) balances the demands of various
12 ports (between large and small ports, as well as between seaports,
13 airports, and land ports of entry), (iii) provides reasonable
14 geographic balance between the state's regions, and (iv) places
15 emphasis on projects that improve trade corridor mobility while
16 reducing emissions of diesel particulate and other pollutant
17 emissions. In addition, the commission shall also consider the
18 following factors when allocating these funds:

19 (i) "Velocity," which means the speed by which large cargo
20 would travel from the port through the distribution system.

21 (ii) "Throughput," which means the volume of cargo that would
22 move from the port through the distribution system.

23 (iii) "Reliability," which means a reasonably consistent and
24 predictable amount of time for cargo to travel from one point to
25 another on any given day or at any given time in California.

26 (iv) "Congestion reduction," which means the reduction in
27 recurrent daily hours of delay to be achieved.

28 (C) The commission shall allocate funds made available by this
29 paragraph to projects that have identified and committed
30 supplemental funding from appropriate local, federal, or private
31 sources. The commission shall determine the appropriate amount
32 of supplemental funding each project should have to be eligible
33 for moneys from this fund based on a project-by-project review
34 and an assessment of the project's benefit to the state and the
35 program. Except for border access improvements described in
36 clause (v) of subparagraph (A), improvements funded with moneys
37 from this fund shall have supplemental funding that is at least equal
38 to the amount of the contribution from the fund. The commission
39 may give priority for funding to projects with higher levels of
40 committed supplemental funding.

1 (D) The commission shall include in its annual report to the
2 Legislature, required by Section 14535, a summary of its activities
3 related to the administration of this program. The summary should,
4 at a minimum, include a description and the location of the projects
5 contained in the program, the amount of funds allocated to each
6 project, the status of each project, and a description of the mobility
7 and air quality improvements the program is achieving.

8 (2) One billion dollars (\$1,000,000,000) shall be made available,
9 upon appropriation by the Legislature and subject to such
10 conditions and criteria contained in a statute enacted by the
11 Legislature, to the State Air Resources Board for emission
12 reductions, not otherwise required by law or regulation, from
13 activities related to the movement of freight along California's
14 trade corridors. Funds made available by this paragraph are
15 intended to supplement existing funds used to finance strategies
16 and public benefit projects that reduce emissions and improve air
17 quality in trade corridors commencing at the state's airports,
18 seaports, and land ports of entry.

19 (3) One hundred million dollars (\$100,000,000) shall be
20 available, upon appropriation by the Legislature, to the ~~California~~
21 *Office of Emergency Management Agency Services* to be allocated,
22 as grants, for port, harbor, and ferry terminal security
23 improvements. Eligible applicants shall be publicly owned ports,
24 harbors, and ferryboat and ferry terminal operators, which may
25 submit applications for projects that include, but are not limited
26 to, the following:

- 27 (A) Video surveillance equipment.
- 28 (B) Explosives detection technology, including, but not limited
29 to, X-ray devices.
- 30 (C) Cargo scanners.
- 31 (D) Radiation monitors.
- 32 (E) Thermal protective equipment.
- 33 (F) Site identification instruments capable of providing a
34 fingerprint for a broad inventory of chemical agents.
- 35 (G) Other devices capable of detecting weapons of mass
36 destruction using chemical, biological, or other similar substances.
- 37 (H) Other security equipment to assist in any of the following:
 - 38 (i) Screening of incoming vessels, trucks, and incoming or
39 outbound cargo.

1 (ii) Monitoring the physical perimeters of harbors, ports, and
2 ferry terminals.

3 (iii) Providing or augmenting onsite emergency response
4 capability.

5 (I) Overweight cargo detection equipment, including, but not
6 limited to, intermodal crane scales and truck weight scales.

7 (J) Developing disaster preparedness or emergency response
8 plans.

9 (d) Two hundred million dollars (\$200,000,000) shall be
10 available, upon appropriation by the Legislature, for schoolbus
11 retrofit and replacement to reduce air pollution and to reduce
12 children's exposure to diesel exhaust.

13 (e) Two billion dollars (\$2,000,000,000) shall be available for
14 projects in the state transportation improvement program, to
15 augment funds otherwise available for this purpose from other
16 sources. The funds provided by this subdivision shall be deposited
17 in the Transportation Facilities Account which is hereby created
18 in the fund, and shall be available, upon appropriation by the
19 Legislature, to the Department of Transportation, as allocated by
20 the California Transportation Commission in the same manner as
21 funds allocated for those projects under existing law.

22 (f) (1) Four billion dollars (\$4,000,000,000) shall be deposited
23 in the Public Transportation Modernization, Improvement, and
24 Service Enhancement Account, which is hereby created in the
25 fund. Funds in the account shall be made available, upon
26 appropriation by the Legislature, to the Department of
27 Transportation for intercity rail projects and to commuter or urban
28 rail operators, bus operators, waterborne transit operators, and
29 other transit operators in California for rehabilitation, safety or
30 modernization improvements, capital service enhancements or
31 expansions, new capital projects, bus or rapid transit improvements,
32 or for rolling stock procurement, rehabilitation, or replacement.

33 (2) Of the funds made available in paragraph (1), four hundred
34 million dollars (\$400,000,000) shall be available, upon
35 appropriation by the Legislature, to the department for intercity
36 rail improvements, of which one hundred twenty-five million
37 dollars (\$125,000,000) shall be used for the procurement of
38 additional intercity railcars and locomotives.

39 (3) Of the funds remaining after the allocations in paragraph
40 (2), 50 percent shall be distributed to the Controller, for allocation

1 to eligible agencies using the formula in Section 99314 of the
2 Public Utilities Code, and 50 percent shall be distributed to the
3 Controller, for allocation to eligible agencies using the formula in
4 Section 99313 of the Public Utilities Code, subject to the provisions
5 governing funds allocated under those sections.

6 (g) One billion dollars (\$1,000,000,000) shall be deposited in
7 the State-Local Partnership Program Account, which is hereby
8 created in the fund. The funds shall be available, upon
9 appropriation by the Legislature and subject to such conditions
10 and criteria as the Legislature may provide by statute, for allocation
11 by the California Transportation Commission over a five-year
12 period to eligible transportation projects nominated by an applicant
13 transportation agency. A dollar-for-dollar match of local funds
14 shall be required for an applicant transportation agency to receive
15 state funds under this program.

16 (h) One billion dollars (\$1,000,000,000) shall be deposited in
17 the Transit System Safety, Security, and Disaster Response
18 Account, which is hereby created in the fund. Funds in the account
19 shall be made available, upon appropriation by the Legislature and
20 subject to such conditions and criteria as the Legislature may
21 provide by statute, for capital projects that provide increased
22 protection against a security and safety threat, and for capital
23 expenditures to increase the capacity of transit operators, including
24 waterborne transit operators, to develop disaster response
25 transportation systems that can move people, goods, and emergency
26 personnel and equipment in the aftermath of a disaster impairing
27 the mobility of goods, people, and equipment.

28 (i) One hundred twenty-five million dollars (\$125,000,000)
29 shall be deposited in the Local Bridge Seismic Retrofit Account,
30 which is hereby created in the fund. The funds in the account shall
31 be used, upon appropriation by the Legislature, to provide the 11.5
32 percent required match for federal Highway Bridge Replacement
33 and Repair funds available to the state for seismic work on local
34 bridges, ramps, and overpasses, as identified by the Department
35 of Transportation.

36 (j) (1) Two hundred fifty million dollars (\$250,000,000) shall
37 be deposited in the Highway-Railroad Crossing Safety Account,
38 which is hereby created in the fund. Funds in the account shall be
39 available, upon appropriation by the Legislature, to the Department
40 of Transportation for the completion of high-priority grade

1 separation and railroad crossing safety improvements. Funds in
2 the account shall be made available for allocation pursuant to the
3 process established in Chapter 10 (commencing with Section 2450)
4 of Division 3 of the Streets and Highways Code, except that a
5 dollar-for-dollar match of nonstate funds shall be provided for
6 each project, and the limitation on maximum project cost in
7 subdivision (g) of Section 2454 of the Streets and Highways Code
8 shall not be applicable to projects funded with these funds.

9 (2) Notwithstanding the funding allocation process described
10 in paragraph (1), in consultation with the department and the Public
11 Utilities Commission, the California Transportation Commission
12 shall allocate one hundred million dollars (\$100,000,000) of the
13 funds in the account to high-priority railroad crossing
14 improvements, including grade separation projects, that are not
15 part of the process established in Chapter 10 (commencing with
16 Section 2450) of Division 3 of the Streets and Highways Code.
17 The allocation of funds under this paragraph shall be made in
18 consultation and coordination with the High-Speed Rail Authority
19 created pursuant to Division 19.5 (commencing with Section
20 185000) of the Public Utilities Code.

21 (k) (1) Seven hundred fifty million dollars (\$750,000,000) shall
22 be deposited in the Highway Safety, Rehabilitation, and
23 Preservation Account, which is hereby created in the fund. Funds
24 in the account shall be available, upon appropriation by the
25 Legislature, to the Department of Transportation, as allocated by
26 the California Transportation Commission, for the purposes of the
27 state highway operation and protection program as described in
28 Section 14526.5.

29 (2) The department shall develop a program for distribution of
30 two hundred fifty million dollars (\$250,000,000) from the funds
31 identified in paragraph (1) to fund traffic light synchronization
32 projects or other technology-based improvements to improve
33 safety, operations, and the effective capacity of local streets and
34 roads.

35 (l) (1) Two billion dollars (\$2,000,000,000) shall be deposited
36 in the Local Streets and Road Improvement, Congestion Relief,
37 and Traffic Safety Account of 2006, which is hereby created in
38 the fund. The proceeds of bonds deposited into that account shall
39 be available, upon appropriation by the Legislature, for the
40 purposes specified in this subdivision to the Controller for

1 administration and allocation in the fiscal year in which the bonds
2 are issued and sold, including any interest or other return earned
3 on the investment of those moneys, in the following manner:

4 (A) Fifty percent to the counties, including a city and county,
5 in accordance with the following formulas:

6 (i) Seventy-five percent of the funds payable under this
7 subparagraph shall be apportioned among the counties in the
8 proportion that the number of fee-paid and exempt vehicles that
9 are registered in the county bears to the number of fee-paid and
10 exempt vehicles registered in the state.

11 (ii) Twenty-five percent of the funds payable under this
12 subparagraph shall be apportioned among the counties in the
13 proportion that the number of miles of maintained county roads
14 in each county bears to the total number of miles of maintained
15 county roads in the state. For the purposes of apportioning funds
16 under this clause, any roads within the boundaries of a city and
17 county that are not state highways shall be deemed to be county
18 roads.

19 (B) Fifty percent to the cities, including a city and county,
20 apportioned among the cities in the proportion that the total
21 population of the city bears to the total population of all the cities
22 in the state, provided, however, that the Controller shall allocate
23 a minimum of four hundred thousand dollars (\$400,000) to each
24 city, pursuant to this subparagraph.

25 (2) Funds received under this subdivision shall be deposited as
26 follows in order to avoid the commingling of those funds with
27 other local funds:

28 (A) In the case of a city, into the city account that is designated
29 for the receipt of state funds allocated for local streets and roads.

30 (B) In the case of an eligible county, into the county road fund.

31 (C) In the case of a city and county, into a local account that is
32 designated for the receipt of state funds allocated for local streets
33 and roads.

34 (3) For the purpose of allocating funds under this subdivision
35 to cities and a city and county, the Controller shall use the most
36 recent population estimates prepared by the Demographic Research
37 Unit of the Department of Finance. For a city that incorporated
38 after January 1, 1998, that does not appear on the most recent
39 population estimates prepared by the Demographic Research Unit,

1 the Controller shall use the population determined for that city
2 under Section 11005.3 of the Revenue and Taxation Code.

3 (4) Funds apportioned to a city, county, or city and county under
4 this subdivision, including any interest or other return earned on
5 the investment of those funds, shall be used for improvements to
6 transportation facilities that will assist in reducing local traffic
7 congestion and further deterioration, improving traffic flows, or
8 increasing traffic safety that may include, but not be limited to,
9 street and highway pavement maintenance, rehabilitation,
10 installation, construction, and reconstruction of necessary
11 associated facilities such as drainage and traffic control devices,
12 or the maintenance, rehabilitation, installation, construction, and
13 reconstruction of facilities that expand ridership on transit systems,
14 safety projects to reduce fatalities, or as a local match to obtain
15 state or federal transportation funds for similar purposes.

16 (5) At the conclusion of each fiscal year during which a city or
17 county expends the funds it has received under this subdivision,
18 including any interest or other return earned on the investment of
19 these funds, the Controller may verify the city's or county's
20 compliance with paragraph (4). Any city or county that has not
21 complied with paragraph (4) shall reimburse the state for the funds
22 it received during that fiscal year, including any interest or other
23 return earned on the investment of these funds. Any funds withheld
24 or returned as a result of a failure to comply with paragraph (4)
25 shall be reallocated to the other counties and cities whose
26 expenditures are in compliance.

27 *SEC. 251. Section 8879.27 of the Government Code is amended*
28 *to read:*

29 8879.27. (a) Solely for the purpose of authorizing the issuance
30 and sale, pursuant to the State General Obligation Bond Law, of
31 the bonds authorized by this chapter, the Highway Safety, Traffic
32 Reduction, Air Quality, and Port Security Committee is hereby
33 created. For the purposes of this chapter, the Highway Safety,
34 Traffic Reduction, Air Quality, and Port Security Committee is
35 "the committee" as that term is used in the State General Obligation
36 Bond Law. The committee consists of the Treasurer, the Controller,
37 the Director of Finance, and the Secretary of ~~the Business,~~
38 ~~Transportation and Housing Agency;~~ *Transportation*, or a
39 designated representative of each of those officials. The Treasurer

1 shall serve as the chairperson of the committee. A majority of the
2 committee may act for the committee.

3 (b) The committee may adopt guidelines establishing
4 requirements for administration of its financing programs to the
5 extent necessary to protect the validity of, and tax exemption for,
6 interest on the bonds. The guidelines shall not constitute rules,
7 regulations, orders, or standards of general application.

8 (c) For the purposes of the State General Obligation Bond Law,
9 any department receiving an allocation pursuant to this chapter is
10 designated to be the “board.”

11 *SEC. 252. Section 8879.50 of the Government Code is amended*
12 *to read:*

13 8879.50. (a) As used in this chapter and in Chapter 12.49
14 (commencing with Section 8879.20), the following terms have the
15 following meanings:

16 (1) “Commission” means the California Transportation
17 Commission.

18 (2) “Department” means the Department of Transportation.

19 (3) “Administrative agency” means the state agency responsible
20 for programming bond funds made available by Chapter 12.49
21 (commencing with Section 8879.20), as specified in subdivision
22 (c).

23 (4) Unless otherwise specified in this chapter, “project” includes
24 equipment purchase, construction, right-of-way acquisition, and
25 project delivery costs.

26 (5) “Recipient agency” means the recipient of bond funds made
27 available by Chapter 12.49 (commencing with Section 8879.20)
28 that is responsible for implementation of an approved project.

29 (6) “Fund” shall have the same meaning as in subdivision (c)
30 of Section 8879.20.

31 (b) Administrative costs, including audit and program oversight
32 costs for agencies, commissions, or departments administering
33 programs funded pursuant to this chapter, recoverable by bond
34 funds shall not exceed 3 percent of the program’s cost.

35 (c) The administrative agency for each bond account is as
36 follows:

37 (1) The commission is the administrative agency for the Corridor
38 Mobility Improvement Account; the Trade Corridors Improvement
39 Fund; the Transportation Facilities Account; the State Route 99
40 Account; the State-Local Partnership Program Account; the Local

1 Bridge Seismic Retrofit Account; the Highway-Railroad Crossing
2 Safety Account; and the Highway Safety, Rehabilitation, and
3 Preservation Account.

4 (2) The ~~California Office of Emergency Management Agency~~
5 *Services* is the administrative agency for the Port and Maritime
6 Security Account and the Transit System Safety, Security, and
7 Disaster Response Account.

8 (3) The department is the administrative agency for the Public
9 Transportation Modernization, Improvement, and Service
10 Enhancement Account.

11 (d) The administrative agency shall not approve project fund
12 allocations for a project until the recipient agency provides a project
13 funding plan that demonstrates that the funds are expected to be
14 reasonably available and sufficient to complete the project. The
15 administrative agency may approve funding for usable project
16 segments only if the benefits associated with each individual
17 segment are sufficient to meet the objectives of the program from
18 which the individual segment is funded.

19 (e) Guidelines adopted by the administrative agency pursuant
20 to this chapter and Chapter 12.49 (commencing with Section
21 8879.20) are intended to provide internal guidance for the agency
22 and shall be exempt from the Administrative Procedure Act
23 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
24 Division 3), and shall do all of the following:

25 (1) Provide for the audit of project expenditures and outcomes.

26 (2) Require that the useful life of the project be identified as
27 part of the project nomination process.

28 (3) Require that project nominations have project delivery
29 milestones, including, but not limited to, start and completion dates
30 for environmental clearance, land acquisition, design, construction
31 bid award, construction completion, and project closeout, as
32 applicable.

33 (f) (1) As a condition for allocation of funds to a specific project
34 under Chapter 12.49 (commencing with Section 8879.20), the
35 administrative agency shall require the recipient agency to report,
36 on a semiannual basis, on the activities and progress made toward
37 implementation of the project. If it is anticipated that project costs
38 will exceed the approved project budget, the recipient agency shall
39 provide a plan to the administrative agency for achieving the
40 benefits of the project by either downscoping the project to remain

1 within budget or by identifying an alternative funding source to
2 meet the cost increase. The administrative agency may either
3 approve the corrective plan or direct the recipient agency to modify
4 its plan.

5 (2) Within six months of the project becoming operable, the
6 recipient agency shall provide a report to the administrative agency
7 on the final costs of the project as compared to the approved project
8 budget, the project duration as compared to the original project
9 schedule as of the date of allocation, and performance outcomes
10 derived from the project compared to those described in the original
11 application for funding. The administrative agency shall forward
12 the report to the Department of Finance by means approved by the
13 Department of Finance.

14 *SEC. 253. Section 8879.53 of the Government Code is amended*
15 *to read:*

16 8879.53. (a) Funds for the program contained in paragraph
17 (3) of subdivision (c) of Section 8879.23 shall be deposited in the
18 Port and Maritime Security Account, which is hereby created in
19 the fund. For purposes of this section, “agency” or “office” means
20 ~~the California Office of Emergency Management Agency Services.~~

21 (b) Funds in the account shall be available to the ~~agency~~ office,
22 upon appropriation by the Legislature. Funds shall be made
23 available as grants to eligible applicants, as defined in paragraph
24 (3) of subdivision (c) of Section 8879.23, for capital projects that
25 include, but are not limited to, those projects described in paragraph
26 (3) of subdivision (c) of Section 8879.23.

27 (c) Prior to allocating funds to projects from the account, the
28 ~~agency~~ office shall adopt guidelines to establish the criteria and
29 process for the distribution of funds. At least 30 days prior to
30 adopting the guidelines, the ~~agency~~ office shall hold a public
31 hearing on the proposed guidelines and shall provide opportunity
32 for public review and comment.

33 (d) In allocating funds from the account, the ~~agency~~ office shall
34 do the following:

- 35 (1) Address the state’s most urgent maritime security needs.
- 36 (2) Balance the demands of the various large and small ports.
- 37 (3) Provide reasonable geographic balance in the distribution
38 of funds.

39 (e) The unencumbered balance of any funds appropriated to the
40 ~~agency~~ office prior to June 30, 2009, for purposes of this section,

1 shall remain available to the ~~agency office~~ for encumbrance
2 pursuant to this section until June 30, 2012.

3 (f) The ~~agency's office's~~ activities to implement this section
4 shall be incorporated into the report to the Legislature required in
5 paragraph (3) of subdivision (c) of Section 8879.23.

6 *SEC. 254. Section 8879.57 of the Government Code is amended*
7 *to read:*

8 8879.57. Funds made available, upon appropriation of the
9 Legislature, from the Transit System Safety, Security, and Disaster
10 Response Account, created in subdivision (h) of Section 8879.23,
11 shall be allocated as follows:

12 (a) (1) Sixty percent of available funds shall be allocated for
13 capital expenditures to agencies and transit operators eligible to
14 receive State Transit Assistance funds using the formula in Sections
15 99313 and 99314 of the Public Utilities Code, including commuter
16 rail operators eligible to receive State Transit Assistance funds.
17 Of these funds, 50 percent shall be allocated to eligible agencies
18 using the formula in Section 99314 of the Public Utilities Code,
19 and 50 percent shall be allocated to eligible agencies using the
20 formula in Section 99313 of the Public Utilities Code, subject to
21 the provisions governing funds allocated under those sections.
22 Funds allocated to the Metropolitan Transportation Commission
23 using the formula in Section 99313 of the Public Utilities Code
24 shall be suballocated to transit operators within its jurisdiction
25 using the formula in Section 99314 of the Public Utilities Code.
26 In the region served by the multicounty transportation planning
27 agency described in Section 130004 of the Public Utilities Code,
28 funds that are to be allocated using the formula in Section 99314
29 of the Public Utilities Code for the Southern California Regional
30 Rail Authority shall be allocated to the applicable county
31 transportation commission in each county served by the authority
32 within that region. The county transportation commission, subject
33 to the applicable provisions governing funds allocated under that
34 section that are consistent with this section, shall use or allocate
35 the funds for eligible capital expenditures as described in paragraph
36 (2), including, but not limited to, eligible expenditures on the
37 system of the Southern California Regional Rail Authority. The
38 county transportation commission may suballocate these funds to
39 the Southern California Regional Rail Authority for those purposes.

1 (2) Eligible capital expenditures shall include either of the
2 following:

3 (A) A capital project that provides increased protection against
4 a security or safety threat, including, but not limited to, the
5 following:

6 (i) Construction or renovation projects that are designed to
7 enhance the security of public transit stations, tunnels, guideways,
8 elevated structures, or other transit facilities and equipment.

9 (ii) Explosive device mitigation and remediation equipment.

10 (iii) Chemical, biological, radiological, and nuclear explosives
11 search, rescue, or response equipment.

12 (iv) Interoperable communications equipment.

13 (v) Physical security enhancement equipment.

14 (vi) The installation of fencing, barriers, gates, or related security
15 enhancements that are designed to improve the physical security
16 of transit stations, tunnels, guideways, elevated structures, or other
17 transit facilities and equipment.

18 (vii) Other safety- or security-related projects approved by the
19 ~~California Office of Emergency Management Agency Services.~~

20 (B) Capital expenditures to increase the capacity of transit
21 operators to develop disaster response transportation systems that
22 can move people, goods, and emergency personnel and equipment
23 in the aftermath of a disaster impairing the mobility of goods,
24 people, and equipment.

25 (b) (1) Twenty-five percent of available funds shall be allocated
26 for capital expenditures to regional public waterborne transit
27 agencies authorized to operate a regional public water transit
28 system, including the operation of water transit vessels, terminals,
29 and feeder buses, and not otherwise eligible to receive State Transit
30 Assistance funds as of the effective date of this article. Funds shall
31 be allocated for eligible capital expenditures that enhance the
32 capacity of regional public waterborne transit agencies to provide
33 disaster response transportation systems that can move people,
34 goods, and emergency personnel and equipment in the aftermath
35 of a disaster or emergency.

36 (2) Eligible capital expenditures include, but are not limited to,
37 the construction or acquisition of new vessels, the capital
38 improvement or construction of docks, terminals, or other
39 waterborne transit facilities, the purchase of related equipment,
40 and the construction of fueling facilities. A project shall (A)

1 provide capital facilities and equipment to a regional public
2 waterborne transit system that enhances the ability of the system
3 to respond to a regional emergency, (B) be included in a regional
4 plan, including, but not limited to, a regional plan for waterborne
5 transit expansion or disaster response preparedness, and (C) provide
6 maximum flexibility in responding to disasters or emergencies.

7 (c) (1) Fifteen percent of available funds shall be made available
8 for capital expenditures to the intercity passenger rail system
9 described in Section 14035 and to the commuter rail systems
10 operated by the entities specified in Section 14072 and in Section
11 99314.1 of the Public Utilities Code.

12 (2) Eligible capital expenditures shall include either of the
13 following:

14 (A) A capital project that provides increased protection against
15 a security or safety threat, including, but not limited to, the
16 following:

17 (i) Construction or renovation projects that are designed to
18 enhance the security of public transit stations, tunnels, guideways,
19 elevated structures, or other transit facilities and equipment.

20 (ii) Explosive device mitigation and remediation equipment.

21 (iii) Chemical, biological, radiological, and nuclear explosives
22 search, rescue, or response equipment.

23 (iv) Interoperable communications equipment.

24 (v) Physical security enhancement equipment.

25 (vi) The installation of fencing, barriers, gates, or related security
26 enhancements that are designed to improve the physical security
27 of transit stations, tunnels, guideways, elevated structures, or other
28 transit facilities and equipment.

29 (vii) Other safety- or security-related projects approved by the
30 ~~California Office of Emergency Management Agency Services.~~

31 (B) Capital expenditures to increase the capacity of transit
32 operators to develop disaster response transportation systems that
33 can move people, goods, and emergency personnel and equipment
34 in the aftermath of a disaster impairing the mobility of goods,
35 people, and equipment.

36 (d) (1) An entity that is eligible to receive funds pursuant to
37 subdivision (a) or (c) shall, within 45 days of the date the Controller
38 makes public the list of eligible recipients pursuant to Section
39 8879.58, provide a document, in a form as designated by the
40 ~~California Office of Emergency Management Agency Services,~~ to

1 the ~~California Office of Emergency Management Agency Services~~
2 that indicates the intent to use those funds, the project or projects
3 for which the funds will be used, and a schedule of funds to be
4 drawn down. If the entity does not submit the document required
5 under this paragraph, the funds allocated to the entity pursuant to
6 subdivision (a) or (c) shall be reallocated by the ~~California Office~~
7 ~~of Emergency Management Agency Services~~ in accordance with
8 paragraph (2). This paragraph also applies to transit operators
9 receiving a suballocation from a transportation planning agency,
10 in which case the operator rather than the transportation planning
11 agency is required to provide the document.

12 (2) The ~~California Office of Emergency Management Agency~~
13 ~~Services~~ shall notify the transportation planning agency if funds
14 allocated to an entity within the region of the transportation
15 planning agency are being reallocated pursuant to paragraph (1).
16 The transportation planning agency shall have 30 days to provide
17 a document, in a form as designated by the ~~California Office of~~
18 ~~Emergency Management Agency Services~~, to the ~~California Office~~
19 ~~of Emergency Management Agency Services~~ indicating its intent
20 to distribute those funds to transit operators or rail operators for
21 purposes authorized under subdivision (a) or (c). An agency
22 providing that document shall receive an allocation of the funds.
23 If the transportation planning agency does not provide the
24 document within 30 days, the ~~California Office of Emergency~~
25 ~~Management Agency Services~~ may allocate the funds on a
26 competitive basis, pursuant to guidelines established by the
27 ~~California Office of Emergency Management Agency Services~~, to
28 an entity in a different region of the state that is an eligible entity
29 under subdivision (a) or (c). An eligible entity that is notified that
30 it will be awarded these funds shall, as a condition of receiving
31 the funds, satisfy the requirements of paragraph (1) within 45 days
32 of being advised of the reallocation. As used in this subdivision,
33 “transportation planning agency” includes the county transportation
34 commission in counties that have such a commission.

35 (3) The formula that applies to State Transit Assistance funds
36 shall not apply to a reallocation of funds under this subdivision.

37 *SEC. 255. Section 8879.58 of the Government Code, as*
38 *amended by Section 8 of Chapter 32 of the Statutes of 2012, is*
39 *amended to read:*

1 8879.58. (a) (1) No later than September 1 of the first fiscal
2 year in which the Legislature appropriates funds from the Transit
3 System Safety, Security, and Disaster Response Account, and no
4 later than September 1 of each fiscal year thereafter in which funds
5 are appropriated from that account, the Controller shall develop
6 and make public a list of eligible agencies and transit operators
7 and the amount of funds each is eligible to receive from the account
8 pursuant to subdivision (a) of Section 8879.57. It is the intent of
9 the Legislature that funds allocated to specified recipients pursuant
10 to this section provide each recipient with the same proportional
11 share of funds as the proportional share each received from the
12 allocation of State Transit Assistance funds, pursuant to Sections
13 99313 and 99314 of the Public Utilities Code, over fiscal years
14 2004–05, 2005–06, and 2006–07.

15 (2) In establishing the amount of funding each eligible recipient
16 is to receive under subdivision (a) of Section 8879.57 from
17 appropriated funds to be allocated based on Section 99313 of the
18 Public Utilities Code, the Controller shall make the following
19 computations:

20 (A) For each eligible recipient, compute the amounts of State
21 Transit Assistance funds allocated to that recipient pursuant to
22 Section 99313 of the Public Utilities Code during the 2004–05,
23 2005–06, and 2006–07 fiscal years.

24 (B) Compute the total statewide allocation of State Transit
25 Assistance funds pursuant to Section 99313 of the Public Utilities
26 Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

27 (C) Divide subparagraph (A) by subparagraph (B).

28 (D) For each eligible recipient, multiply the allocation factor
29 computed pursuant to subparagraph (C) by 50 percent of the
30 amount available for allocation pursuant to subdivision (a) of
31 Section 8879.57.

32 (3) In establishing the amount of funding each eligible recipient
33 is eligible to receive under subdivision (a) of Section 8879.57 from
34 funds to be allocated based on Section 99314 of the Public Utilities
35 Code, the Controller shall make the following computations:

36 (A) For each eligible recipient, compute the amounts of State
37 Transit Assistance funds allocated to that recipient pursuant to
38 Section 99314 of the Public Utilities Code during the 2004–05,
39 2005–06, and 2006–07 fiscal years.

1 (B) Compute the total statewide allocation of State Transit
2 Assistance funds pursuant to Section 99314 of the Public Utilities
3 Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

4 (C) Divide subparagraph (A) by subparagraph (B).

5 (D) For each eligible recipient, multiply the allocation factor
6 computed pursuant to subparagraph (C) by 50 percent of the
7 amount available for allocation pursuant to subdivision (a) of
8 Section 8879.57.

9 (4) The Controller shall notify eligible recipients of the amount
10 of funding each is eligible to receive pursuant to subdivision (a)
11 of Section 8879.57 for the duration of time that these funds are
12 made available for these purposes based on the computations
13 pursuant to subparagraph (D) of paragraph (2) and subparagraph
14 (D) of paragraph (3).

15 (b) Prior to seeking a disbursement of funds for an eligible
16 project, an agency or transit operator on the public list described
17 in paragraph (1) of subdivision (a) shall submit to the ~~California~~
18 ~~Emergency Management Agency~~ *Office of Emergency Services* a
19 description of the project it proposes to fund with its share of funds
20 from the account. The description shall include all of the following:

21 (1) A summary of the proposed project that describes the safety,
22 security, or emergency response benefit that the project intends to
23 achieve.

24 (2) That the useful life of the project shall not be less than the
25 required useful life for capital assets specified in subdivision (a)
26 of Section 16727.

27 (3) The estimated schedule for the completion of the project.

28 (4) The total cost of the proposed project, including
29 identification of all funding sources necessary for the project to
30 be completed.

31 (c) After receiving the information required to be submitted
32 under subdivision (b), the agency shall review the information to
33 determine all of the following:

34 (1) The project is consistent with the purposes described in
35 subdivision (h) of Section 8879.23.

36 (2) The project is an eligible capital expenditure, as described
37 in subdivision (a) of Section 8879.57.

38 (3) The project is a capital improvement that meets the
39 requirements of paragraph (2) of subdivision (b).

1 (4) The project, or a useful component thereof, is, or will
2 become, fully funded with an allocation of funds from the Transit
3 System Safety, Security, and Disaster Response Account.

4 (d) (1) Upon conducting the review required in subdivision (c)
5 and determining that a proposed project meets the requirements
6 of that subdivision, the agency shall, on a quarterly basis, provide
7 the Controller with a list of projects and the sponsoring agencies
8 or transit operators eligible to receive an allocation from the
9 account.

10 (2) The list of projects submitted to the Controller for allocation
11 for any one fiscal year shall be constrained by the total amount of
12 funds appropriated by the Legislature for the purposes of this
13 section for that fiscal year.

14 (3) For a fiscal year in which the number of projects submitted
15 for funding under this section exceeds available funds, the agency
16 shall prioritize projects contained on the lists submitted pursuant
17 to paragraph (1) so that (A) projects addressing the greatest risks
18 to the public and that demonstrate the ability and intent to expend
19 a significant percentage of project funds within six months have
20 the highest priority and (B) to the maximum extent possible, the
21 list reflects a distribution of funding that is geographically
22 balanced.

23 (e) Upon receipt of the information from the agency required
24 by subdivision (d), the Controller's office shall commence any
25 necessary actions to allocate funds to eligible agencies and transit
26 operators sponsoring projects on the list of projects, including, but
27 not limited to, seeking the issuance of bonds for that purpose. The
28 total allocations to any one eligible agency or transit operator shall
29 not exceed that agency's or transit operator's share of funds from
30 the account pursuant to the formula contained in subdivision (a)
31 of Section 8879.57.

32 (f) During each fiscal year that an agency or transit operator
33 receives funds pursuant to this section, the ~~California Emergency~~
34 ~~Management Agency~~ *Office of Emergency Services* may monitor
35 the project expenditures to ensure compliance with this section.

36 (g) The Controller's office may, pursuant to Section 12410, use
37 its authority to audit the use of state bond funds on projects
38 receiving an allocation under this section. Each eligible agency or
39 transit operator sponsoring a project subject to an audit shall
40 provide any and all data requested by the Controller's office in

1 order to complete the audit. The Controller's office shall transmit
2 copies of all completed audits to the agency and to the policy
3 committees of the Legislature with jurisdiction over transportation
4 and budget issues.

5 *SEC. 256. Section 8879.59 of the Government Code, as*
6 *amended by Section 9 of Chapter 32 of the Statutes of 2012, is*
7 *amended to read:*

8 8879.59. (a) For funds appropriated from the Transit System
9 Safety, Security, and Disaster Response Account for allocation to
10 transit agencies eligible to receive funds pursuant to subdivision
11 (b) of Section 8879.57, the ~~California Emergency Management~~
12 ~~Agency (Cal EMA) Office of Emergency Services~~ shall administer
13 a grant application and award program for those transit agencies.

14 (b) Funds awarded to transit agencies pursuant to this section
15 shall be for eligible capital expenditures as described in subdivision
16 (b) of Section 8879.57.

17 (c) Prior to allocating funds to projects pursuant to this section,
18 ~~Cal EMA~~ *the office* shall adopt guidelines to establish the criteria
19 and process for the distribution of funds described in this section.
20 Prior to adopting the guidelines, ~~Cal EMA~~ *the office* shall hold a
21 public hearing on the proposed guidelines.

22 (d) For each fiscal year in which funds are appropriated for the
23 purposes of this section, ~~Cal EMA~~ *the office* shall issue a notice
24 of funding availability no later than October 1.

25 (e) No later than December 1 of each fiscal year in which the
26 notice in subdivision (d) is issued, eligible transit agencies may
27 submit project nominations for funding to ~~Cal EMA~~ *the office* for
28 its review and consideration. Project nominations shall include all
29 of the following:

30 (1) A description of the project, which shall illustrate the
31 physical components of the project and the security or emergency
32 response benefit to be achieved by the completion of the project.

33 (2) Identification of all nonbond sources of funding committed
34 to the project.

35 (3) An estimate of the project's full cost and the proposed
36 schedule for the project's completion.

37 (f) For a fiscal year in which the number of projects submitted
38 for funding under this section exceeds available funds, ~~Cal EMA~~
39 *the office* shall prioritize projects so that projects addressing the
40 greatest risks to the public and that demonstrate the ability and

1 intent to expend a significant percentage of project funds within
2 six months have the highest priority.

3 (g) No later than February 1, ~~Cal EMA~~ *the office* shall select
4 eligible projects to receive grants under this section and shall
5 provide the Controller with a list of the projects and the sponsoring
6 agencies eligible to receive an allocation from the account. Upon
7 receipt of this information, the Controller’s office shall commence
8 any necessary actions to allocate funds to those agencies, including,
9 but not limited to, seeking the issuance of bonds for that purpose.
10 Grants awarded to eligible transit agencies pursuant to subdivision
11 (b) of Section 8879.57 shall be for eligible capital expenditures,
12 as described in paragraph (2) of subdivision (b) of that section.

13 (h) During each fiscal year that a transit agency receives funds
14 pursuant to this section, ~~Cal EMA~~ *the office* may monitor the
15 project expenditures to ensure project funds are expended in
16 compliance with the submitted project nomination.

17 *SEC. 257. Section 8879.60 of the Government Code is amended*
18 *to read:*

19 8879.60. (a) For funds appropriated from the Transit System
20 Safety, Security, and Disaster Response Account for allocation to
21 intercity and commuter rail operators eligible to receive funds
22 pursuant to subdivision (c) of Section 8879.57, the ~~California~~
23 ~~Office of Emergency Management Agency Services~~ shall
24 administer a grant application and award program for those
25 intercity and commuter rail operators.

26 (b) Funds awarded to intercity and commuter rail operators
27 pursuant to this section shall be for eligible capital expenditures
28 as described in subdivision (c) of Section 8879.57.

29 (c) Prior to allocating funds to projects pursuant to this section,
30 the ~~agency~~ *office* shall adopt guidelines to establish the criteria
31 and process for the distribution of funds described in this section.
32 Prior to adopting the guidelines, the ~~agency~~ *office* shall hold a
33 public hearing on the proposed guidelines.

34 (d) For each fiscal year in which funds are appropriated for the
35 purposes of this section, the ~~agency~~ *office* shall issue a notice of
36 funding availability no later than October 1.

37 (e) No later than December 1 of each fiscal year in which the
38 notice in subdivision (d) is issued, eligible intercity and commuter
39 rail operators may submit project nominations for funding to the

1 agency for its review and consideration. Project nominations shall
2 include all of the following:

3 (1) A description of the project, which shall illustrate the
4 physical components of the project and the security or emergency
5 response benefit to be achieved by the completion of the project.

6 (2) Identification of all nonbond sources of funding committed
7 to the project.

8 (3) An estimate of the project's full cost and the proposed
9 schedule for the project's completion.

10 (f) No later than February 1, the ~~agency office~~ shall select
11 eligible projects to receive grants under this section. Grants
12 awarded to intercity and commuter rail operators pursuant to
13 subdivision (c) of Section 8879.57 shall be for eligible capital
14 expenditures, as described in subparagraphs (A) and (B) of
15 paragraph (2) of subdivision (c) of that section.

16 *SEC. 258. Section 8879.61 of the Government Code is amended*
17 *to read:*

18 8879.61. (a) (1) Entities described in subdivisions (a), (b),
19 and (c) of Section 8879.57 receiving an allocation of funds pursuant
20 to this article shall expend those funds within three fiscal years of
21 the fiscal year in which the funds were allocated. Funds remaining
22 unexpended thereafter shall revert to the ~~California Office of~~
23 ~~Emergency Management Agency Services~~ for reallocation under
24 this article in subsequent fiscal years.

25 (2) Notwithstanding paragraph (1), for an allocation of funds
26 made prior to June 30, 2011, to an entity described in subdivision
27 (b) of Section 8879.57, that entity shall have four fiscal years from
28 the last day of the fiscal year in which the funds were received by
29 that entity to expend those funds.

30 (b) Entities that receive grant awards from funds allocated
31 pursuant to subdivision (b) of Section 8879.57 are not eligible to
32 receive awards from the funds allocated pursuant to subdivision
33 (a) of Section 8879.57.

34 (c) Funds appropriated for the program established by this article
35 in the Budget Act of 2007 shall be allocated consistent with the
36 allocation schedule established in Section 8879.57.

37 (d) On or before May 1 of each year, the ~~California Office of~~
38 ~~Emergency Management Agency Services~~ shall report to the Senate
39 Committee on Budget and Fiscal Review, the Assembly Committee
40 on Budget, the Senate Committee on Transportation and Housing,

1 the Assembly Committee on Transportation, and the Legislative
2 Analyst's Office on its activities under this article. The report shall
3 include a summary of the projects selected for funding during the
4 fiscal year in which awards were made, the status of projects
5 selected for funding in prior fiscal years, and a list of all transit
6 entities that have not used funds allocated to the transit entities
7 pursuant to Section 8879.57.

8 *SEC. 259. Section 8886 of the Government Code is amended*
9 *to read:*

10 8886. (a) The membership of the California Broadband Council
11 shall include all of the following:

12 (1) ~~The State Chief Information Officer~~ *Director of Technology*,
13 or his or her designee.

14 (2) The President of the Public Utilities Commission, or his or
15 her designee.

16 (3) ~~The Secretary of California Emergency Management~~
17 *Director of Emergency Services*, or his or her designee.

18 (4) The Superintendent of Public Instruction, or his or her
19 designee.

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

21 (6) ~~The Secretary of Business, Transportation and Housing,~~
22 *Transportation*, or his or her designee.

23 (7) The President of the California Emerging Technology Fund,
24 or his or her designee.

25 (8) A member of the Senate, appointed by the Senate Committee
26 on Rules.

27 (9) A member of the Assembly, appointed by the Speaker of
28 the Assembly.

29 (b) Members of the Legislature appointed to the council shall
30 participate in the activities of the council to the extent that their
31 participation is not incompatible with their positions as Members
32 of the Legislature.

33 *SEC. 260. Section 11018.5 of the Government Code is amended*
34 *to read:*

35 11018.5. (a) ~~The Department of Real Estate~~ *Bureau of Real*
36 *Estate*, on or after July 1, 2001, unless otherwise authorized by
37 the Department of Information Technology pursuant to Executive
38 Order D-3-99, shall provide on the Internet information regarding
39 the status of every license issued by that entity in accordance with
40 the California Public Records Act (Chapter 3.5 (commencing with

1 Section 6250) of Division 7 of Title 1 of the Government Code)
 2 and the Information Practices Act of 1977 (Chapter 1 (commencing
 3 with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
 4 Code), including information relative to suspensions and
 5 revocations of licenses issued by that state agency and other related
 6 enforcement action taken against persons, businesses, or facilities
 7 subject to licensure or regulation by a state agency.

8 (b) The ~~Department of Real Estate~~ *Bureau of Real Estate* shall
 9 disclose information on its licensees, including real estate brokers
 10 and agents, on the Internet that is in compliance with the
 11 ~~department's~~ *bureau's* public record access guidelines. In instances
 12 where licensees use their home address as a mailing address, the
 13 ~~department~~ *bureau* shall allow licensees to provide a post office
 14 box number or other alternate address where correspondence may
 15 be received. Notwithstanding the foregoing, real estate brokers
 16 shall provide the ~~department~~ *bureau* with the actual address of
 17 their place or places of business as required by Section 10162 of
 18 the Business and Professions Code.

19 (c) "Internet" for the purposes of this section has the meaning
 20 set forth in paragraph (6) of subdivision (e) of Section 17538 of
 21 the Business and Professions Code.

22 *SEC. 261. Section 11126 of the Government Code is amended*
 23 *to read:*

24 11126. (a) (1) Nothing in this article shall be construed to
 25 prevent a state body from holding closed sessions during a regular
 26 or special meeting to consider the appointment, employment,
 27 evaluation of performance, or dismissal of a public employee or
 28 to hear complaints or charges brought against that employee by
 29 another person or employee unless the employee requests a public
 30 hearing.

31 (2) As a condition to holding a closed session on the complaints
 32 or charges to consider disciplinary action or to consider dismissal,
 33 the employee shall be given written notice of his or her right to
 34 have a public hearing, rather than a closed session, and that notice
 35 shall be delivered to the employee personally or by mail at least
 36 24 hours before the time for holding a regular or special meeting.
 37 If notice is not given, any disciplinary or other action taken against
 38 any employee at the closed session shall be null and void.

1 (3) The state body also may exclude from any public or closed
2 session, during the examination of a witness, any or all other
3 witnesses in the matter being investigated by the state body.

4 (4) Following the public hearing or closed session, the body
5 may deliberate on the decision to be reached in a closed session.

6 (b) For the purposes of this section, “employee” does not include
7 any person who is elected to, or appointed to a public office by,
8 any state body. However, officers of the California State University
9 who receive compensation for their services, other than per diem
10 and ordinary and necessary expenses, shall, when engaged in that
11 capacity, be considered employees. Furthermore, for purposes of
12 this section, the term employee includes a person exempt from
13 civil service pursuant to subdivision (e) of Section 4 of Article VII
14 of the California Constitution.

15 (c) Nothing in this article shall be construed to do any of the
16 following:

17 (1) Prevent state bodies that administer the licensing of persons
18 engaging in businesses or professions from holding closed sessions
19 to prepare, approve, grade, or administer examinations.

20 (2) Prevent an advisory body of a state body that administers
21 the licensing of persons engaged in businesses or professions from
22 conducting a closed session to discuss matters that the advisory
23 body has found would constitute an unwarranted invasion of the
24 privacy of an individual licensee or applicant if discussed in an
25 open meeting, provided the advisory body does not include a
26 quorum of the members of the state body it advises. Those matters
27 may include review of an applicant’s qualifications for licensure
28 and an inquiry specifically related to the state body’s enforcement
29 program concerning an individual licensee or applicant where the
30 inquiry occurs prior to the filing of a civil, criminal, or
31 administrative disciplinary action against the licensee or applicant
32 by the state body.

33 (3) Prohibit a state body from holding a closed session to
34 deliberate on a decision to be reached in a proceeding required to
35 be conducted pursuant to Chapter 5 (commencing with Section
36 11500) or similar provisions of law.

37 (4) Grant a right to enter any correctional institution or the
38 grounds of a correctional institution where that right is not
39 otherwise granted by law, nor shall anything in this article be
40 construed to prevent a state body from holding a closed session

1 when considering and acting upon the determination of a term,
2 parole, or release of any individual or other disposition of an
3 individual case, or if public disclosure of the subjects under
4 discussion or consideration is expressly prohibited by statute.

5 (5) Prevent any closed session to consider the conferring of
6 honorary degrees, or gifts, donations, and bequests that the donor
7 or proposed donor has requested in writing to be kept confidential.

8 (6) Prevent the Alcoholic Beverage Control Appeals Board from
9 holding a closed session for the purpose of holding a deliberative
10 conference as provided in Section 11125.

11 (7) (A) Prevent a state body from holding closed sessions with
12 its negotiator prior to the purchase, sale, exchange, or lease of real
13 property by or for the state body to give instructions to its
14 negotiator regarding the price and terms of payment for the
15 purchase, sale, exchange, or lease.

16 (B) However, prior to the closed session, the state body shall
17 hold an open and public session in which it identifies the real
18 property or real properties that the negotiations may concern and
19 the person or persons with whom its negotiator may negotiate.

20 (C) For purposes of this paragraph, the negotiator may be a
21 member of the state body.

22 (D) For purposes of this paragraph, “lease” includes renewal or
23 renegotiation of a lease.

24 (E) Nothing in this paragraph shall preclude a state body from
25 holding a closed session for discussions regarding eminent domain
26 proceedings pursuant to subdivision (e).

27 (8) Prevent the California Postsecondary Education Commission
28 from holding closed sessions to consider matters pertaining to the
29 appointment or termination of the Director of the California
30 Postsecondary Education Commission.

31 (9) Prevent the Council for Private Postsecondary and
32 Vocational Education from holding closed sessions to consider
33 matters pertaining to the appointment or termination of the
34 Executive Director of the Council for Private Postsecondary and
35 Vocational Education.

36 (10) Prevent the Franchise Tax Board from holding closed
37 sessions for the purpose of discussion of confidential tax returns
38 or information the public disclosure of which is prohibited by law,
39 or from considering matters pertaining to the appointment or
40 removal of the Executive Officer of the Franchise Tax Board.

1 (11) Require the Franchise Tax Board to notice or disclose any
2 confidential tax information considered in closed sessions, or
3 documents executed in connection therewith, the public disclosure
4 of which is prohibited pursuant to Article 2 (commencing with
5 Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the
6 Revenue and Taxation Code.

7 (12) Prevent the Corrections Standards Authority from holding
8 closed sessions when considering reports of crime conditions under
9 Section 6027 of the Penal Code.

10 (13) Prevent the State Air Resources Board from holding closed
11 sessions when considering the proprietary specifications and
12 performance data of manufacturers.

13 (14) Prevent the State Board of Education or the Superintendent
14 of Public Instruction, or any committee advising the board or the
15 Superintendent, from holding closed sessions on those portions of
16 its review of assessment instruments pursuant to Chapter 5
17 (commencing with Section 60600) of, or pursuant to Chapter 9
18 (commencing with Section 60850) of, Part 33 of Division 4 of
19 Title 2 of the Education Code during which actual test content is
20 reviewed and discussed. The purpose of this provision is to
21 maintain the confidentiality of the assessments under review.

22 (15) Prevent the ~~California Integrated Waste Management Board~~
23 *Department of Resources Recycling and Recovery* or its auxiliary
24 committees from holding closed sessions for the purpose of
25 discussing confidential tax returns, discussing trade secrets or
26 confidential or proprietary information in its possession, or
27 discussing other data, the public disclosure of which is prohibited
28 by law.

29 (16) Prevent a state body that invests retirement, pension, or
30 endowment funds from holding closed sessions when considering
31 investment decisions. For purposes of consideration of shareholder
32 voting on corporate stocks held by the state body, closed sessions
33 for the purposes of voting may be held only with respect to election
34 of corporate directors, election of independent auditors, and other
35 financial issues that could have a material effect on the net income
36 of the corporation. For the purpose of real property investment
37 decisions that may be considered in a closed session pursuant to
38 this paragraph, a state body shall also be exempt from the
39 provisions of paragraph (7) relating to the identification of real
40 properties prior to the closed session.

1 (17) Prevent a state body, or boards, commissions,
2 administrative officers, or other representatives that may properly
3 be designated by law or by a state body, from holding closed
4 sessions with its representatives in discharging its responsibilities
5 under Chapter 10 (commencing with Section 3500), Chapter 10.3
6 (commencing with Section 3512), Chapter 10.5 (commencing with
7 Section 3525), or Chapter 10.7 (commencing with Section 3540)
8 of Division 4 of Title 1 as the sessions relate to salaries, salary
9 schedules, or compensation paid in the form of fringe benefits.
10 For the purposes enumerated in the preceding sentence, a state
11 body may also meet with a state conciliator who has intervened
12 in the proceedings.

13 (18) (A) Prevent a state body from holding closed sessions to
14 consider matters posing a threat or potential threat of criminal or
15 terrorist activity against the personnel, property, buildings,
16 facilities, or equipment, including electronic data, owned, leased,
17 or controlled by the state body, where disclosure of these
18 considerations could compromise or impede the safety or security
19 of the personnel, property, buildings, facilities, or equipment,
20 including electronic data, owned, leased, or controlled by the state
21 body.

22 (B) Notwithstanding any other provision of law, a state body,
23 at any regular or special meeting, may meet in a closed session
24 pursuant to subparagraph (A) upon a two-thirds vote of the
25 members present at the meeting.

26 (C) After meeting in closed session pursuant to subparagraph
27 (A), the state body shall reconvene in open session prior to
28 adjournment and report that a closed session was held pursuant to
29 subparagraph (A), the general nature of the matters considered,
30 and whether any action was taken in closed session.

31 (D) After meeting in closed session pursuant to subparagraph
32 (A), the state body shall submit to the Legislative Analyst written
33 notification stating that it held this closed session, the general
34 reason or reasons for the closed session, the general nature of the
35 matters considered, and whether any action was taken in closed
36 session. The Legislative Analyst shall retain for no less than four
37 years any written notification received from a state body pursuant
38 to this subparagraph.

39 (19) Prevent the California Sex Offender Management Board
40 from holding a closed session for the purpose of discussing matters

1 pertaining to the application of a sex offender treatment provider
2 for certification pursuant to Sections 290.09 and 9003 of the Penal
3 Code. Those matters may include review of an applicant's
4 qualifications for certification.

5 (d) (1) Notwithstanding any other provision of law, any meeting
6 of the Public Utilities Commission at which the rates of entities
7 under the commission's jurisdiction are changed shall be open and
8 public.

9 (2) Nothing in this article shall be construed to prevent the
10 Public Utilities Commission from holding closed sessions to
11 deliberate on the institution of proceedings, or disciplinary actions
12 against any person or entity under the jurisdiction of the
13 commission.

14 (e) (1) Nothing in this article shall be construed to prevent a
15 state body, based on the advice of its legal counsel, from holding
16 a closed session to confer with, or receive advice from, its legal
17 counsel regarding pending litigation when discussion in open
18 session concerning those matters would prejudice the position of
19 the state body in the litigation.

20 (2) For purposes of this article, all expressions of the
21 lawyer-client privilege other than those provided in this subdivision
22 are hereby abrogated. This subdivision is the exclusive expression
23 of the lawyer-client privilege for purposes of conducting closed
24 session meetings pursuant to this article. For purposes of this
25 subdivision, litigation shall be considered pending when any of
26 the following circumstances exist:

27 (A) An adjudicatory proceeding before a court, an administrative
28 body exercising its adjudicatory authority, a hearing officer, or an
29 arbitrator, to which the state body is a party, has been initiated
30 formally.

31 (B) (i) A point has been reached where, in the opinion of the
32 state body on the advice of its legal counsel, based on existing
33 facts and circumstances, there is a significant exposure to litigation
34 against the state body.

35 (ii) Based on existing facts and circumstances, the state body
36 is meeting only to decide whether a closed session is authorized
37 pursuant to clause (i).

38 (C) (i) Based on existing facts and circumstances, the state
39 body has decided to initiate or is deciding whether to initiate
40 litigation.

1 (ii) The legal counsel of the state body shall prepare and submit
2 to it a memorandum stating the specific reasons and legal authority
3 for the closed session. If the closed session is pursuant to paragraph
4 (1), the memorandum shall include the title of the litigation. If the
5 closed session is pursuant to subparagraph (A) or (B), the
6 memorandum shall include the existing facts and circumstances
7 on which it is based. The legal counsel shall submit the
8 memorandum to the state body prior to the closed session, if
9 feasible, and in any case no later than one week after the closed
10 session. The memorandum shall be exempt from disclosure
11 pursuant to Section 6254.25.

12 (iii) For purposes of this subdivision, “litigation” includes any
13 adjudicatory proceeding, including eminent domain, before a court,
14 administrative body exercising its adjudicatory authority, hearing
15 officer, or arbitrator.

16 (iv) Disclosure of a memorandum required under this
17 subdivision shall not be deemed as a waiver of the lawyer-client
18 privilege, as provided for under Article 3 (commencing with
19 Section 950) of Chapter 4 of Division 8 of the Evidence Code.

20 (f) In addition to subdivisions (a), (b), and (c), nothing in this
21 article shall be construed to do any of the following:

22 (1) Prevent a state body operating under a joint powers
23 agreement for insurance pooling from holding a closed session to
24 discuss a claim for the payment of tort liability or public liability
25 losses incurred by the state body or any member agency under the
26 joint powers agreement.

27 (2) Prevent the examining committee established by the State
28 Board of Forestry and Fire Protection, pursuant to Section 763 of
29 the Public Resources Code, from conducting a closed session to
30 consider disciplinary action against an individual professional
31 forester prior to the filing of an accusation against the forester
32 pursuant to Section 11503.

33 (3) Prevent the enforcement advisory committee established by
34 the California Board of Accountancy pursuant to Section 5020 of
35 the Business and Professions Code from conducting a closed
36 session to consider disciplinary action against an individual
37 accountant prior to the filing of an accusation against the
38 accountant pursuant to Section 11503. Nothing in this article shall
39 be construed to prevent the qualifications examining committee
40 established by the California Board of Accountancy pursuant to

1 Section 5023 of the Business and Professions Code from
2 conducting a closed hearing to interview an individual applicant
3 or accountant regarding the applicant's qualifications.

4 (4) Prevent a state body, as defined in subdivision (b) of Section
5 11121, from conducting a closed session to consider any matter
6 that properly could be considered in closed session by the state
7 body whose authority it exercises.

8 (5) Prevent a state body, as defined in subdivision (d) of Section
9 11121, from conducting a closed session to consider any matter
10 that properly could be considered in a closed session by the body
11 defined as a state body pursuant to subdivision (a) or (b) of Section
12 11121.

13 (6) Prevent a state body, as defined in subdivision (c) of Section
14 11121, from conducting a closed session to consider any matter
15 that properly could be considered in a closed session by the state
16 body it advises.

17 (7) Prevent the State Board of Equalization from holding closed
18 sessions for either of the following:

19 (A) When considering matters pertaining to the appointment or
20 removal of the Executive Secretary of the State Board of
21 Equalization.

22 (B) For the purpose of hearing confidential taxpayer appeals or
23 data, the public disclosure of which is prohibited by law.

24 (8) Require the State Board of Equalization to disclose any
25 action taken in closed session or documents executed in connection
26 with that action, the public disclosure of which is prohibited by
27 law pursuant to Sections 15619 and 15641 of this code and Sections
28 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651,
29 45982, 46751, 50159, 55381, and 60609 of the Revenue and
30 Taxation Code.

31 (9) Prevent the California Earthquake Prediction Evaluation
32 Council, or other body appointed to advise the ~~Secretary of~~
33 ~~Emergency Management~~ *Director of Emergency Services* or the
34 Governor concerning matters relating to volcanic or earthquake
35 predictions, from holding closed sessions when considering the
36 evaluation of possible predictions.

37 (g) This article does not prevent either of the following:

38 (1) The Teachers' Retirement Board or the Board of
39 Administration of the Public Employees' Retirement System from
40 holding closed sessions when considering matters pertaining to

1 the recruitment, appointment, employment, or removal of the chief
2 executive officer or when considering matters pertaining to the
3 recruitment or removal of the Chief Investment Officer of the State
4 Teachers’ Retirement System or the Public Employees’ Retirement
5 System.

6 (2) The Commission on Teacher Credentialing from holding
7 closed sessions when considering matters relating to the
8 recruitment, appointment, or removal of its executive director.

9 (h) This article does not prevent the Board of Administration
10 of the Public Employees’ Retirement System from holding closed
11 sessions when considering matters relating to the development of
12 rates and competitive strategy for plans offered pursuant to Chapter
13 15 (commencing with Section 21660) of Part 3 of Division 5 of
14 Title 2.

15 (i) This article does not prevent the Managed Risk Medical
16 Insurance Board from holding closed sessions when considering
17 matters related to the development of rates and contracting strategy
18 for entities contracting or seeking to contract with the board,
19 entities with which the board is considering a contract, or entities
20 with which the board is considering or enters into any other
21 arrangement under which the board provides, receives, or arranges
22 services or reimbursement, pursuant to Part 6.2 (commencing with
23 Section 12693), Part 6.3 (commencing with Section 12695), Part
24 6.4 (commencing with Section 12699.50), Part 6.5 (commencing
25 with Section 12700), Part 6.6 (commencing with Section 12739.5),
26 or Part 6.7 (commencing with Section 12739.70) of Division 2 of
27 the Insurance Code.

28 (j) Nothing in this article shall be construed to prevent the board
29 of the State Compensation Insurance Fund from holding closed
30 sessions in the following:

31 (1) When considering matters related to claims pursuant to
32 Chapter 1 (commencing with Section 3200) of Division 4 of the
33 Labor Code, to the extent that confidential medical information
34 or other individually identifiable information would be disclosed.

35 (2) To the extent that matters related to audits and investigations
36 that have not been completed would be disclosed.

37 (3) To the extent that an internal audit containing proprietary
38 information would be disclosed.

39 (4) To the extent that the session would address the development
40 of rates, contracting strategy, underwriting, or competitive strategy,

1 pursuant to the powers granted to the board in Chapter 4
2 (commencing with Section 11770) of Part 3 of Division 2 of the
3 Insurance Code, when discussion in open session concerning those
4 matters would prejudice the position of the State Compensation
5 Insurance Fund.

6 (k) The State Compensation Insurance Fund shall comply with
7 the procedures specified in Section 11125.4 of the Government
8 Code with respect to any closed session or meeting authorized by
9 subdivision (j), and in addition shall provide an opportunity for a
10 member of the public to be heard on the issue of the
11 appropriateness of closing the meeting or session.

12 *SEC. 262. Section 11340.2 of the Government Code is amended*
13 *to read:*

14 11340.2. (a) The Office of Administrative Law is hereby
15 established in state government *in the Government Operations*
16 *Agency*. The office shall be under the direction and control of an
17 executive officer who shall be known as the director. There shall
18 also be a deputy director. The director's term and the deputy
19 director's term of office shall be coterminous with that of the
20 appointing power, except that they shall be subject to
21 reappointment.

22 (b) The director and deputy director shall have the same
23 qualifications as a hearing officer and shall be appointed by the
24 Governor subject to the confirmation of the Senate.

25 *SEC. 263. Section 11534 of the Government Code is amended*
26 *to read:*

27 11534. (a) There is in state government, in the ~~California~~
28 ~~Technology~~ *Government Operations Agency*, the ~~Office~~
29 ~~Department of Technology Services~~, *which shall include an Office*
30 *of Technology Services*.

31 (b) The purpose of this article is to establish a general purpose
32 technology services provider to serve the common technology
33 needs of executive branch entities with accountability to customers
34 for providing secure services that are responsive to client needs at
35 a cost representing best value to the state.

36 (c) The purpose of this chapter is to improve and coordinate the
37 use of technology and to coordinate and cooperate with all public
38 agencies in the state in order to eliminate duplications and to bring
39 about economies that could not otherwise be obtained.

1 (d) Unless the context clearly requires otherwise, whenever the
2 term “Department of Technology Services” appears in any statute,
3 regulation, or contract, it shall be deemed to refer to the ~~Office~~
4 *Department of Technology Services*, and whenever the term
5 “Director of Technology Services” or “*Secretary of California*
6 *Technology*” appears in statute, regulation, or contract, or any
7 other law, it shall be deemed to refer to the ~~Secretary~~ *Director of*
8 *California Technology*.

9 (e) Unless the context clearly requires otherwise, the ~~Office~~
10 *Department of Technology Services* and the ~~Secretary~~ *Director*
11 of ~~California~~ *Technology* succeed to and are vested with all the
12 duties, powers, purposes, responsibilities, and jurisdiction vested
13 in the former *Office of Technology Services*, Department of
14 *Technology Services* and the former, *Director of Technology*
15 *Services*, and *Secretary of California Technology*, respectively.

16 (f) All employees serving in state civil service, other than
17 temporary employees, who are engaged in the performance of
18 functions transferred to the ~~Office~~ *Department of Technology*
19 ~~Services~~, are transferred to the ~~Office~~ *Department of Technology*
20 ~~Services~~. The status, positions, and rights of those persons shall
21 not be affected by their transfer and shall continue to be retained
22 by them pursuant to the State Civil Service Act (Part 2
23 commencing with Section 18500) of Division 5), except as to
24 positions the duties of which are vested in a position exempt from
25 civil service. The personnel records of all transferred employees
26 shall be transferred to the ~~Office~~ *Department of Technology*
27 ~~Services~~.

28 (g) The property of any office, agency, or department related
29 to functions transferred to the ~~Office~~ *Department of Technology*
30 ~~Services~~ is transferred to the ~~Office~~ *Department of Technology*
31 ~~Services~~. If any doubt arises as to where that property is transferred,
32 the Department of General Services shall determine where the
33 property is transferred.

34 (h) All unexpended balances of appropriations and other funds
35 available for use in connection with any function or the
36 administration of any law transferred to the ~~Office~~ *Department of*
37 ~~Technology Services~~ shall be transferred to the ~~Office~~ *Department*
38 of ~~Technology Services~~ for the use and for the purpose for which
39 the appropriation was originally made or the funds were originally
40 available. If there is any doubt as to where those balances and

1 funds are transferred, the Department of Finance shall determine
2 where the balances and funds are transferred.

3 *SEC. 264. Section 11541 of the Government Code is amended*
4 *to read:*

5 11541. (a) ~~The Office~~ *Department* of Technology ~~Services~~
6 may acquire, install, equip, maintain, and operate new or existing
7 business telecommunications systems and services. Acquisitions
8 for information technology goods and services shall be made
9 pursuant to Chapter 3 (commencing with Section 12100) of Part
10 2 of Division 2 of the Public Contract Code. To accomplish that
11 purpose, ~~the Office of Technology Services~~ *department* may enter
12 into contracts, obtain licenses, acquire personal property, install
13 necessary equipment and facilities, and do other acts that will
14 provide adequate and efficient business telecommunications
15 systems and services. Any system established shall be made
16 available to all public agencies in the state on terms that may be
17 agreed upon by the agency and ~~the Office of Technology Services~~
18 *department*.

19 (b) With respect to business telecommunications systems and
20 services, ~~the Office of Technology Services~~ *department* may do
21 all of the following:

22 (1) Provide representation of public agencies before the Federal
23 Communications Commission in matters affecting the state and
24 other public agencies regarding business telecommunications
25 systems and services issues.

26 (2) Provide, upon request, advice to public agencies concerning
27 existing or proposed business telecommunications systems and
28 services between any and all public agencies.

29 (3) Recommend to public agencies rules, regulations,
30 procedures, and methods of operation that it deems necessary to
31 effectuate the most efficient and economical use of business
32 telecommunications systems and services within the state.

33 (4) Carry out the policies of this chapter.

34 (c) ~~The Office of Technology Services~~ *department* has
35 responsibilities with respect to business telecommunications
36 systems, services, policy, and planning, which include, but are not
37 limited to, all of the following:

38 (1) Assessing the overall long-range business
39 telecommunications needs and requirements of the state
40 considering both routine and emergency operations for business

1 telecommunications systems and services, performance, cost,
 2 state-of-the-art technology, multiuser availability, security,
 3 reliability, and other factors deemed to be important to state needs
 4 and requirements.

5 (2) Developing strategic and tactical policies and plans for
 6 business telecommunications with consideration for the systems
 7 and requirements of public agencies.

8 (3) Recommending industry standards, service level agreements,
 9 and solutions regarding business telecommunications systems and
 10 services to ensure multiuser availability and compatibility.

11 (4) Providing advice and assistance in the selection of business
 12 telecommunications equipment to ensure all of the following:

13 (A) Ensuring that the business telecommunications needs of
 14 state agencies are met.

15 (B) Ensuring that procurement is compatible throughout state
 16 agencies and is consistent with the state’s strategic and tactical
 17 plans for telecommunications.

18 (C) Ensuring that procurement is designed to leverage the buying
 19 power of the state and encourage economies of scale.

20 (5) Providing management oversight of statewide business
 21 telecommunications systems and services developments.

22 (6) Providing for coordination of, and comment on, plans and
 23 policies and operational requirements from departments that utilize
 24 business telecommunications systems and services as determined
 25 by the ~~Office of Technology Services~~ *department*.

26 (7) Monitoring and participating, on behalf of the state, in the
 27 proceedings of federal and state regulatory agencies and in
 28 congressional and state legislative deliberations that have an impact
 29 on state governmental business telecommunications activities.

30 (d) The ~~Office of Technology Services~~ *department* shall develop
 31 and describe statewide policy on the use of business
 32 telecommunications systems and services by state agencies. In the
 33 development of that policy, the ~~Office of Technology Services~~
 34 *department* shall ensure that access to state business information
 35 and services is improved, and that the policy is cost effective for
 36 the state and its residents. The ~~Office of Technology Services~~
 37 *department* shall develop guidelines that do all of the following:

38 (1) Describe what types of state business information and
 39 services may be accessed using business telecommunications
 40 systems and services.

1 (2) Characterize the conditions under which a state agency may
2 utilize business telecommunications systems and services.

3 (3) Characterize the conditions under which a state agency may
4 charge for information and services.

5 (4) Specify pricing policies.

6 (5) Provide other guidance as may be appropriate at the
7 discretion of the Office of Technology Services.

8 ~~(e) It is the intent of the Legislature that this section supersede
9 Section 11541 of the Government Code, as added by Section 1 of
10 the Governor's Reorganization Plan No. 2, effective July 9, 2005.~~

11 *SEC. 265. Section 11542 of the Government Code is amended
12 to read:*

13 11542. (a) (1) The Stephen P. Teale Data Center and the
14 California Health and Human Services Agency Data Center are
15 consolidated within, and their functions are transferred to, the
16 ~~Office Department of Technology Services.~~

17 (2) Except as expressly provided otherwise in this chapter, the
18 ~~Office Department of Technology Services~~ is the successor to,
19 and is vested with, all of the duties, powers, purposes,
20 responsibilities, and jurisdiction of the Stephen P. Teale Data
21 Center, and the California Health and Human Services Agency
22 Data Center. Any reference in statutes, regulations, or contracts
23 to those entities with respect to the transferred functions shall be
24 construed to refer to the ~~Office Department of Technology Services~~
25 unless the context clearly requires otherwise.

26 (3) No contract, lease, license, or any other agreement to which
27 either the Stephen P. Teale Data Center or the California Health
28 and Human Services Agency Data Center is a party shall be void
29 or voidable by reason of this chapter, but shall continue in full
30 force and effect, with the ~~Office Department of Technology
31 Services~~ assuming all of the rights, obligations, and duties of the
32 Stephen P. Teale Data Center or the California Health and Human
33 Services Agency Data Center, respectively.

34 (4) Notwithstanding subdivision (e) of Section 11793 and
35 subdivision (e) of Section 11797, on and after the effective date
36 of this chapter, the balance of any funds available for expenditure
37 by the Stephen P. Teale Data Center and the California Health and
38 Human Services Agency Data Center, with respect to business
39 telecommunications systems and services functions in carrying
40 out any functions transferred to the Office of Technology Services

1 by this chapter, shall be transferred to the Technology Services
2 Revolving Fund created by Section 11544, and shall be made
3 available for the support and maintenance of the ~~Office Department~~
4 of Technology ~~Services~~.

5 (5) All references in statutes, regulations, or contracts to the
6 former Stephen P. Teale Data Center Fund or the California Health
7 and Human Services Data Center Revolving Fund shall be
8 construed to refer to the Technology Services Revolving Fund
9 unless the context clearly requires otherwise.

10 (6) All books, documents, records, and property of the Stephen
11 P. Teale Data Center and the California Health and Human Services
12 Agency Data Center, excluding the Systems Integration Division,
13 shall be transferred to the ~~Office Department~~ of Technology
14 ~~Services~~.

15 (7) (A) All officers and employees of the former Stephen P.
16 Teale Data Center and the California Health and Human Services
17 Agency Data Center, are transferred to the ~~Office Department~~ of
18 Technology ~~Services~~.

19 (B) The status, position, and rights of any officer or employee
20 of the Stephen P. Teale Data Center and the California Health and
21 Human Services Agency Data Center, shall not be affected by the
22 transfer and consolidation of the functions of that officer or
23 employee to the ~~Office Department~~ of Technology ~~Services~~.

24 (b) (1) All duties and functions of the Telecommunications
25 Division of the Department of General Services are transferred to
26 the ~~California Department of Technology Agency~~.

27 (2) Unless the context clearly requires otherwise, whenever the
28 term “Telecommunications Division of the Department of General
29 Services” or “California Technology Agency” appears in any
30 statute, regulation, or contract, *or any other law*, it shall be deemed
31 to refer to the ~~California Department of Technology Agency~~.

32 (3) All employees serving in state civil service, other than
33 temporary employees, who are engaged in the performance of
34 functions transferred to the California Technology Agency, are
35 transferred to the ~~California Department of Technology Agency~~.
36 The status, positions, and rights of those persons shall not be
37 affected by their transfer and shall continue to be retained by them
38 pursuant to the State Civil Service Act (Part 2 (commencing with
39 Section 18500) of Division 5), except as to positions the duties of
40 which are vested in a position exempt from civil service. The

1 personnel records of all transferred employees shall be transferred
2 to the ~~California Department of Technology Agency~~.

3 (4) The property of any office, agency, or department related
4 to functions transferred to the California Technology Agency, are
5 transferred to the ~~California Department of Technology Agency~~.
6 If any doubt arises as to where that property is transferred, the
7 Department of General Services shall determine where the property
8 is transferred.

9 (5) All unexpended balances of appropriations and other funds
10 available for use in connection with any function or the
11 administration of any law transferred to the ~~California Department~~
12 ~~of Technology Agency~~ shall be transferred to the ~~California~~
13 ~~Department of Technology~~ for the use and for the purpose for
14 which the appropriation was originally made or the funds were
15 originally available. If there is any doubt as to where those balances
16 and funds are transferred, the Department of Finance shall
17 determine where the balances and funds are transferred.

18 *SEC. 266. Section 11546 of the Government Code, as amended*
19 *by Section 11 of Chapter 32 of the Statutes of 2012, is amended*
20 *to read:*

21 11546. (a) The ~~California Technology Agency~~ *Department of*
22 *Technology* shall be responsible for the approval and oversight of
23 information technology projects, which shall include, but are not
24 limited to, all of the following:

25 (1) Establishing and maintaining a framework of policies,
26 procedures, and requirements for the initiation, approval,
27 implementation, management, oversight, and continuation of
28 information technology projects. Unless otherwise required by
29 law, a state department shall not procure oversight services of
30 information technology projects without the approval of the
31 ~~California Technology Agency~~ *Department of Technology*.

32 (2) Evaluating information technology projects based on the
33 business case justification, resources requirements, proposed
34 technical solution, project management, oversight and risk
35 mitigation approach, and compliance with statewide strategies,
36 policies, and procedures. Projects shall continue to be funded
37 through the established Budget Act process.

38 (3) Consulting with agencies during initial project planning to
39 ensure that project proposals are based on well-defined
40 programmatic needs, clearly identify programmatic benefits, and

1 consider feasible alternatives to address the identified needs and
2 benefits consistent with statewide strategies, policies, and
3 procedures.

4 (4) Consulting with agencies prior to project initiation to review
5 the project governance and management framework to ensure that
6 it is best designed for success and will serve as a resource for
7 agencies throughout the project implementation.

8 (5) Requiring agencies to provide information on information
9 technology projects including, but not limited to, all of the
10 following:

11 (A) The degree to which the project is within approved scope,
12 cost, and schedule.

13 (B) Project issues, risks, and corresponding mitigation efforts.

14 (C) The current estimated schedule and costs for project
15 completion.

16 (6) Requiring agencies to perform remedial measures to achieve
17 compliance with approved project objectives. These remedial
18 measures may include, but are not limited to, any of the following:

19 (A) Independent assessments of project activities, the cost of
20 which shall be funded by the agency administering the project.

21 (B) Establishing remediation plans.

22 (C) Securing appropriate expertise, the cost of which shall be
23 funded by the agency administering the project.

24 (D) Requiring additional project reporting.

25 (E) Requiring approval to initiate any action identified in the
26 approved project schedule.

27 (7) Suspending, reinstating, or terminating information
28 technology projects. The ~~agency~~ *department* shall notify the Joint
29 Legislative Budget Committee of any project suspension,
30 reinstatement, and termination within 30 days of that suspension,
31 reinstatement, or termination.

32 (8) Establishing restrictions or other controls to mitigate
33 nonperformance by agencies, including, but not limited to, any of
34 the following:

35 (A) The restriction of future project approvals pending
36 demonstration of successful correction of the identified
37 performance failure.

38 (B) The revocation or reduction of authority for state agencies
39 to initiate information technology projects or acquire information
40 technology or telecommunications goods or services.

1 (b) The ~~California Technology Agency~~ *Department of*
2 *Technology* shall have the authority to delegate to another agency
3 any authority granted under this section based on its assessment
4 of the agency's project management, project oversight, and project
5 performance.

6 *SEC. 267. Section 11546.2 of the Government Code is amended*
7 *to read:*

8 11546.2. On or before February 1, 2011, and annually
9 thereafter, each state agency and state entity subject to Section
10 11546.1, shall submit, as instructed by the ~~California Department~~
11 ~~of Technology Agency~~, a summary of its actual and projected
12 information technology and telecommunications costs, including
13 personnel, for the immediately preceding fiscal year and current
14 fiscal year, showing current expenses and projected expenses for
15 the current fiscal year, in a format prescribed by the ~~California~~
16 ~~Department of Technology Agency~~ in order to capture statewide
17 information technology expenditures.

18 *SEC. 268. Section 11546.3 of the Government Code is amended*
19 *to read:*

20 11546.3. (a) (1) A chief information officer appointed under
21 Section 11546.1 shall develop a plan to leverage cost-effective
22 strategies to reduce the total amount of energy utilized by
23 information technology and telecommunications equipment of the
24 officer's agency or entity, as the case may be, in support of the
25 statewide effort to reduce energy consumption by 20 percent below
26 the 2009 baseline by July 1, 2011, and by 30 percent below the
27 2009 baseline by July 1, 2012.

28 (2) A chief information officer appointed under Section 11546.1
29 shall report the progress toward the energy reduction targets in
30 paragraph (1) to the ~~California Department of Technology Agency~~
31 on a quarterly basis beginning in January 2011. The ~~California~~
32 ~~Department of Technology Agency~~ shall include the quarterly
33 reports on its Internet Web site.

34 (b) (1) A state agency or entity subject to Section 11546.1 shall
35 do all of the following:

36 (A) Comply with the policies of the ~~California Department of~~
37 ~~Technology Agency~~ to reduce the total amount of office square
38 footage currently utilized for data centers by the agency or entity,
39 as the case may be, in support of the statewide effort to reduce

1 energy consumption by 50 percent below the 2009 baseline by
2 July 2011.

3 (B) Host all mission critical and public-facing applications and
4 server refreshes in a Tier III or equivalent data center, as designated
5 by the ~~California Department of Technology Agency~~.

6 (C) Close any existing data centers or server rooms that house
7 nonnetwork equipment by June 2013. On or before July 2011,
8 transition plans, in accordance with guidance provided by the
9 ~~California Department of Technology Agency~~, shall be submitted
10 to the ~~California Department of Technology Agency~~.

11 (D) Be in migration from its existing network services to the
12 California Government Network by no later than July 2011.

13 (E) Report to the ~~California Department of Technology Agency~~
14 on the progress toward the targets listed in this subdivision on a
15 quarterly basis, beginning in January 2011.

16 (2) The ~~California Department of Technology Agency~~ shall
17 include the quarterly reports required by subparagraph (E) of
18 paragraph (1) on its Internet Web site.

19 (c) (1) A state agency or entity subject to Section 11546.1 shall
20 do both of the following:

21 (A) Be in migration to the state shared e-mail solution by no
22 later than June 2011.

23 (B) Report to the ~~California Department of Technology Agency~~
24 on the progress toward the target listed in subparagraph (A) on a
25 quarterly basis, beginning in April 2011.

26 (2) The ~~California Department of Technology Agency~~ shall
27 include the quarterly reports required by subparagraph (B) of
28 paragraph (1) on its Internet Web site.

29 *SEC. 269. Section 11546.4 of the Government Code is amended*
30 *to read:*

31 11546.4. Notwithstanding any other law, any service contract
32 proposed to be entered into by an agency that would not otherwise
33 be subject to review, approval, or oversight by the ~~office~~
34 ~~Department of the State Chief Information Officer Technology~~
35 but that contains an information technology component that would
36 be subject to oversight by the ~~office Department of the State Chief~~
37 ~~Information Officer Technology~~ if it was a separate information
38 technology project, shall be subject to review, approval, and
39 oversight by the ~~office Department of the State Chief Information~~
40 ~~Officer Technology~~ as set forth in Section 11546.

1 *SEC. 270. Section 11546.5 of the Government Code is amended*
2 *to read:*

3 11546.5. Notwithstanding any other ~~provision of~~ law, all
4 employees of the ~~California Department of Technology Agency~~
5 shall be designated as excluded from collective bargaining pursuant
6 to subdivision (b) of Section 3527, except for employees of the
7 Office of Technology Services and employees of the Public Safety
8 Communications Division who are not otherwise excluded from
9 collective bargaining.

10 *SEC. 271. Section 11546.6 of the Government Code is amended*
11 *to read:*

12 11546.6. (a) ~~The State Chief Information Officer~~ *Director of*
13 *Technology* shall require fingerprint images and associated
14 information from an employee, prospective employee, contractor,
15 subcontractor, volunteer, or vendor whose duties include, or would
16 include, working on data center, telecommunications, or network
17 operations, engineering, or security with access to confidential or
18 sensitive information and data on the network or computing
19 infrastructure.

20 (b) The fingerprint images and associated information described
21 in subdivision (a) shall be furnished to the Department of Justice
22 for the purpose of obtaining information as to the existence and
23 nature of any of the following:

24 (1) A record of state or federal convictions and the existence
25 and nature of state or federal arrests for which the person is free
26 on bail or on his or her own recognizance pending trial or appeal.

27 (2) Being convicted of, or pleading nolo contendere to, a crime,
28 or having committed an act involving dishonesty, fraud, or deceit,
29 if the crime or act is substantially related to the qualifications,
30 functions, or duties of a person employed by the state in accordance
31 with this provision.

32 (3) Any conviction or arrest, for which the person is free on bail
33 or on his or her own recognizance pending trial or appeal, with a
34 reasonable nexus to the information or data to which the employee
35 shall have access.

36 (c) Requests for federal criminal offender record information
37 received by the Department of Justice pursuant to this section shall
38 be forwarded to the Federal Bureau of Investigation by the
39 Department of Justice.

1 (d) The Department of Justice shall respond to the ~~State Chief~~
 2 ~~Information Officer~~ *Director of Technology* with information as
 3 provided under subdivision (p) of Section 11105 of the Penal Code.

4 (e) The ~~State Chief Information Officer~~ *Director of Technology*
 5 shall request subsequent arrest notifications from the Department
 6 of Justice as provided under Section 11105.2 of the Penal Code.

7 (f) The Department of Justice may assess a fee sufficient to
 8 cover the processing costs required under this section, as authorized
 9 pursuant to subdivision (e) of Section 11105 of the Penal Code.

10 (g) If an individual described in subdivision (a) is rejected as a
 11 result of information contained in the Department of Justice or
 12 Federal Bureau of Investigation criminal offender record
 13 information response, the individual shall receive a copy of the
 14 response record from the ~~State Chief Information Officer~~ *Director*
 15 *of Technology*.

16 (h) The ~~State Chief Information Officer~~ *Director of Technology*
 17 shall develop a written appeal process for an individual described
 18 in subdivision (a) who is determined ineligible for employment
 19 because of his or her Department of Justice or Federal Bureau of
 20 Investigation criminal offender record. Individuals shall not be
 21 found to be ineligible for employment pursuant to this section until
 22 the appeal process is in place.

23 (i) When considering the background information received
 24 pursuant to this section, the ~~State Chief Information Officer~~
 25 *Director of Technology* shall take under consideration any evidence
 26 of rehabilitation, including participation in treatment programs, as
 27 well as the age and specifics of the offense.

28 *SEC. 272. Section 11549 of the Government Code is amended*
 29 *to read:*

30 11549. (a) There is in state government, in the ~~California~~
 31 ~~Department of Technology Agency~~, the Office of Information
 32 Security. The purpose of the Office of Information Security is to
 33 ensure the confidentiality, integrity, and availability of state
 34 systems and applications, and to promote and protect privacy as
 35 part of the development and operations of state systems and
 36 applications to ensure the trust of the residents of this state.

37 (b) The office shall be under the direction of a director, who
 38 shall be appointed by, and serve at the pleasure of, the Governor.
 39 The director shall report to the ~~Secretary~~ *Director of California*

1 Technology, and shall lead the Office of Information Security in
2 carrying out its mission.

3 (c) The duties of the Office of Information Security, under the
4 direction of the director, shall be to provide direction for
5 information security and privacy to state government agencies,
6 departments, and offices, pursuant to Section 11549.3.

7 (d) (1) Unless the context clearly requires otherwise, whenever
8 the term “Office of Information Security and Privacy Protection”
9 appears in any statute, regulation, or contract, it shall be deemed
10 to refer to the Office of Information Security, and whenever the
11 term “executive director of the Office of Information Security and
12 Privacy Protection” appears in statute, regulation, or contract, it
13 shall be deemed to refer to the Director of the Office of Information
14 Security.

15 (2) All employees serving in state civil service, other than
16 temporary employees, who are engaged in the performance of
17 functions transferred from the Office of Information Security and
18 Privacy Protection to the Office of Information Security, are
19 transferred to the Office of Information Security. The status,
20 positions, and rights of those persons shall not be affected by their
21 transfer and shall continue to be retained by them pursuant to the
22 State Civil Service Act (Part 2 (commencing with Section 18500)
23 of Division 5), except as to positions the duties of which are vested
24 in a position exempt from civil service. The personnel records of
25 all transferred employees shall be transferred to the Office of
26 Information Security.

27 (3) The property of any office, agency, or department related
28 to functions transferred to the Office of Information Security is
29 transferred to the Office of Information Security. If any doubt
30 arises as to where that property is transferred, the Department of
31 General Services shall determine where the property is transferred.

32 (4) All unexpended balances of appropriations and other funds
33 available for use in connection with any function or the
34 administration of any law transferred to the Office of Information
35 Security shall be transferred to the Office of Information Security
36 for the use and for the purpose for which the appropriation was
37 originally made or the funds were originally available. If there is
38 any doubt as to where those balances and funds are transferred,
39 the Department of Finance shall determine where the balances and
40 funds are transferred.

1 SEC. 273. *Section 11549.3 of the Government Code is amended*
2 *to read:*

3 11549.3. (a) The director shall establish an information security
4 program. The program responsibilities include, but are not limited
5 to, all of the following:

6 (1) The creation, updating, and publishing of information
7 security and privacy policies, standards, and procedures for state
8 agencies in the State Administrative Manual.

9 (2) The creation, issuance, and maintenance of policies,
10 standards, and procedures directing state agencies to effectively
11 manage security and risk for all of the following:

12 (A) Information technology, which includes, but is not limited
13 to, all electronic technology systems and services, automated
14 information handling, system design and analysis, conversion of
15 data, computer programming, information storage and retrieval,
16 telecommunications, requisite system controls, simulation,
17 electronic commerce, and all related interactions between people
18 and machines.

19 (B) Information that is identified as mission critical, confidential,
20 sensitive, or personal, as defined and published by the ~~office~~ *Office*
21 *of Information Security*.

22 (3) The creation, issuance, and maintenance of policies,
23 standards, and procedures directing state agencies for the collection,
24 tracking, and reporting of information regarding security and
25 privacy incidents.

26 (4) The creation, issuance, and maintenance of policies,
27 standards, and procedures directing state agencies in the
28 development, maintenance, testing, and filing of each agency's
29 disaster recovery plan.

30 (5) Coordination of the activities of agency information security
31 officers, for purposes of integrating statewide security initiatives
32 and ensuring compliance with information security and privacy
33 policies and standards.

34 (6) Promotion and enhancement of the state agencies' risk
35 management and privacy programs through education, awareness,
36 collaboration, and consultation.

37 (7) Representing the state before the federal government, other
38 state agencies, local government entities, and private industry on
39 issues that have statewide impact on information security and
40 privacy.

1 (b) An information security officer appointed pursuant to Section
2 11546.1 shall implement the policies and procedures issued by the
3 Office of Information Security, including, but not limited to,
4 performing all of the following duties:

5 (1) Comply with the information security and privacy policies,
6 standards, and procedures issued pursuant to this chapter by the
7 Office of Information Security.

8 (2) Comply with filing requirements and incident notification
9 by providing timely information and reports as required by policy
10 or directives of the office.

11 (c) The office may conduct, or require to be conducted,
12 independent security assessments of any state agency, department,
13 or office, the cost of which shall be funded by the state agency,
14 department, or office being assessed.

15 (d) The office may require an audit of information security to
16 ensure program compliance, the cost of which shall be funded by
17 the state agency, department, or office being audited.

18 (e) The office shall report to the ~~California~~ *Department of*
19 *Technology Agency* any state agency found to be noncompliant
20 with information security program requirements.

21 *SEC. 274. Section 11549.4 of the Government Code is amended*
22 *to read:*

23 11549.4. The office shall consult with the ~~State Chief~~
24 ~~Information Officer~~ *Director of Technology*, the ~~California~~
25 ~~Emergency Management Agency~~ *Office of Emergency Services*,
26 the Director of General Services, the Director of Finance, and any
27 other relevant agencies concerning policies, standards, and
28 procedures related to information security and privacy.

29 *SEC. 275. Section 11552 of the Government Code is amended*
30 *to read:*

31 11552. (a) Effective January 1, 1988, an annual salary of
32 eighty-five thousand four hundred two dollars (\$85,402) shall be
33 paid to each of the following:

34 (1) Commissioner of ~~Financial Institutions~~. *Business Oversight.*

35 ~~(2) Commissioner of Corporations.~~

36 ~~(3)~~

37 (2) Director of Transportation.

38 ~~(4)~~

39 (3) Real Estate Commissioner.

40 ~~(5)~~

- 1 (4) Director of Social Services.
- 2 ~~(6)~~
- 3 (5) Director of Water Resources.
- 4 ~~(7)~~
- 5 (6) Director of General Services.
- 6 ~~(8)~~
- 7 (7) Director of Motor Vehicles.
- 8 ~~(9)~~
- 9 (8) Executive Officer of the Franchise Tax Board.
- 10 ~~(10)~~
- 11 (9) Director of Employment Development.
- 12 ~~(11)~~
- 13 (10) Director of Alcoholic Beverage Control.
- 14 ~~(12)~~
- 15 (11) Director of Housing and Community Development.
- 16 ~~(13)~~
- 17 (12) Director of Alcohol and Drug Programs.
- 18 ~~(14)~~
- 19 (13) Director of Statewide Health Planning and Development.
- 20 ~~(15)~~
- 21 (14) Director of the Department of ~~Personnel Administration~~
- 22 *Human Resources.*
- 23 ~~(16)~~
- 24 (15) Director of Health Care Services.
- 25 ~~(17)~~
- 26 (16) Director of ~~Mental Health~~ *State Hospitals.*
- 27 ~~(18)~~
- 28 (17) Director of Developmental Services.
- 29 ~~(19)~~
- 30 (18) State Public Defender.
- 31 ~~(20)~~
- 32 (19) Director of the California State Lottery.
- 33 ~~(21)~~
- 34 (20) Director of Fish and ~~Game~~ *Wildlife.*
- 35 ~~(22)~~
- 36 (21) Director of Parks and Recreation.
- 37 ~~(23)~~
- 38 (22) Director of Rehabilitation.
- 39 ~~(24)~~
- 40 (23) Director of the Office of Administrative Law.

- 1 ~~(25)~~
- 2 (24) Director of Consumer Affairs.
- 3 ~~(26)~~
- 4 (25) Director of Forestry and Fire Protection.
- 5 ~~(27)~~
- 6 (26) The Inspector General pursuant to Section 6125 of the
- 7 Penal Code.
- 8 ~~(28)~~
- 9 (27) Director of Child Support Services.
- 10 ~~(29)~~
- 11 (28) Director of Industrial Relations.
- 12 ~~(30)~~
- 13 (29) Director of Toxic Substances Control.
- 14 ~~(31)~~
- 15 (30) Director of Pesticide Regulation.
- 16 ~~(32)~~
- 17 (31) Director of Managed Health Care.
- 18 ~~(33)~~
- 19 (32) Director of Environmental Health Hazard Assessment.
- 20 ~~(34) Director of Technology.~~
- 21 ~~(35)~~
- 22 (33) Director of California Bay-Delta Authority.
- 23 ~~(36)~~
- 24 (34) Director of California Conservation Corps.
- 25 (35) *Director of Technology.*
- 26 (36) *Director of Emergency Services.*
- 27 (b) The annual compensation provided by this section shall be
- 28 increased in any fiscal year in which a general salary increase is
- 29 provided for state employees. The amount of the increase provided
- 30 by this section shall be comparable to, but shall not exceed, the
- 31 percentage of the general salary increases provided for state
- 32 employees during that fiscal year.
- 33 *SEC. 276. Section 12012.90 of the Government Code is*
- 34 *amended to read:*
- 35 12012.90. (a) (1) For each fiscal year commencing with the
- 36 2002–03 fiscal year to the ~~2004–05~~ 2004–05 fiscal year, inclusive,
- 37 the California Gambling Control Commission shall determine the
- 38 aggregate amount of shortfalls in payments that occurred in the
- 39 Indian Gaming Revenue Sharing Trust Fund pursuant to Section
- 40 4.3.2.1 of the tribal-state gaming compacts ratified and in effect

1 as provided in subdivision (f) of Section 19 of Article IV of the
2 California Constitution as determined below:

3 (A) For each eligible recipient Indian tribe that received money
4 for all four quarters of the fiscal year, the difference between one
5 million one hundred thousand dollars (\$1,100,000) and the actual
6 amount paid to each eligible recipient Indian tribe during the fiscal
7 year from the Indian Gaming Revenue Sharing Trust Fund.

8 (B) For each eligible recipient Indian tribe that received moneys
9 for less than four quarters of the fiscal year, the difference between
10 two hundred seventy-five thousand dollars (\$275,000) for each
11 quarter in the fiscal year that a recipient Indian tribe was eligible
12 to receive moneys and the actual amount paid to each eligible
13 recipient Indian tribe during the fiscal year from the Indian Gaming
14 Revenue Sharing Trust Fund.

15 (2) For purposes of this section, “eligible recipient Indian tribe”
16 means a noncompact tribe, as defined in Section 4.3.2(a)(i) of the
17 tribal-state gaming compacts ratified and in effect as provided in
18 subdivision (f) of Section 19 of Article IV of the California
19 Constitution.

20 (b) The California Gambling Control Commission shall provide
21 to the committee in the Senate and Assembly that considers the
22 State Budget an estimate of the amount needed to backfill the
23 Indian Gaming Revenue Sharing Trust Fund on or before the date
24 of the May budget revision for each fiscal year.

25 (c) An eligible recipient Indian tribe may not receive an amount
26 from the backfill appropriated following the estimate made
27 pursuant to subdivision (b) that would give the eligible recipient
28 Indian tribe an aggregate amount in excess of two hundred
29 seventy-five thousand dollars (\$275,000) per eligible quarter. Any
30 funds transferred from the Indian Gaming Special Distribution
31 Fund to the Indian Gaming Revenue Sharing Trust Fund that result
32 in a surplus shall revert back to the Indian Gaming Special
33 Distribution Fund following the authorization of the final payment
34 of the fiscal year.

35 (d) Upon a transfer of moneys from the Indian Gaming Special
36 Distribution Fund to the Indian Gaming Revenue Sharing Trust
37 Fund and appropriation from the trust fund, the California
38 Gambling Control Commission shall distribute the moneys without
39 delay to eligible recipient Indian tribes for each quarter that a tribe

1 was eligible to receive a distribution during the fiscal year
2 immediately preceding.

3 (e) For each fiscal year commencing with the ~~2005-06~~ 2005-06
4 fiscal year, all of the following shall apply and subdivisions (b) to
5 (d), inclusive, shall not apply:

6 (1) On or before the day of the May budget revision for each
7 fiscal year, the California Gambling Control Commission shall
8 determine the anticipated total amount of shortfalls in payment
9 likely to occur in the Indian Gaming Revenue Sharing Trust Fund
10 for the upcoming fiscal year, and shall provide to the committee
11 in the Senate and Assembly that considers the State Budget an
12 estimate of the amount needed to transfer from the Indian Gaming
13 Special Distribution Fund to backfill the Indian Gaming Revenue
14 Sharing Trust Fund for the next fiscal year. The anticipated total
15 amount of shortfalls to be transferred from the Indian Gaming
16 Special Distribution Fund to the Indian Gaming Revenue Sharing
17 Trust Fund shall be determined by the California Gambling Control
18 Commission as follows:

19 (A) The anticipated number of eligible recipient tribes that will
20 be eligible to receive payments for the next fiscal year, multiplied
21 by one million one hundred thousand dollars (\$1,100,000), with
22 that product reduced by the amount anticipated to be paid by the
23 tribes directly into the Indian Gaming Revenue Sharing Trust Fund
24 for the fiscal year.

25 (B) This amount shall be based upon actual payments received
26 into the Indian Gaming Revenue Sharing Trust Fund the previous
27 fiscal year, with adjustments made due to amendments to existing
28 tribal-state compacts or newly executed tribal-state compacts with
29 respect to payments to be made to the Indian Gaming Revenue
30 Sharing Trust Fund.

31 (2) The Legislature shall transfer from the Indian Gaming
32 Special Distribution Fund to the Indian Gaming Revenue Sharing
33 Trust Fund an amount sufficient for each eligible recipient tribe
34 to receive a total not to exceed two hundred seventy-five thousand
35 dollars (\$275,000) for each quarter in the upcoming fiscal year an
36 eligible recipient tribe is eligible to receive moneys, for a total not
37 to exceed one million, one hundred thousand dollars (\$1,100,000)
38 for the entire fiscal year. The California Gambling Control
39 Commission shall make quarterly payments from the Indian

1 Gaming Revenue Sharing Trust Fund to each eligible recipient
2 Indian tribe within 45 days of the end of each fiscal quarter.

3 (3) If the transfer of funds from the Indian Gaming Special
4 Distribution Fund to the Indian Gaming Revenue Sharing Trust
5 Fund results in a surplus, the funds shall remain in the Indian
6 Gaming Revenue Sharing Trust Fund for disbursement in future
7 years, and if necessary, adjustments shall be made to future
8 distributions from the Indian Gaming Special Distribution Fund
9 to the Revenue Sharing Trust Fund.

10 (4) In the event the amount appropriated for the fiscal year is
11 insufficient to ensure each eligible recipient tribe receives the total
12 of two hundred seventy-five thousand dollars (\$275,000) for each
13 fiscal quarter, the Department of Finance, after consultation with
14 the California Gambling Control Commission, shall submit to the
15 Legislature a request for a budget augmentation for the current
16 fiscal year with an explanation as to the reason why the amount
17 appropriated for the fiscal year was insufficient.

18 (5) At the end of each fiscal quarter, the California Gambling
19 Control Commission's Indian Gaming Revenue Sharing Trust
20 Fund report shall include information that identifies each of the
21 eligible recipient tribes eligible to receive a distribution for that
22 fiscal quarter, the amount paid into the Indian Gaming Revenue
23 Sharing Trust Fund by each of the tribes pursuant to the applicable
24 sections of the tribal-state compact, and the amount necessary to
25 backfill from the Indian Gaming Special Distribution Fund the
26 shortfall in the Indian Gaming Revenue Sharing Trust Fund in
27 order for each eligible recipient tribe to receive the total of two
28 hundred seventy-five thousand dollars (\$275,000) for the fiscal
29 quarter.

30 ~~(6) Based upon the projected shortfall in the Indian Gaming~~
31 ~~Revenue Sharing Trust Fund, for the 2005-06 fiscal year, the sum~~
32 ~~of fifty million dollars (\$50,000,000) is hereby transferred from~~
33 ~~the Indian Gaming Special Distribution Fund to the Indian Gaming~~
34 ~~Revenue Sharing Trust Fund and is hereby appropriated from that~~
35 ~~fund to the California Gambling Control Commission for~~
36 ~~distribution to each eligible recipient tribe pursuant to this section.~~

37 *SEC. 277. Section 12463.1 of the Government Code is amended*
38 *to read:*

1 12463.1. (a) The Controller shall appoint an advisory
2 committee consisting of seven local governmental officers to assist
3 him or her in developing complete and adequate records.

4 (b) Whenever, in the opinion of the advisory committee and the
5 Controller, the public welfare demands that the reports of the
6 financial transactions of a district other than a school district be
7 published, the Controller shall notify the district that reports of its
8 financial transactions are required to be furnished to him or her
9 pursuant to Article 9 (commencing with Section 53890) of Chapter
10 4 of Part 1 of Division 2 of Title 5. A public entity, agency, board,
11 transportation planning agency designated by the Secretary of the
12 ~~Business, Transportation, and Housing Agency~~ *Transportation*
13 pursuant to Section 29532, or commission provided for by a joint
14 powers agreement pursuant to Chapter 5 (commencing with Section
15 6500) of Division 7 of Title 1, and a nonprofit corporation as
16 defined in subdivision (d), shall be deemed a district within the
17 meaning of this section. The Controller shall compile and publish
18 these reports pursuant to Section 12463.

19 (c) The Controller shall make available annually, in a separate
20 report, published in an electronic format on the Controller's Web
21 site, certain financial information about selected special districts.
22 The information provided in this report shall be published no later
23 than June 30 following the end of the annual reporting period. This
24 report may be included whenever the Controller publishes a report
25 pursuant to this section. The Controller shall include in his or her
26 report information that best illustrates the assets, liabilities, and
27 equity of selected districts. Specifically, the Controller shall include
28 in this report a breakdown of each special district's (1) fund
29 balance, which shall include the reserved and unreserved funds,
30 typical for a nonenterprise district; (2) retained earnings, which
31 shall include the reserved and unreserved funds, typical for
32 enterprise districts; (3) fixed assets; and (4) cash and investments.
33 The Controller may also include separate line items for "total
34 revenues" and "total expenditures." This report shall cover the 250
35 special districts with the largest total revenues for that reporting
36 period. When the report is available, the Controller shall notify
37 the Legislature, in writing, within one week of its publication.

38 (d) For purposes of this section, "nonprofit corporation" means
39 any nonprofit corporation (1) formed in accordance with the
40 provisions of a joint powers agreement to carry out functions

1 specified in the agreement; (2) that issued bonds, the interest on
2 which is exempt from federal income taxes, for the purpose of
3 purchasing land as a site for, or purchasing or constructing, a
4 building, stadium, or other facility, that is subject to a lease or
5 agreement with a local public entity; or (3) wholly owned by a
6 public agency.

7 *SEC. 278. Section 12803.2 is added to the Government Code,*
8 *to read:*

9 *12803.2. (a) The Government Operations Agency shall consist*
10 *of all of the following:*

11 *(1) The Office of Administrative Law.*

12 *(2) The Public Employees' Retirement System.*

13 *(3) The State Teachers' Retirement System.*

14 *(4) The State Personnel Board.*

15 *(5) The California Victim Compensation and Government*
16 *Claims Board.*

17 *(6) The Department of General Services.*

18 *(7) The Department of Technology.*

19 *(8) The Franchise Tax Board.*

20 *(9) The Department of Human Resources.*

21 *(b) The Government Operations Agency shall be governed by*
22 *the Secretary of Government Operations pursuant to Section*
23 *12801. However, the Director of Human Resources shall report*
24 *directly to the Governor on issues relating to labor relations.*

25 *SEC. 279. Section 12804.7 of the Government Code is amended*
26 *to read:*

27 *12804.7. The State and Consumer Services Natural Resources*
28 *Agency succeeds to and is vested with all the duties, powers,*
29 *purposes, and responsibilities, and jurisdiction vested in the*
30 *Department of Food and Agriculture by Part 3 (commencing with*
31 *Section 3801) of Division 3 of the Food and Agricultural Code*
32 *with respect to the ~~Museum of Science and Industry~~ Exposition*
33 *Park.*

34 *SEC. 280. Section 12813.5 is added to the Government Code,*
35 *to read:*

36 *12813.5. The Public Employment Relations Board is in the*
37 *Labor and Workforce Development Agency.*

38 *SEC. 281. Section 13901 of the Government Code is amended*
39 *to read:*

1 13901. (a) There is within the ~~State and Consumer Services~~
2 *Government Operations* Agency the California Victim
3 Compensation and Government Claims Board.

4 (b) The board consists of the Secretary of ~~State and Consumer~~
5 *Services Government Operations* or his or her designee and the
6 Controller, both acting ex officio, and a third member who shall
7 be appointed by and serve at the pleasure of the Governor. The
8 third member may be a state officer who shall act ex officio.

9 (c) Any reference in statute or regulation to the State Board of
10 Control shall be construed to refer to the California Victim
11 Compensation and Government Claims Board.

12 *SEC. 282. Section 13903 of the Government Code is amended*
13 *to read:*

14 13903. The Secretary of ~~the State and Consumer Services~~
15 *Agency Government Operations* shall serve as chair of the board.

16 *SEC. 283. Section 13975 of the Government Code is repealed.*

17 ~~13975. The Business and Transportation Agency in state~~
18 ~~government is hereby renamed the Business, Transportation and~~
19 ~~Housing Agency. The agency consists of the State Department of~~
20 ~~Alcoholic Beverage Control, the Department of the California~~
21 ~~Highway Patrol, the Department of Corporations, the Department~~
22 ~~of Housing and Community Development, the Department of~~
23 ~~Motor Vehicles, the Department of Real Estate, the Department~~
24 ~~of Transportation, the Department of Financial Institutions, and~~
25 ~~the Board of Pilot Commissioners for the Bays of San Francisco,~~
26 ~~San Pablo, and Suisun. The California Housing Finance Agency~~
27 ~~is also located within the Business, Transportation and Housing~~
28 ~~Agency, as specified in Division 31 (commencing with Section~~
29 ~~50000) of the Health and Safety Code.~~

30 *SEC. 284. Section 13975 is added to the Government Code, to*
31 *read:*

32 *13975. There is in the state government the Transportation*
33 *Agency. The agency consists of the Department of the California*
34 *Highway Patrol, the California Transportation Commission, the*
35 *Department of Motor Vehicles, the Department of Transportation,*
36 *the High-Speed Rail Authority, and the Board of Pilot*
37 *Commissioners for the Bays of San Francisco, San Pablo, and*
38 *Suisun.*

39 *SEC. 285. Section 13975.1 of the Government Code is amended*
40 *to read:*

1 13975.1. (a) This section applies to every action brought in
2 the name of the people of the State of California by the
3 Commissioner of ~~Corporations Business Oversight~~ before, on, or
4 after the effective date of this section, when enforcing provisions
5 of those laws administered by the Commissioner of ~~Corporations~~
6 *Business Oversight* which authorize the Commissioner of
7 ~~Corporations Business Oversight~~ to seek a permanent or
8 preliminary injunction, restraining order, or writ of mandate, or
9 the appointment of a receiver, monitor, conservator, or other
10 designated fiduciary or officer of the court, *except actions brought*
11 *against any of the licensees specified in subparagraphs (1) through*
12 *(8), inclusive, of subdivision (b) of Section 300 of the Financial*
13 *Code that are governed by other law.* Upon a proper showing, a
14 permanent or preliminary injunction, restraining order, or writ of
15 mandate shall be granted and a receiver, monitor, conservator, or
16 other designated fiduciary or officer of the court may be appointed
17 for the defendant or the defendant's assets, or any other ancillary
18 relief may be granted as appropriate. The court may order that the
19 expenses and fees of the receiver, monitor, conservator, or other
20 designated fiduciary or officer of the court, be paid from the
21 property held by the receiver, monitor, conservator, or other court
22 designated fiduciary or officer, but neither the state, the ~~Business,~~
23 ~~Transportation, and Housing~~ *Business, Consumer Services and*
24 *Housing Agency*, nor the Department of ~~Corporations Business~~
25 *Oversight* shall be liable for any of those expenses and fees, unless
26 expressly provided for by written contract.

27 (b) The receiver, monitor, conservator, or other designated
28 fiduciary or officer of the court may do any of the following subject
29 to the direction of the court:

30 (1) Sue for, collect, receive, and take into possession all the real
31 and personal property derived by any unlawful means, including
32 property with which that property or the proceeds thereof has been
33 commingled if that property or the proceeds thereof cannot be
34 identified in kind because of the commingling.

35 (2) Take possession of all books, records, and documents
36 relating to any unlawfully obtained property and the proceeds
37 thereof. In addition, they shall have the same right as a defendant
38 to request, obtain, inspect, copy, and obtain copies of books,
39 records, and documents maintained by third parties that relate to
40 unlawfully obtained property and the proceeds thereof.

1 (3) Transfer, encumber, manage, control, and hold all property
2 subject to the receivership, including the proceeds thereof, in the
3 manner directed or ratified by the court.

4 (4) Avoid a transfer of any interest in any unlawfully obtained
5 property including the proceeds thereof to any person who
6 committed, aided or abetted, or participated in the commission of
7 unlawful acts or who had knowledge that the property had been
8 unlawfully obtained.

9 (5) Avoid a transfer of any interest in any unlawfully obtained
10 property including the proceeds thereof made with the intent to
11 hinder or delay the recovery of that property or any interest in it
12 by the receiver or any person from whom the property was
13 unlawfully obtained.

14 (6) Avoid a transfer of any interest in any unlawfully obtained
15 property including the proceeds thereof that was made within one
16 year before the date of the entry of the receivership order if less
17 than a reasonably equivalent value was given in exchange for the
18 transfer, except that a bona fide transferee for value and without
19 notice that the property had been unlawfully obtained may retain
20 the interest transferred until the value given in exchange for the
21 transfer is returned to the transferee.

22 (7) Avoid a transfer of any interest in any unlawfully obtained
23 property including the proceeds thereof made within 90 days before
24 the date of the entry of the receivership order to a transferee from
25 whom the defendant unlawfully obtained some property if (A) the
26 receiver establishes that the avoidance of the transfer will promote
27 a fair pro rata distribution of restitution among all people from
28 whom defendants unlawfully obtained property and (B) the
29 transferee cannot establish that the specific property transferred
30 was the same property which had been unlawfully obtained from
31 the transferee.

32 (8) Exercise any power authorized by statute or ordered by the
33 court.

34 (c) No person with actual or constructive notice of the
35 receivership shall interfere with the discharge of the receiver's
36 duties.

37 (d) No person may file any action or enforce or create any lien,
38 or cause to be issued, served, or levied any summons, subpoena,
39 attachment, or writ of execution against the receiver or any property
40 subject to the receivership without first obtaining prior court

1 approval upon motion with notice to the receiver and the
 2 Commissioner of ~~Corporations~~ *Business Oversight*. Any legal
 3 procedure described in this subdivision commenced without prior
 4 court approval is void except as to a bona fide purchaser or
 5 encumbrancer for value and without notice of the receivership. No
 6 person without notice of the receivership shall incur any liability
 7 for commencing or maintaining any legal procedure described by
 8 this subdivision.

9 (e) The court has jurisdiction of all questions arising in the
 10 receivership proceedings and may make any orders and judgments
 11 as may be required, including orders after noticed motion by the
 12 receiver to avoid transfers as provided in paragraphs (4), (5), (6),
 13 and (7) of subdivision (b).

14 (f) This section is cumulative to all other provisions of law.

15 (g) If any provision of this section or the application thereof to
 16 any person or circumstances is held invalid, that invalidity shall
 17 not affect other provisions or applications of this section which
 18 can be given effect without the invalid provision or application,
 19 and to this end the provisions of this section are severable.

20 (h) The recordation of a copy of the receivership order imparts
 21 constructive notice of the receivership in connection with any
 22 matter involving real property located in the county in which the
 23 receivership order is recorded.

24 *SEC. 286. Section 13976 of the Government Code is amended*
 25 *to read:*

26 13976. The agency is under the supervision of an executive
 27 officer known as the Secretary of ~~the Business, Transportation and~~
 28 ~~Housing Agency~~ *Transportation*. He *or she* shall be appointed by
 29 the Governor, subject to confirmation by the Senate, and shall hold
 30 office at the pleasure of the Governor.

31 The annual salary of the secretary is provided for by Chapter 6
 32 (commencing with Section 11550) of Part 1 of Division 3 of Title
 33 2 of this code.

34 As used in this part, “agency” and “secretary” refer to the
 35 ~~Business, Transportation and Housing Agency~~ *Transportation*
 36 *Agency* and the Secretary of ~~the Business, Transportation and~~
 37 ~~Housing Agency~~, *Transportation*, respectively, unless the context
 38 otherwise requires.

39 *SEC. 287. Section 13978.2 of the Government Code is amended*
 40 *to read:*

1 13978.2. The Secretary of ~~the Business, Transportation and~~
2 ~~Housing Agency Transportation~~ shall advise the Governor on,
3 and assist the Governor in establishing, major policy and program
4 matters affecting each department, office, or other unit within the
5 agency, and shall serve as the principal communication link for
6 the effective transmission of policy problems and decisions
7 between the Governor and each such department, office, or other
8 unit.

9 *SEC. 288. Section 13978.4 of the Government Code is amended*
10 *to read:*

11 13978.4. The Secretary of ~~the Business, Transportation and~~
12 ~~Housing Agency Transportation~~ shall exercise the authority vested
13 in the Governor in respect to the functions of each department,
14 office, or other unit within the agency, including the adjudication
15 of conflicts between or among the departments, offices, or other
16 units; and shall represent the Governor in coordinating the activities
17 of each such department, office, or other unit with those of other
18 agencies, federal, state, or local.

19 *SEC. 289. Section 13984 of the Government Code is amended*
20 *to read:*

21 13984. In order to ensure that Section 10240.3 of the Business
22 and Professions Code and Sections ~~215.5, 327, 22171, and 50333~~
23 of the Financial Code are applied consistently to all California
24 entities engaged in the brokering, originating, servicing,
25 underwriting, and issuance of nontraditional mortgage products,
26 the secretary shall ensure that the ~~Commissioner~~ *Director of*
27 *Consumer Affairs or the Commissioner* of Real Estate, ~~the~~
28 ~~Commissioner of Financial Institutions~~, and the Commissioner of
29 ~~Corporations Business Oversight~~ coordinate their policymaking
30 and rulemaking efforts.

31 *SEC. 290. Section 13995.20 of the Government Code, as*
32 *amended by Section 2 of Chapter 790 of the Statutes of 2006, is*
33 *amended to read:*

34 13995.20. Unless the context otherwise requires, the definitions
35 in this section govern the construction of this chapter.

36 (a) "Appointed commissioner" means a commissioner appointed
37 by the Governor pursuant to paragraph (2) of subdivision (b) of
38 Section 13995.40.

39 (b) "Assessed business" means a person required to pay an
40 assessment pursuant to this chapter, and until the first assessment

1 is levied, any person authorized to vote for the initial referendum.
2 An assessed business shall not include a public entity or a
3 corporation when a majority of the corporation's board of directors
4 is appointed by a public official or public entity, or serves on the
5 corporation's board of directors by virtue of being elected to public
6 office, or both.

7 (c) "Commission" means the California Travel and Tourism
8 Commission.

9 (d) "*Director*" means the Director of the Governor's Office of
10 *Business and Economic Development*.

11 ~~(d)~~

12 (e) "Elected commissioner" means a commissioner elected
13 pursuant to subdivision (d) of Section 13995.40.

14 ~~(e)~~

15 (f) "Industry category" means the following classifications
16 within the tourism industry:

17 (1) Accommodations.

18 (2) Restaurants and retail.

19 (3) Attractions and recreation.

20 (4) Transportation and travel services.

21 ~~(f)~~

22 (g) "Industry segment" means a portion of an industry category.
23 For example, rental cars are an industry segment of the
24 transportation and travel services industry category.

25 ~~(g)~~

26 (h) "Office" means the Office of Tourism, also popularly
27 referred to as the Division of Tourism, within the ~~Business,~~
28 ~~Transportation and Housing Agency~~ *Governor's Office of Business*
29 *and Economic Development*.

30 ~~(h)~~

31 (i) "Person" means an individual, public entity, firm,
32 corporation, association, or any other business unit, whether
33 operating on a for-profit or nonprofit basis.

34 ~~(i)~~

35 (j) "Referendum" means any vote by mailed ballot of measures
36 recommended by the commission and approved by the ~~secretary~~
37 *director* pursuant to Section 13995.60, except for the initial
38 referendum, which shall consist of measures contained in the
39 selection committee report, discussed in Section 13995.30.

1 (j) “Secretary” means the Secretary of Business, Transportation
2 and Housing.

3 (k) “Selection committee” means the Tourism Selection
4 Committee described in Article 3 (commencing with Section
5 13995.30).

6 ~~(l) This section shall become inoperative on the date the~~
7 ~~Secretary of Business, Transportation and Housing provides notice~~
8 ~~to the Legislature and the Secretary of State and posts notice on~~
9 ~~its Internet Web site that the conditions described in Section~~
10 ~~13995.92 have been satisfied, and if the secretary provides those~~
11 ~~notices, this section is repealed as of January 1, 2008, unless a~~
12 ~~later enacted statute, that is enacted before January 1, 2008, deletes~~
13 ~~or extends that date.~~

14 *SEC. 291. Section 13995.30 of the Government Code is*
15 *amended to read:*

16 13995.30. (a) The Governor shall appoint a Tourism Selection
17 Committee based upon recommendations from established industry
18 associations. The committee shall consist of 25 representatives,
19 with no fewer than six from each industry category. In selecting
20 the representatives, the Governor shall, to the extent possible, give
21 recognition to the diversity within each industry category. The
22 committee shall select a chairperson from among its members.
23 The office shall provide staffing for the committee.

24 (b) The selection committee shall convene on or before March
25 1, 1996. Not later than 150 days following the initial convening
26 of the committee, the committee shall issue a report listing the
27 following:

28 (1) Industry segments that will be included in the initial
29 referendum.

30 (2) The target assessment level for the initial referendum.

31 (3) Percentage of funds to be levied against each industry
32 category and segment. To the extent possible, the percentages shall
33 be based upon quantifiable industry data, and amounts to be levied
34 against industry segments shall bear an appropriate relationship
35 to the benefit derived from travel and tourism by those industry
36 segments.

37 (4) Assessment methodology and rate of assessment within each
38 industry segment, that may include, but is not limited to, a
39 percentage of gross revenue or a per transaction charge.

1 (5) Businesses, if any, within a segment to be assessed at a
2 reduced rate, which may be set at zero, whether temporarily or
3 permanently.

4 (6) Initial slate of proposed elected commissioners. The number
5 of commissioners elected from each industry category shall be
6 determined by the weighted percentage of assessments from that
7 category.

8 (c) Nothing in this section shall preclude the selection committee
9 from setting the assessment rate for a business within a segment
10 at a lower rate, which may be set at zero, than a rate applicable to
11 other businesses within that segment if the selection committee
12 makes specific findings that the lower rate should apply due to
13 unique geographical, financial, or other circumstances affecting
14 the business. No business for which a zero assessment rate is set
15 pursuant to this subdivision shall be sent a ballot or entitled to
16 participate in the initial referendum, or in any subsequent
17 referendum in which its rate of assessment is set at zero.

18 (d) The committee members for each industry category, also
19 referred to as a subcommittee, shall prepare a recommendation for
20 the entire committee on how the items specified in subdivision (b)
21 should be determined for the industry segments within their
22 industry category. The recommendations shall not include a
23 discussion of industry category levies, which shall be determined
24 solely by the committee. In the event that the subcommittee cannot
25 agree on one or more of the items specified in subdivision (b), no
26 recommendation shall be given in that category. The
27 recommendations shall be presented to the full committee, which
28 shall address each of the items contained in subdivision (b).

29 (e) In order to be assessed, an industry segment must be defined
30 with sufficient clarity to allow for the cost-effective identification
31 of assessed businesses within that segment.

32 (f) It shall be the responsibility of the office to advertise widely
33 the selection committee process and to schedule public meetings
34 for potential assessed businesses to provide input to the selection
35 committee.

36 (g) The recommendations developed by the committee pursuant
37 to subdivision (b) shall be reviewed and approved by the ~~secretary~~
38 *director*.

1 (h) The selection committee process and report are exempt from
2 the requirements of the Administrative Procedure Act (Chapter
3 3.5 (commencing with Section 11340) of Part 1).

4 *SEC. 292. Section 13995.40 of the Government Code is*
5 *amended to read:*

6 13995.40. (a) Upon approval of the initial referendum, the
7 office shall establish a nonprofit mutual benefit corporation named
8 the California Travel and Tourism Commission. The commission
9 shall be under the direction of a board of commissioners, which
10 shall function as the board of directors for purposes of the
11 Nonprofit Corporation Law.

12 (b) The board of commissioners shall consist of 37
13 commissioners comprising the following:

14 (1) The ~~secretary~~ *director*, who shall serve as chairperson.

15 (2) (A) Twelve members, who are professionally active in the
16 tourism industry, and whose primary business, trade, or profession
17 is directly related to the tourism industry, shall be appointed by
18 the Governor. Each appointed commissioner shall represent only
19 one of the 12 tourism regions designated by the office, and the
20 appointed commissioners shall be selected so as to represent, to
21 the greatest extent possible, the diverse elements of the tourism
22 industry. Appointed commissioners are not limited to individuals
23 who are employed by or represent assessed businesses.

24 (B) If an appointed commissioner ceases to be professionally
25 active in the tourism industry or his or her primary business, trade,
26 or profession ceases to be directly related to the tourism industry,
27 he or she shall automatically cease to be an appointed
28 commissioner 90 days following the date on which he or she ceases
29 to meet both of the eligibility criteria specified in subparagraph
30 (A), unless the commissioner becomes eligible again within that
31 90-day period.

32 (3) Twenty-four elected commissioners, including at least one
33 representative of a travel agency or tour operator that is an assessed
34 business.

35 (c) The commission established pursuant to Section 15364.52
36 shall be inoperative so long as the commission established pursuant
37 to this section is in existence.

38 (d) Elected commissioners shall be elected by industry category
39 in a referendum. Regardless of the number of ballots received for
40 a referendum, the nominee for each commissioner slot with the

1 most weighted votes from assessed businesses within that industry
2 category shall be elected commissioner. In the event that an elected
3 commissioner resigns, dies, or is removed from office during his
4 or her term, the commission shall appoint a replacement from the
5 same industry category that the commissioner in question
6 represented, and that commissioner shall fill the remaining term
7 of the commissioner in question. The number of commissioners
8 elected from each industry category shall be determined by the
9 weighted percentage of assessments from that category.

10 (e) The ~~secretary~~ *director* may remove any elected commissioner
11 following a hearing at which the commissioner is found guilty of
12 abuse of office or moral turpitude.

13 (f) (1) The term of each elected commissioner shall commence
14 July 1 of the year next following his or her election, and shall
15 expire on June 30 of the fourth year following his or her election.
16 If an elected commissioner ceases to be employed by or with an
17 assessed business in the category and segment which he or she
18 was representing, his or her term as an elected commissioner shall
19 automatically terminate 90 days following the date on which he
20 or she ceases to be so employed, unless, within that 90-day period,
21 the commissioner again is employed by or with an assessed
22 business in the same category and segment.

23 (2) Terms of elected commissioners that would otherwise expire
24 effective December 31 of the year during which legislation adding
25 this subdivision is enacted shall automatically be extended until
26 June 30 of the following year.

27 (g) With the exception of the ~~secretary~~ *director*, no
28 commissioner shall serve for more than two consecutive terms.
29 For purposes of this subdivision, the phrase “two consecutive
30 terms” shall not include partial terms.

31 (h) Except for the original commissioners, all commissioners
32 shall serve four-year terms. One-half of the commissioners
33 originally appointed or elected shall serve a two-year term, while
34 the remainder shall serve a four-year term. Every two years
35 thereafter, one-half of the commissioners shall be appointed or
36 elected by referendum.

37 (i) The selection committee shall determine the initial slate of
38 candidates for elected commissioners. Thereafter the
39 commissioners, by adopted resolution, shall nominate a slate of

1 candidates, and shall include any additional candidates complying
2 with the procedure described in Section 13995.62.

3 (j) The commissioners shall elect a vice chairperson from the
4 elected commissioners.

5 (k) The commission may lease space from the office.

6 (l) The commission and the office shall be the official state
7 representatives of California tourism.

8 (m) All commission meetings shall be held in California.

9 (n) No person shall receive compensation for serving as a
10 commissioner, but each commissioner shall receive reimbursement
11 for reasonable expenses incurred while on authorized commission
12 business.

13 (o) Assessed businesses shall vote only for commissioners
14 representing their industry category.

15 (p) Commissioners shall comply with the requirements of the
16 Political Reform Act of 1974 (Title 9 (commencing with Section
17 81000)). The Legislature finds and declares that commissioners
18 appointed or elected on the basis of membership in a particular
19 tourism segment are appointed or elected to represent and serve
20 the economic interests of those tourism segments and that the
21 economic interests of these members are the same as those of the
22 public generally.

23 (q) Commission meetings shall be subject to the requirements
24 of the Bagley-Keene Open Meeting Act (Article 9 (commencing
25 with Section 11120) of Chapter 1 of Part 1).

26 (r) The executive director of the commission shall serve as
27 secretary to the commission, a nonvoting position, and shall keep
28 the minutes and records of all commission meetings.

29 *SEC. 293. Section 13995.42 of the Government Code is*
30 *amended to read:*

31 13995.42. (a) The commission is a separate, independent
32 California nonprofit mutual benefit corporation. Except as provided
33 in Section 13995.43, the staff of the commission shall be employees
34 solely of the commission, and the procedures adopted by the
35 commission shall not be subject to the Administrative Procedure
36 Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

37 (b) Not later than six months following the initial referendum,
38 the commission shall adopt procedures concerning the operation
39 of the commission in order to provide due process rights for
40 assessed businesses.

1 (c) In the event that the commission fails to adopt the procedures
2 described in subdivision (b) within the specified timeframe, the
3 ~~secretary~~ *director* shall adopt procedures for use by the commission
4 until the commission adopts its own procedures. These procedures
5 shall be exempt from the Administrative Procedure Act (Chapter
6 3.5 (commencing with Section 11340) of Part 1), whether adopted
7 by the commission or ~~secretary~~ *director*.

8 *SEC. 294. Section 13995.43 of the Government Code is*
9 *amended to read:*

10 13995.43. (a) The commission shall be administered by an
11 executive director. That individual shall be a tourism industry
12 marketing professional, recommended by a vote of the
13 commissioners and approved by the Governor. The executive
14 director shall serve at the pleasure of both the commissioners and
15 the Governor.

16 (b) The executive director shall report to and receive overall
17 guidance from the commission, and shall implement the
18 commission's tourism marketing plan. The executive director shall
19 report to the ~~secretary~~ *director* for day-to-day managerial and
20 financial responsibilities.

21 (c) The executive director shall serve ~~simultaneously~~ as the
22 director of the office, ~~with the title of Deputy Secretary of Tourism~~
23 ~~of the Business, Transportation and Housing Agency, and that~~
24 ~~individual~~ shall be an exempt employee, employed by the state.
25 ~~So long as the commission is in existence, the only director of the~~
26 ~~office shall be the executive director of the commission.~~
27 Notwithstanding any other provision of law, the executive director
28 may supervise both employees of the commission and employees
29 of the office, notwithstanding the fact that the commission
30 employees are employees solely of the commission.

31 (d) The salary and benefits of the executive director shall be
32 determined by the commission, and approved by the ~~secretary~~
33 *director*, based upon industry standards for a director of a
34 marketing budget of similar size. The entire salary and all benefits
35 of the executive director shall be paid from assessments.

36 *SEC. 295. Section 13995.44 of the Government Code is*
37 *amended to read:*

38 13995.44. (a) (1) The commission shall annually provide to
39 all assessed businesses a report on the activities and budget of the
40 commission including, but not limited to, income and expenses,

1 the fund balance, a summary of the tourism marketing plan, and
2 a report of progress in achieving the goals set forth in the plan.
3 The portions of the report that pertain to the commission's income
4 and expenses and the fund balance, as well as those other portions
5 that the commission may from time to time deem appropriate, shall
6 be audited by independent accountants retained by the commission
7 for this purpose.

8 (2) The commission's annual budget shall be subject to the
9 review and approval of the ~~secretary~~ *director*. However, any
10 decision of the ~~secretary~~ *director* related to the budget may be
11 overridden by a vote of three-fifths or more of the commissioners
12 then in office.

13 (b) The commission shall maintain a report on the percentage
14 assessment allocation between industry categories and industry
15 segments. The report shall also specify the reasons and
16 methodology used for the allocations. This report shall be updated
17 every time the assessment allocations are amended. The report
18 shall be made available to any assessed business.

19 *SEC. 296. Section 13995.45 of the Government Code is*
20 *amended to read:*

21 13995.45. (a) The commission shall annually prepare, or cause
22 to be prepared, a written marketing plan. In developing the plan,
23 the commission shall utilize, as appropriate, the advice and
24 recommendations of the industry marketing advisory committee
25 or committees established pursuant to subdivision (a) of Section
26 13995.47. The commission may amend the plan at any commission
27 meeting. All expenditures by the commission shall be consistent
28 with the marketing plan.

29 (b) The plan shall promote travel to and within California, and
30 shall include, but not be limited to, the following:

- 31 (1) An evaluation of the previous year's budget and activities.
- 32 (2) Review of California tourism trends, conditions, and
33 opportunities.
- 34 (3) Target audiences for tourism marketing expenditures.
- 35 (4) Marketing strategies, objectives, and targets.
- 36 (5) Budget for the current year.

37 (c) Before final adoption of the plan, the commission shall
38 provide each known destination marketing organization in
39 California notice of the availability of the proposed marketing plan
40 and suitable opportunity, which may include public meetings, to

1 review the plan and to comment upon it. The commission shall
2 take into consideration any recommendations submitted by the
3 destination marketing organizations, except that the final
4 determination as to the nature, extent, and substance of the plan
5 shall in all respects rest solely within the ultimate discretion of the
6 commission, except as provided in subdivision (d).

7 (d) The final adoption of the plan shall be subject to the review
8 and approval of the ~~secretary~~ *director*. However, any decision of
9 the ~~secretary~~ *director* related to the plan may be overridden by a
10 vote of three-fifths or more of the commissioners then in office.

11 *SEC. 297. Section 13995.50 of the Government Code is*
12 *amended to read:*

13 13995.50. (a) The marketing of California tourism is hereby
14 declared to be affected with the public interest. This chapter is
15 enacted in the exercise of the police powers of this state for the
16 purpose of protecting the health, peace, safety, and general welfare
17 of the people of this state.

18 (b) The police powers shall be used to collect assessments not
19 paid by the deadlines established by the ~~secretary~~ *director*.

20 *SEC. 298. Section 13995.51 of the Government Code is*
21 *amended to read:*

22 13995.51. (a) The following powers, and any other powers
23 provided in this act, with the exception of the exercising of police
24 powers and of that power enumerated in subdivision (b), shall be
25 the responsibility of the ~~secretary~~ *director* and, when not exercised
26 by the ~~secretary~~ *director*, may be exercised by the commission:

27 (1) Call referenda in accordance with the procedures set forth
28 in Article 6 (commencing with Section 13995.60) and certify the
29 results.

30 (2) Collect and deposit assessments.

31 (3) Exercise police powers.

32 (4) Pursue actions and penalties connected with assessments.

33 (b) Except as otherwise specified in this chapter, the ~~secretary~~
34 *director* shall have veto power over the actions of the commission,
35 following consultation with the commission, only under the
36 following circumstances:

37 (1) Travel and expense costs.

38 (2) Situations where the ~~secretary~~ *director* determines a conflict
39 of interest exists, as defined by the Fair Political Practices
40 Commission.

1 (3) The use of any state funds.

2 (4) Any contracts entered into between the commission and a
3 commissioner.

4 *SEC. 299. Section 13995.53 of the Government Code is*
5 *amended to read:*

6 13995.53. The ~~secretary~~ *director* may require any and all
7 assessed businesses to maintain books and records that reflect their
8 income or sales as reflected in the assessment, and to furnish the
9 ~~secretary~~ *director* with any information that may, from ~~time to time~~
10 *time to time*, be requested by the ~~secretary~~ *director*, and to permit
11 the inspection by the ~~secretary~~ *director* of portions of books and
12 records that relate to the amount of assessment.

13 *SEC. 300. Section 13995.54 of the Government Code is*
14 *amended to read:*

15 13995.54. Information pertaining to assessed businesses
16 obtained by the ~~secretary~~ *director* pursuant to this chapter is
17 confidential and shall not be disclosed except to a person with the
18 right to obtain the information, any attorney hired by the ~~secretary~~
19 *director* who is employed to give legal advice upon it, or by court
20 order. Information obtained by the ~~secretary~~ *director* in order to
21 determine the assessment level for an assessed business is exempt
22 from the California Public Records Act (Chapter 3.5 (commencing
23 with Section 6250) of Division 7 of Title 1).

24 *SEC. 301. Section 13995.55 of the Government Code is*
25 *amended to read:*

26 13995.55. For the purpose of carrying out Section 13995.51,
27 the ~~secretary~~ *director* may hold hearings, take testimony, administer
28 oaths, subpoena witnesses, and issue subpoenas for the production
29 of books, records, or documents of any kind.

30 *SEC. 302. Section 13995.56 of the Government Code is*
31 *amended to read:*

32 13995.56. A person shall not be excused from attending and
33 testifying, or from producing documentary evidence, before the
34 ~~secretary~~ *director* in obedience to the subpoena of the ~~secretary~~
35 *director* pursuant to the authority granted in Section 13995.55 on
36 the ground, or for the reason, that the testimony or evidence,
37 documentary or otherwise, which is required of him or her may
38 tend to incriminate the person or subject that person to a penalty.
39 A natural person shall not, however, be prosecuted or subjected
40 to any penalty on account of any transaction, matter, or thing

1 concerning which he or she may be required to testify, or produce
2 evidence, documentary or otherwise, before the ~~secretary~~ *director*
3 in obedience to a subpoena. A natural person testifying shall not,
4 however, be exempt from prosecution and punishment for perjury
5 committed in so testifying.

6 *SEC. 303. Section 13995.60 of the Government Code, as added*
7 *by Section 8 of Chapter 790 of the Statutes of 2006, is amended*
8 *to read:*

9 13995.60. (a) As used in this article and Article 7 (commencing
10 with Section 13995.65), “assessment level” means the estimated
11 gross dollar amount received by assessment from all assessed
12 businesses on an annual basis, and “assessment formula” means
13 the allocation method used within each industry segment (for
14 example, percentage of gross revenue or percentage of transaction
15 charges).

16 (b) Commencing on January 1, 2003, a referendum shall be
17 called every two years, and the commission, by adopted resolution,
18 shall determine the slate of individuals who will run for
19 commissioner. The resolution shall also cover, but not be limited
20 to, the proposed assessment level for each industry category, based
21 upon specified assessment formulae, together with necessary
22 information to enable each assessed business to determine what
23 its individual assessment would be. Commencing with the
24 referendum held in 2007 and every six years thereafter, the
25 resolution shall also cover the termination or continuation of the
26 commission. The resolution may also include an amended industry
27 segment allocation formula and the percentage allocation of
28 assessments between industry categories and segments. The
29 commission may specify in the resolution that a special, lower
30 assessment rate that was set pursuant to subdivision (c) of Section
31 13995.30 for a particular business will no longer apply due to
32 changes in the unique circumstance that originally justified the
33 lower rate. The resolution may include up to three possible
34 assessment levels for each industry category, from which the
35 assessed businesses will select one assessment level for each
36 industry category by plurality weighted vote.

37 (c) The commission shall deliver to the ~~secretary~~ *director* the
38 resolution described in subdivision (b). The ~~secretary~~ *director* shall
39 call a referendum containing the information required by

1 subdivision (b) plus any additional matters complying with the
2 procedures of subdivision (b) of Section 13995.62.

3 (d) When the ~~secretary~~ *director* calls a referendum, all assessed
4 businesses shall be sent a ballot for the referendum. Every ballot
5 that the ~~secretary~~ *director* receives by the ballot deadline shall be
6 counted, utilizing the weighted formula adopted initially by the
7 selection committee, and subsequently amended by referendum.

8 (e) If the commission's assessment level is significantly different
9 from what was projected when the existing assessment formula
10 was last approved by referendum, a majority of members, by
11 weighted votes of an industry category, may petition for a
12 referendum to change the assessment formula applicable to that
13 industry category.

14 (f) If the referendum includes more than one possible assessment
15 rate for each industry category, the rate with the plurality of
16 weighted votes within a category shall be adopted.

17 (g) Notwithstanding any other provision of this section, if the
18 commission delivers to the ~~secretary~~ *director* a resolution
19 pertaining to any matter described in subdivision (b), the ~~secretary~~
20 *director* shall call a referendum at a time or times other than as
21 specified in this section. Each referendum shall contain only those
22 matters contained in the resolution.

23 (h) Notwithstanding any other provision of this section, the
24 ~~secretary~~ *director* shall identify, to the extent reasonably feasible,
25 those businesses that would become newly assessed due to a change
26 in category, segment, threshold, or exemption status sought via
27 referendum, and provide those businesses the opportunity to vote
28 in that referendum.

29 (i) This section shall become operative only if the ~~Secretary of~~
30 ~~Business, Transportation and Housing~~ *Director of the Governor's*
31 *Office of Business and Economic Department* provides notice to
32 the Legislature and the Secretary of State and posts notice on its
33 Internet Web site that the conditions described in Section 13995.92
34 have been satisfied.

35 *SEC. 304. Section 13995.63 of the Government Code is*
36 *amended to read:*

37 13995.63. (a) Upon receipt of the resolution required by
38 Section 13995.60, including any assessed business referendum
39 request pursuant to subdivision (a) of Section 13995.52 or Section
40 13995.62, the ~~secretary~~ *director* shall establish a referendum period

1 not to exceed 60 days. If the ~~secretary~~ *director* determines that the
2 referendum period so established does not provide sufficient time
3 for the balloting, the ~~secretary~~ *director* may extend the referendum
4 period not more than 15 additional days. At the close of the
5 referendum period, the ~~secretary~~ *director* shall count and tabulate
6 the ballots filed during the referendum period.

7 (b) The ~~secretary~~ *director* shall establish a deadline for adoption
8 of the resolution described in subdivision (a). If the commission
9 fails to meet this deadline, or if the adopted resolution fails to meet
10 the requirements of this chapter, then assessed businesses may
11 present a slate of candidates to the ~~secretary~~ *director* not later than
12 60 days following the deadline established for the commission
13 resolution. A minimum of 10 percent of weighted voters shall sign
14 the document presenting the slate.

15 (c) In the event that the ~~secretary~~ *director* does not receive a
16 resolution required by Section 13995.60 from the commission by
17 the deadline established pursuant to subdivision (b) or the
18 resolution does not comply with the requirements of this chapter
19 and the assessed businesses fail to present a slate pursuant to
20 subdivision (b), then the ~~secretary~~ *director* shall select a slate of
21 commissioners and this slate, added to any assessed business
22 referendum requests pursuant to subdivision (a) of Section
23 13995.52 or Section 13995.62, shall constitute the items included
24 in the referendum.

25 *SEC. 305. Section 13995.64 of the Government Code is*
26 *amended to read:*

27 13995.64. (a) Each assessed business is entitled to a weighted
28 vote in each referendum. In calculating weighted votes, each
29 assessed business receives a vote equal to the relative assessment
30 paid by that business. An assessed business paying nine hundred
31 dollars (\$900) in annual assessments has three times the weighted
32 vote of a business paying three hundred dollars (\$300). Weighted
33 votes are used to determine all issues on the referendum. The initial
34 referendum, and any referendum item to terminate the commission,
35 must be approved by a majority of the weighted votes cast at the
36 referendum. The amount of assessment and selection of
37 commissioners is determined by the most weighted votes, whether
38 or not there is a majority.

39 (b) For purposes of voting in any referendum, each assessed
40 business is part of one industry category and one industry segment,

1 and for voting purposes only, a business with revenue in more than
2 one industry category or industry segment shall only be included
3 in the category and segment in which it earns the most gross
4 revenue.

5 (c) Each assessed business is eligible to vote for each item on
6 the referendum, except that an assessed business can only vote for
7 commissioners representing its industry category, and industry
8 segment formulae for its industry segment.

9 (d) A business is not eligible to vote unless it has paid all
10 assessments and fines outstanding as of a date established by the
11 ~~secretary~~ director.

12 *SEC. 306. Section 13995.65 of the Government Code is*
13 *amended to read:*

14 13995.65. (a) Each industry category shall establish a
15 committee to determine the following within its industry category:
16 industry segments, assessment formula for each industry segment,
17 and any types of business exempt from assessment. The initial
18 segment committees shall consist of the subcommittee for that
19 category as described in subdivision (d) of Section 13995.30.
20 Following approval of the assessment by referendum, the
21 committees shall be selected by the commission, based upon
22 recommendations from the tourism industry. Committee members
23 need not be commission members.

24 (b) The committee recommendations shall be presented to the
25 commission or selection committee, as applicable. The selection
26 committee may adopt a resolution specifying some or all of the
27 items listed in subdivision (a), plus an allocation of the overall
28 assessment among industry categories. The commission may adopt
29 a resolution specifying one or more of the items listed in
30 subdivision (a), plus an allocation of the proposed assessment. The
31 selection committee and commission are not required to adopt the
32 findings of any committee.

33 (c) The initial industry category and industry segment allocations
34 shall be included in the selection committee report required by
35 subdivision (b) of Section 13995.30. Changes to the industry
36 segment allocation formula may be recommended to the
37 commission by a segment committee at the biennial commission
38 meeting scheduled to approve the referendum resolution pursuant
39 to Section 13995.60. At the same meeting, the commission may
40 amend the percentage allocations among industry categories. Any

1 item discussed in this section that is approved by resolution of the
2 commission, except amendments to the percentage allocations
3 among industry categories, shall be placed on the next referendum,
4 and adopted if approved by the majority of weighted votes cast.

5 (d) Upon approval by referendum, the office shall mail an
6 assessment bill to each assessed business. The ~~secretary~~ *director*
7 shall determine how often assessments are collected, based upon
8 available staffing resources. The ~~secretary~~ *director* may stagger
9 the assessment collection throughout the year, and charge
10 businesses a prorated amount of assessment because of the
11 staggered assessment period. The ~~secretary~~ *director* and office
12 shall not divulge the amount of assessment or weighted votes of
13 any assessed businesses, except as part of an assessment action.

14 (e) An assessed business may appeal an assessment to the
15 ~~secretary~~ *director* based upon the fact that the business does not
16 meet the definition established for an assessed business within its
17 industry segment or that the level of assessment is incorrect. An
18 appeal brought under this subdivision shall be supported by
19 substantial evidence submitted under penalty of perjury by affidavit
20 or declaration as provided in Section 2015.5 of the Code of Civil
21 Procedure. If the error is based upon failure of the business to
22 provide the required information in a timely manner, the ~~secretary~~
23 *director* may impose a fee for reasonable costs incurred by the
24 ~~secretary~~ *director* in correcting the assessment against the business
25 as a condition of correcting the assessment.

26 (f) Notwithstanding any other provision of law, an assessed
27 business may pass on some or all of the assessment to customers.
28 An assessed business that is passing on the assessment may, but
29 shall not be required to, separately identify or itemize the
30 assessment on any document provided to a customer. Assessments
31 levied pursuant to this chapter and passed on to customers are not
32 part of gross receipts or gross revenue for any purpose, including
33 the calculation of sales or use tax and income pursuant to any lease.
34 However, assessments that are passed on to customers shall be
35 included in gross receipts for purposes of income and franchise
36 taxes.

37 (g) For purposes of calculating the assessment for a business
38 with revenue in more than one industry category or industry
39 segment, that business may elect to be assessed based on either of
40 the following:

1 (1) The assessment methodology and rate of assessment
2 applicable to each category or segment, respectively, as it relates
3 to the revenue that it derives from that category or segment.

4 (2) With respect to its total revenue from all industry categories
5 or segments, the assessment methodology and rate of assessment
6 applicable to the revenue in the category and segment in which it
7 earns the most gross revenue.

8 (h) (1) A person sharing common ownership, management, or
9 control of more than one assessed business may elect to calculate,
10 administer, and pay the assessment owed by each business by any
11 of the following methods:

12 (A) Calculated on the basis of each individual business location.

13 (B) Calculated on the basis of each business, or each group of
14 businesses, possessing a single federal employer identification
15 number, regardless of the number of locations involved.

16 (C) Calculated on the basis of the average aggregate percentage
17 of tourism-related gross revenue received by all of the person's
18 businesses in a particular industry segment or industry category
19 during the period in question, multiplied by the total aggregate
20 tourism-related gross revenue received by all of the businesses,
21 and then multiplied by the appropriate assessment formula. For
22 example, if a person sharing common ownership, management, or
23 control of more than one assessed business in the retail industry
24 segment calculates that the average percentage of tourism-related
25 gross revenue received by all of its locations equals 6 percent
26 during the period in question, that person may multiply all of the
27 gross revenue received from all of those locations by 6 percent,
28 and then multiply that product by the applicable assessment
29 formula.

30 (D) Calculated on any other basis authorized by the ~~secretary~~
31 *director*.

32 (2) Except as the ~~secretary~~ *director* may otherwise authorize,
33 the methods in ~~subparagraphs~~ *subparagraph (B), (C), or (D) of*
34 *paragraph (1)* shall not be used if the aggregate assessments paid
35 would be less than the total assessment revenues that would be
36 paid if the method in subparagraph (A) of *paragraph (1)* were
37 used.

38 *SEC. 307. Section 13995.68 of the Government Code is*
39 *amended to read:*

1 13995.68. (a) The ~~secretary~~ *director* shall establish a list of
2 businesses to be assessed and the amount of assessment owed by
3 each. The ~~secretary~~ *director* shall collect the assessment from all
4 assessed businesses, and in collecting the assessment the ~~secretary~~
5 *director* may exercise the police powers and bring enforcement
6 actions.

7 (b) Funds collected by the ~~secretary~~ *director* shall be deposited
8 into the account of the commission. This account shall not be an
9 account of the state government.

10 (c) Any costs relating to the collection of assessments incurred
11 by the state shall be reimbursed by the commission.

12 *SEC. 308. Section 13995.69 of the Government Code is*
13 *amended to read:*

14 13995.69. (a) The office shall develop a list of California
15 businesses within each segment included within the report required
16 by subdivision (b) of Section 13995.30, periodically updated. Other
17 state agencies shall assist the office in obtaining the names and
18 addresses of these businesses.

19 (b) The office shall mail to each business identified pursuant to
20 subdivision (a) a form requesting information necessary to
21 determine the assessment for that business. Any business failing
22 to provide this information in a timely manner shall be assessed
23 an amount determined by the ~~secretary~~ *director* to represent the
24 upper assessment level for that segment.

25 (c) The office, in consultation with the commission, shall
26 establish by regulation the procedure for assessment collection.

27 *SEC. 309. Section 13995.71 of the Government Code is*
28 *amended to read:*

29 13995.71. Any assessment levied as provided in this chapter
30 is a personal debt of every person so assessed and shall be due and
31 payable to the ~~secretary~~ *director*. If any assessed person fails to
32 pay any assessment, the ~~secretary~~ *director* may file a complaint
33 against the person in a state court of competent jurisdiction for the
34 collection of the assessment.

35 *SEC. 310. Section 13995.72 of the Government Code is*
36 *amended to read:*

37 13995.72. If any assessed business that is duly assessed
38 pursuant to this chapter fails to pay to the ~~secretary~~ *director* the
39 assessed amount by the due date, the ~~secretary~~ *director* may add
40 to the unpaid assessment an amount not to exceed 10 percent of

1 the unpaid assessment to defray the cost of enforcing the collection
2 of the unpaid assessment. In addition to payment for the cost of
3 enforcing a collection, the assessed business shall pay to the
4 ~~secretary~~ *director* a penalty equivalent to the lesser of either the
5 maximum amount authorized by Section 1 of Article XV of the
6 California Constitution or 5 percent for each 30 days the assessment
7 is unpaid, prorated over the days unpaid, commencing 30 days
8 after the notice has been given to the assessed business of ~~his or~~
9 ~~her~~ *its* failure to pay the assessment on the date required, unless
10 the ~~secretary~~ *director* determines, to his or her satisfaction, that
11 the failure to pay is due to reasonable cause beyond the control of
12 the assessed business.

13 *SEC. 311. Section 13995.73 of the Government Code is*
14 *amended to read:*

15 13995.73. The ~~secretary~~ *director* may require assessed
16 businesses to deposit with him or her in advance the following
17 amounts:

18 (a) An amount for necessary expenses.

19 (b) An amount that shall not exceed 25 percent of the assessment
20 to cover costs that are incurred prior to the receipt of sufficient
21 funds from the assessment.

22 (c) The amount of any deposit that is required by the ~~secretary~~
23 *director* shall be based upon the estimated assessment for the
24 assessed business.

25 *SEC. 312. Section 13995.74 of the Government Code is*
26 *amended to read:*

27 13995.74. In lieu of requiring advance deposits pursuant to
28 Section 13995.73, or in order generally to provide funds for
29 defraying administrative expenses or the expenses of implementing
30 the tourism marketing plan until the time that sufficient moneys
31 are collected for this purpose from the payment of the assessments
32 that are established pursuant to this chapter, the ~~secretary~~ *director*
33 may receive and disburse for the express purposes contributions
34 that are made by assessed businesses. If, however, collections from
35 the payment of established assessments are sufficient to so warrant,
36 the ~~secretary~~ *director* shall authorize the repayment of
37 contributions, or authorize the application of the contributions to
38 the assessment obligations of persons that made the contributions.

39 *SEC. 313. Section 13995.75 of the Government Code is*
40 *amended to read:*

1 13995.75. Upon termination of the commission, any remaining
2 funds that are not required by the ~~secretary~~ *director* to defray
3 commission expenses shall be returned by the ~~secretary~~ *director*
4 upon a pro rata basis, to all persons from whom the assessments
5 were collected unless the ~~secretary~~ *director* finds that the amounts
6 to be returned are so small as to make impractical the computation
7 and remitting of the pro rata refund to the appropriate persons. If
8 the ~~secretary~~ *director* makes a finding that returning the remaining
9 funds would be impractical, he or she may use the moneys in the
10 fund to defray the costs of the office.

11 *SEC. 314. Section 13995.77 of the Government Code is*
12 *amended to read:*

13 13995.77. A business is exempt from the assessments provided
14 for in this chapter if any of the following apply:

15 (a) The business is a travel agency or tour operator that derives
16 less than 20 percent of its gross revenue annually from travel and
17 tourism occurring within the state. A travel agency or tour operator
18 that qualifies for this exemption may participate as an assessed
19 business by paying an assessment calculated on the same basis
20 applicable to other travel agencies or tour operators, respectively,
21 and by filing a written request with the ~~secretary~~ *director* indicating
22 its desire to be categorized as an assessed business.

23 (b) The business is a small business. For purposes of this section,
24 “small business” means a business location with less than one
25 million dollars (\$1,000,000) in total California gross annual
26 revenue from all sources. This threshold amount may be lowered,
27 but never to less than five hundred thousand dollars (\$500,000),
28 by means of a referendum conducted pursuant to Section 13995.60;
29 however, the ~~secretary~~ *director* may elect to forgo assessing a
30 business for which the expense incurred in collecting the
31 assessment is not commensurate with the assessment that would
32 be collected.

33 (c) The assessments provided for in this chapter shall not apply
34 to the revenue of regular route intrastate and interstate bus service:
35 provided, however, that this subdivision shall not be deemed to
36 exclude any revenue derived from bus service that is of a type that
37 requires authority, whether in the form of a certificate of public
38 convenience and necessity, or a permit, to operate as a charter-party
39 carrier of passengers pursuant to Chapter 8 (commencing with
40 Section 5351) of Division 2 of the Public Utilities Code.

1 (d) Any business exempted pursuant to this section may enter
2 into a contract for voluntary assessments pursuant to Section
3 13995.49.

4 *SEC. 315. Section 13995.82 of the Government Code is*
5 *amended to read:*

6 13995.82. (a) When the ~~secretary~~ *director* makes a
7 determination that an assessment is deficient as to the payment
8 due, the ~~secretary~~ *director* may determine the amount of the
9 deficiency, including any applicable penalty, as provided in this
10 chapter. After giving notice that a deficiency determination is
11 proposed and an opportunity to file a report or provide
12 supplemental information is provided, the ~~secretary~~ *director* may
13 make one or more deficiency determinations of the amount due
14 for any reporting period based on information in the ~~secretary's~~
15 *director's* possession. When an assessed business is discontinued,
16 a deficiency determination may be made at anytime thereafter as
17 to the liability arising out of the operation of that business.

18 (b) The ~~secretary~~ *director* shall give notice of the proposed
19 deficiency determination and the notice of deficiency determination
20 by mailing a copy of the deficiency to the assessed business at the
21 current address for that business on file with the ~~secretary~~ *director*.
22 The giving of notice is complete at the time of deposit in the United
23 States mail. In lieu of mailing, a notice may be served personally
24 by delivering it to the person to be served.

25 (c) Except in the case of fraud or failure to file required
26 information, a notice of a deficiency determination shall be given
27 within four years of the accrual of the deficiency.

28 (d) The person against whom a deficiency determination is made
29 may petition the ~~secretary~~ *director* for redetermination within 30
30 days after the serving of the notice of deficiency determination. If
31 a petition is not filed within 30 days, the deficiency determination
32 shall become final.

33 (e) A petition for redetermination shall be in writing, state the
34 specific grounds upon which it is based, and be supported by
35 applicable records and declarations under penalty of perjury that
36 the information supporting the petition is accurate and complete.
37 If a petition for redetermination is duly filed, the ~~secretary~~ *director*
38 shall reconsider the deficiency determination and may grant a
39 hearing thereon. The ~~secretary~~ *director* shall, as soon as practicable,
40 make an order on redetermination, which shall become final 30

1 days after service of notice of the order of redetermination upon
2 the petitioner. The notice of the order shall be served in the same
3 manner as the notice of the original deficiency determination.

4 (f) If any amount required to be paid pursuant to a deficiency
5 determination or redetermination is not paid within the time
6 specified in the notice thereof, the ~~secretary~~ *director* may, within
7 four years thereafter, file in the Superior Court in the County of
8 Sacramento, or the superior court in any other county, a certificate
9 specifying the amount required to be paid, the name and address
10 of the person liable as it appears on the records of the ~~secretary~~
11 *director*, and a request that judgment be entered against the person
12 in that amount 30 days after the filing. Notice of the filing shall
13 be given in the same manner as for the notice of deficiency
14 determination. The court shall enter a judgment in conformance
15 with the ~~secretary's~~ *director's* certificate 30 days after its filing,
16 unless a petition for judicial review has been filed within the 30-day
17 period.

18 (g) An abstract of the judgment, or a copy thereof, may be filed
19 with the county recorder of any county. From the time of filing of
20 the judgment, the amount of the judgment constitutes a lien upon
21 all of the property in the county owned by the judgment debtor.
22 The lien has the force, effect and priority of a judgment lien and
23 shall continue for 10 years from the date of the judgment, unless
24 sooner released or otherwise discharged. The lien imposed by this
25 section is not valid insofar as personal property is concerned against
26 a purchaser of value without actual knowledge of the lien.

27 (h) Execution shall issue upon the judgment upon request of
28 the ~~secretary~~ *director* in the same manner as execution may issue
29 upon other judgments, and sales shall be held under execution as
30 prescribed in the Code of Civil Procedure.

31 (i) The person named in a notice of deficiency determination
32 or redetermination may, within 30 days of the notice of filing with
33 the superior court, file an action for judicial review thereof, as
34 provided herein, in the Superior Court in the County of Sacramento
35 or, with the ~~secretary's~~ *director's* consent, the superior court in
36 any other county. As a condition of staying entry of judgment or
37 granting other relief, the court shall require the filing of a corporate
38 surety bond with the ~~secretary~~ *director* in the amount of the
39 deficiency stated in the certificate. In any court proceeding, the
40 certificate of the ~~secretary~~ *director* determining the deficiency

1 shall be prima facie evidence of the fee and the amount due and
2 unpaid.

3 (j) The provisions of this section are supplemental to any other
4 procedures for collection and imposition of fees and penalties
5 provided by this chapter.

6 (k) In lieu of proceeding pursuant to this section, the ~~secretary~~
7 *director* may file a complaint for collection of unpaid assessments
8 as provided by law.

9 *SEC. 316. Section 13995.83 of the Government Code is*
10 *amended to read:*

11 13995.83. It is a violation of this chapter for any person to
12 willfully render or furnish a false or fraudulent report, statement,
13 or record that is required by the ~~secretary~~ *director* pursuant to any
14 provision of this chapter.

15 *SEC. 317. Section 13995.84 of the Government Code is*
16 *amended to read:*

17 13995.84. Any suit brought by the ~~secretary~~ *director* to enforce
18 any provision of this chapter, or any regulation, or rule and
19 regulation, that is issued by the ~~secretary~~ *director* shall provide
20 that the defendant pay to the ~~secretary~~ *director* the costs that were
21 incurred by the ~~secretary~~ *director* and by the commission in the
22 prosecution of the action in the event the ~~secretary~~ *director* prevails
23 in the action. Any money that is recovered shall reimburse the
24 account or accounts used to pay the costs.

25 *SEC. 318. Section 13995.102 of the Government Code is*
26 *amended to read:*

27 13995.102. (a) The Los Angeles County Board of Supervisors
28 shall appoint the Los Angeles County Tourism Selection
29 Committee to consist of persons, or principals of entities, from
30 within the industry categories that are to be assessed, based upon
31 recommendations from established industry associations and
32 destination marketing organizations within Los Angeles County.

33 (b) The county selection committee shall consist of 24
34 representatives, with no fewer than three from each industry
35 category. The county selection committee shall appoint a chair
36 and any other officers it deems advisable.

37 (c) The county selection committee shall convene within 150
38 days after the effective date of this chapter. Not later than 150 days
39 following the initial convening of the committee, the committee
40 shall issue a report and recommendations listing the following:

1 (1) Industry segments that will be included in the initial
2 referendum.

3 (2) Percentage of funds to be levied against each industry
4 category and segment. To the extent possible, the percentages shall
5 be based upon quantifiable industry data. Funds to be levied against
6 businesses shall bear an appropriate relationship to the benefit
7 derived from travel and tourism by those businesses.

8 (3) Assessment methodology and rate of assessment within each
9 industry segment, that may include, but not be limited to, a
10 percentage of gross revenue or a per transaction charge.

11 (4) Businesses, if any, within a segment to be assessed at a
12 reduced rate, which may be set at zero, whether temporarily or
13 permanently, because they do not sufficiently benefit from travel
14 and tourism.

15 (5) Initial slate of proposed elected commissioners. The number
16 of commissioners elected from each industry category shall be
17 determined by the weighted percentage of assessments from that
18 category.

19 (d) Nothing in this section shall preclude the selection committee
20 from setting the assessment rate for a business within a segment
21 at a lower rate, which may be set at zero, than a rate applicable to
22 other businesses within that segment if the selection committee
23 makes specific findings that the lower rate should apply due to
24 unique geographical, financial, or other circumstances affecting
25 the business. No business for which a zero assessment rate is set
26 pursuant to this subdivision shall be sent a ballot or entitled to
27 participate in the initial referendum, or in any subsequent
28 referendum in which its rate of assessment is set at zero.

29 (e) The committee members for each industry category, also
30 referred to as a subcommittee, shall prepare a recommendation for
31 the entire committee on how the items specified in subdivision (c)
32 should be determined for the industry segments within their
33 industry category. The recommendations shall not include a
34 discussion of industry category levies, which shall be determined
35 solely by the committee. In the event that the subcommittee cannot
36 agree on one or more of the items specified in subdivision (c), no
37 recommendation shall be given in that category. The
38 recommendations shall be presented to the full committee, which
39 shall address each of the items contained in subdivision (c).

1 (f) In order to be assessed, an industry segment shall be defined
2 with sufficient clarity to allow for the cost-effective identification
3 of assessed businesses within that segment.

4 (g) It shall be the responsibility of the county selection
5 committee to advertise widely the selection committee process
6 and to schedule public meetings for potential assessed businesses
7 to provide input to the selection committee.

8 (h) The selection committee process and report shall be exempt
9 from the requirements of the Administrative Procedure Act
10 (Chapter 3.5 (commencing with Section 11340) of Part 1).

11 (i) The Los Angeles Convention and Visitors Bureau shall be
12 asked to supply staff support to the county selection committee.
13 ~~The Office of Tourism within the Business, Transportation and~~
14 ~~Housing Agency Governor's Office of Business and Economic~~
15 ~~Development~~ shall not be required to supply staff support to the
16 county selection committee.

17 *SEC. 319. Section 13995.110 of the Government Code is*
18 *amended to read:*

19 13995.110. (a) No referendum required under this article shall
20 be undertaken until any of the following occurs, whichever is
21 earliest:

22 (1) A statewide referendum held pursuant to this chapter has
23 obtained a passing vote in the County of Los Angeles.

24 (2) Two statewide referenda have been held pursuant to this
25 chapter.

26 (3) July 1, 1998.

27 (b) Referenda required under this article shall be conducted in
28 a similar manner as provided in Article 6 (commencing with
29 ~~Section 13995.60~~ 13995.60) as follows:

30 (1) The county commission shall undertake all duties, and act
31 in all respects, in place of the California Tourism Marketing
32 Commission, and either the county or the county treasurer/tax
33 collector, as designated in this article, shall act in place of the
34 ~~Secretary of Business, Transportation and Housing~~ *Director of the*
35 *Governor's Office of Business and Economic Development.*

36 (2) The initial assessment target for the county commission shall
37 be set by the county selection committee.

38 (3) The first referendum shall be initiated by industry members,
39 with all costs of marketing and promoting of the initial referendum
40 to be provided by the tourism industry.

1 (4) Each referendum may cover one or more of the following
2 subjects:

3 (A) Assessment level based upon specified assessment formula.

4 (B) Amended industry segment allocation formulae.

5 (C) Percentage allocation of assessments between industry
6 categories and segments.

7 (D) Election of county commissioners subject to election by
8 referendum.

9 (E) Termination of the county commission.

10 (F) Whether to establish, continue, or reestablish an assessment.

11 (5) The costs of all marketing and promoting of all referenda
12 following the initial referendum shall be paid by the county
13 commission from assessments collected. The county commission
14 may reimburse those who have contributed to the costs of the initial
15 referendum from proceeds raised from assessments collected from
16 the initial referendum.

17 *SEC. 320. Section 13995.116 of the Government Code is*
18 *amended to read:*

19 13995.116. This article is subject to Article 8 (commencing
20 with Section 13995.80) and Article 9 (commencing with Section
21 13995.90) except that, as to Article 8, either the county or the
22 county treasurer/tax collector, as designated in this article, shall
23 act in the place of the ~~Secretary of Business, Transportation and~~
24 ~~Housing~~ *Director of the Governor’s Office of Business and*
25 *Economic Development* in all respects.

26 *SEC. 321. Section 14001 of the Government Code is amended*
27 *to read:*

28 14001. There is in the ~~Business, Transportation and Housing~~
29 ~~Agency~~ *Transportation Agency* a Department of Transportation.

30 Any reference in any law or regulation to the Department of
31 Public Works shall be deemed to refer to the Department of
32 Transportation.

33 *SEC. 322. Section 14002.5 of the Government Code is amended*
34 *to read:*

35 14002.5. As used in this part, unless the context otherwise
36 requires:

37 (a) “Department” means the Department of Transportation.

38 (b) “Director” means the Director of Transportation.

39 (c) “Secretary” means the Secretary of ~~the Business,~~
40 ~~Transportation and Housing Agency~~ *Transportation.*

1 (d) “Board” or “commission” means the California
2 Transportation Commission.

3 (e) “Displaced worker” means individuals eligible for assistance
4 pursuant to Section 15076 of the Unemployment Insurance Code.

5 *SEC. 323. Section 14031.8 of the Government Code is amended*
6 *to read:*

7 14031.8. (a) The Secretary of ~~Business, Transportation and~~
8 ~~Housing~~ *Transportation* shall establish, through an annual budget
9 process, the level of state funding available for the operation of
10 intercity passenger rail service in each corridor.

11 (b) Where applicable, operating funds shall be allocated by the
12 secretary to the joint powers board in accordance with an
13 interagency transfer agreement that includes mutually agreed-upon
14 rail services. Funds for the administration and marketing of
15 services, as appropriate, shall also be transferred by the secretary
16 to the joint powers board, subject to the terms of the interagency
17 agreement.

18 (c) The joint powers board or local or regional entities may
19 augment state-provided resources to expand intercity passenger
20 rail services, or to address funding shortfalls in achieving
21 agreed-upon performance standards. The joint powers board or
22 local or regional agencies may, but shall not be required to, identify
23 and secure new supplemental sources of funding for the purpose
24 of expanding or maintaining intercity rail passenger service levels,
25 which may include state and federal intercity rail resources. Local
26 resources may be available to offset any redirection, elimination,
27 reduction, or reclassification by the state of state resources for
28 operating intercity passenger rail services identified in subdivision
29 (b) only if the local resources are dedicated by a vote of the local
30 agency providing funds, with the concurrence of the joint powers
31 board.

32 (d) The department may provide any support services as may
33 be mutually agreed upon by the joint powers board and the
34 department.

35 (e) Operating costs shall be controlled by dealing with, at a
36 minimum, the Amtrak cost allocation formula and the ability to
37 contract out to Amtrak or other rail operators as a part of federal
38 legislation dealing with Amtrak reauthorization.

1 (f) (1) Not later than June 30, 2014, the secretary shall establish
 2 a set of uniform performance standards for all corridors and
 3 operators to control cost and improve efficiency.

4 (2) To the extent necessary, as determined by the secretary,
 5 performance standards may be modified not later than July 30,
 6 2015, or the effective date of the interagency transfer agreement,
 7 whichever comes first.

8 (3) Feeder bus services that provide connections for intercity
 9 rail passengers shall not be terminated unless the bus services fail
 10 to meet the cost-effectiveness standard described in paragraph (3)
 11 of subdivision (a) of Section 14035.2.

12 *SEC. 324. Section 14070 of the Government Code is amended*
 13 *to read:*

14 14070. As used in this article, the following terms have the
 15 following meanings:

16 (a) “Board” or “joint powers board” means the governing board
 17 of a joint exercise of powers agency established pursuant to Article
 18 5.2 (commencing with Section 14072), Article 5.4 (commencing
 19 with Section 14074), or Article 5.6 (commencing with Section
 20 14076) for the purpose of assuming administrative responsibility
 21 for intercity passenger rail service within the respective corridor.

22 (b) “Secretary” means the Secretary of ~~the Business,~~
 23 ~~Transportation and Housing Agency~~ *Transportation.*

24 *SEC. 325. Section 14087 of the Government Code is amended*
 25 *to read:*

26 14087. If the governing body of a public entity wishes to appeal
 27 an action of the department taken under Section 14085 the matter
 28 shall be appealed to the Secretary of ~~the Business, Transportation~~
 29 ~~and Housing Agency~~ *Transportation.* Within a reasonable time
 30 after receiving the appeal, the secretary shall hear all parties
 31 involved and determine the matter, or the secretary may appoint
 32 a hearing officer to hear all parties involved and make a
 33 recommendation for the consideration of the secretary in
 34 determining the matter.

35 *SEC. 326. Section 14500 of the Government Code is amended*
 36 *to read:*

37 14500. There is in the ~~state government~~ *Transportation Agency*
 38 a California Transportation Commission.

39 *SEC. 327. Section 14520 of the Government Code is amended*
 40 *to read:*

1 14520. The commission shall advise and assist the Secretary
2 of ~~the Business, Transportation and Housing Agency~~
3 *Transportation* and the Legislature in formulating and evaluating
4 state policies and plans for transportation programs in the state.

5 *SEC. 328. Section 14601 of the Government Code is amended*
6 *to read:*

7 14601. There is in the state government, in the ~~State and~~
8 ~~Consumer Services Government Operations Agency~~, the
9 Department of General Services.

10 *SEC. 329. Section 14669.21 of the Government Code is*
11 *amended to read:*

12 14669.21. (a) The Director of the Department of General
13 Services is authorized to acquire, develop, design, and construct,
14 according to plans and specifications approved by the Los Angeles
15 Regional Crime Laboratory Facility Authority, an approximately
16 200,000 gross square foot regional criminal justice laboratory,
17 necessary infrastructure, and related surface parking to
18 accommodate approximately 600 cars on the Los Angeles campus
19 of the California State University. In accordance with this
20 authorization, the director is authorized to enter into any
21 agreements, contracts, leases, or other documents necessary to
22 effectuate and further the transaction. Further, the Los Angeles
23 Regional Crime Laboratory Facility Authority is authorized to
24 assign, and the director is authorized to accept, all contracts already
25 entered into by the Los Angeles Regional Crime Laboratory
26 Facility Authority for the development and design of this project.
27 It is acknowledged that these contracts will have to be modified
28 to make them consistent with the standards for state projects. The
29 director is additionally authorized to enter into a long-term ground
30 lease for 75 years with the Trustees of the California State
31 University for the land within the Los Angeles campus on which
32 the project is to be constructed. At the end of the ground lease
33 term, unencumbered title to the land shall return to the trustees
34 and, at the option of the trustees, ownership of any improvements
35 constructed pursuant to this section shall vest in the trustees. The
36 trustees are authorized and directed to fully cooperate and enter
37 into a ground lease with the Department of General Services upon
38 the terms and conditions that will facilitate the financing of this
39 project by the State Public Works Board. The trustees shall obtain
40 concurrence from the Los Angeles Regional Crime Laboratory

1 Facility Authority in the development of the long-term ground
2 lease referenced in this section. In his or her capacity, the director
3 is directed to obtain concurrence and approval from the trustees
4 relating to the design and construction of the facility consistent
5 with the trustees' reasonable requirements.

6 (b) The State Public Works Board is authorized to issue lease
7 revenue bonds, negotiable notes, or negotiable bond anticipation
8 notes pursuant to the State Building Construction Act of 1955 (Part
9 10b (commencing with Section 15800) for the acquisition,
10 development, design, and construction of the regional crime
11 laboratory as described in this section. The project shall be
12 acquired, developed, designed, and constructed on behalf of the
13 State Public Works Board and the ~~California Emergency~~
14 ~~Management Agency~~ *Office of Emergency Services* by the
15 Department of General Services in accordance with state laws
16 applicable to state projects provided, however, that the contractor
17 prequalification specified in Section 20101 of the Public Contract
18 Code may be utilized. For purposes of compliance with the
19 California Environmental Quality Act (Division 13 (commencing
20 with Section 21000) of the Public Resources Code) the agency or
21 agencies designated by the Director of Finance pursuant to Section
22 13820 of the Penal Code is the lead agency, and the trustees, acting
23 through the California State University at Los Angeles, and the
24 Los Angeles Regional Crime Laboratory Facility Authority are
25 responsible agencies.

26 (c) The State Public Works Board and the agency or agencies
27 designated by the Director of Finance pursuant to Section 13820
28 of the Penal Code may borrow funds for project costs from the
29 Pooled Money Investment Account, pursuant to Sections 16312
30 and 16313, or from any other appropriate source. In the event the
31 bonds authorized by this section for the project are not sold, the
32 agency or agencies designated by the Director of Finance pursuant
33 to Section 13820 of the Penal Code shall commit a sufficient
34 amount of its support appropriation to repay any loans made for
35 the project.

36 (d) The amount of lease revenue bonds, negotiable notes, or
37 negotiable bond anticipation notes to be issued by the State Public
38 Works Board shall not exceed ninety-two million dollars
39 (\$92,000,000) and any additional sums necessary to pay interim
40 and permanent financing costs. The additional sums may also

1 include interest and a reasonably required reserve fund. This
2 amount includes additional estimated project costs associated with
3 reformatting the initial local assistance appropriation into a state
4 managed and constructed regional crime laboratory project.

5 (e) The agency or agencies designated by the Director of Finance
6 pursuant to Section 13820 of the Penal Code may execute a
7 contract with the State Public Works Board for the lease of the
8 regional crime laboratory facilities described in this section that
9 are financed with the proceeds of the board's bonds. Further, and
10 notwithstanding any other provision of law, the agency or agencies
11 designated by the Director of Finance pursuant to Section 13820
12 of the Penal Code is authorized to enter into contracts and subleases
13 with the trustees, the Los Angeles Regional Crime Laboratory
14 Facility Authority, the Department of Justice, and any other
15 appropriate state or local agency, with the consent of the State
16 Public Works Board and the Department of General Services, for
17 the use, maintenance, and operation of the financed regional crime
18 laboratory facilities described in this section.

19 (f) When all of the bonds or notes authorized pursuant to
20 subdivision (d) have been paid in full or provided for in accordance
21 with their terms, notwithstanding any other provision of law, the
22 Department of General Services shall assign the ground lease
23 entered into pursuant to subdivision (a) to the Los Angeles
24 Regional Crime Laboratory Facility Authority or its successor
25 agency. At that time, the ground lease may be amended as agreed
26 to by the trustees and the Los Angeles Regional Crime Laboratory
27 Facility Authority or its successor agency.

28 *SEC. 330. Section 14998.2 of the Government Code is amended*
29 *to read:*

30 14998.2. (a) There is in the ~~Business, Transportation, and~~
31 ~~Housing Agency~~ *Governor's Office of Business and Economic*
32 *Development*, the California Film Commission consisting of 26
33 members. The Governor shall appoint 13 members, the Senate
34 Committee on Rules shall appoint four members, the Speaker of
35 the Assembly shall appoint four members, and five members shall
36 be ex officio. The members of the commission appointed by the
37 Governor may include representatives of state and local
38 government, motion picture development companies, employee
39 and professional organizations composed of persons employed in

1 the motion picture industry, and other appropriate members of this
2 or related industries.

3 All members of the commission, except legislators who are
4 appointed either by the Senate Committee on Rules or by the
5 Speaker of the Assembly, shall serve at the pleasure of the
6 appointing authority for a term of two years from the effective
7 date of the appointment.

8 (b) (1) One of the members appointed by the Senate Committee
9 on Rules shall, and another one may, be a Senator and one of the
10 members appointed by the Speaker of the Assembly shall, and
11 another one may, be a Member of the Assembly. These persons
12 shall be appointed for terms of four years.

13 (2) Of the legislators appointed to the commission, no more
14 than three legislators from the same political party may be
15 appointed to or serve on the commission at the same time.

16 (c) Any legislator appointed shall serve as a voting member of
17 the commission, and shall meet with, and participate in the
18 activities of, the commission to the extent that participation is not
19 incompatible with his or her position as a Member of the
20 Legislature, but shall only serve in that capacity while concurrently
21 serving as a Member of the Legislature. Whenever a legislator
22 vacates an office, the appointing power shall appoint another person
23 for a new full term.

24 (d) Six of the 13 members appointed by the Governor shall be
25 as follows:

26 (1) One shall be a person who is a member or employee of a
27 union or guild of motion picture artists.

28 (2) One shall be a person who is a member or employee of a
29 union or guild representing motion picture craftsmen, technicians,
30 or photographers.

31 (3) Two shall be from major motion picture studios.

32 (4) One shall be a member of the city council or a member of
33 the county board of supervisors of a city or a county with a
34 population of at least two million people.

35 (5) One shall be a member of the city council or a member of
36 the county board of supervisors of a city or a county with a
37 population of less than two million people.

38 (e) The Director of Transportation shall serve as an ex officio
39 nonvoting member.

1 (f) The Director of Parks and Recreation shall serve as an ex
2 officio nonvoting member.

3 (g) The Commissioner of the California Highway Patrol shall
4 serve as an ex officio nonvoting member.

5 (h) The State Fire Marshal shall serve as an ex officio nonvoting
6 member.

7 (i) The director of the commission shall serve as an ex officio
8 nonvoting member.

9 *SEC. 331. Section 15251 of the Government Code is amended*
10 *to read:*

11 15251. Unless the context requires otherwise, as used in this
12 part, the following terms shall have the following meanings:

13 (a) ~~“Agency”~~ “Department” means the ~~California Department~~
14 ~~of Technology Agency~~.

15 (b) “Division” means the Public Safety Communications
16 Division established by this part.

17 *SEC. 332. Section 15253 of the Government Code is amended*
18 *to read:*

19 15253. This part shall apply only to those communications
20 facilities which are owned and operated by public agencies in
21 connection with official business of law enforcement services, fire
22 services, natural resources services, agricultural services, and
23 highway maintenance and control of the state or of cities, counties,
24 and other political subdivisions in this state. This part shall not be
25 construed as conferring upon the ~~agency department~~ control of
26 programs or broadcasts intended for the general public.

27 *SEC. 333. Section 15254 of the Government Code is amended*
28 *to read:*

29 15254. Radio and other communications facilities owned or
30 operated by the state and subject to the jurisdiction of the ~~agency~~
31 ~~department~~ shall not be used for political, sectarian, or propaganda
32 purposes. The facilities shall not be used for the purpose of
33 broadcasts intended for the general public, except for fire, flood,
34 frost, storm, catastrophe, and other warnings and information for
35 the protection of the public safety as the ~~agency department~~ may
36 prescribe.

37 *SEC. 334. Section 15275 of the Government Code is amended*
38 *to read:*

39 15275. The ~~agency department~~ may do all of the following:

1 (a) Provide adequate representation of local and state
2 governmental bodies and agencies before the Federal
3 Communications Commission in matters affecting the state and
4 its cities, counties, and other public agencies regarding public
5 safety communications issues.

6 (b) Provide, upon request, adequate advice to state and local
7 agencies in the state concerning existing or proposed public safety
8 communications facilities between any and all of the following:
9 cities, counties, other political subdivisions of the state, state
10 departments, agencies, boards, and commissions, and departments,
11 agencies, boards, and commissions of other states and federal
12 agencies.

13 (c) Recommend to the appropriate state and local agencies rules,
14 regulations, procedures, and methods of operation that it deems
15 necessary to effectuate the most efficient and economical use of
16 publicly owned and operated public safety communications
17 facilities within this state.

18 (d) Provide, upon request, information and data concerning the
19 public safety communications facilities that are owned and operated
20 by public agencies in connection with official business of public
21 safety services.

22 (e) Carry out the policy of this part.

23 *SEC. 335. Section 15277 of the Government Code is amended*
24 *to read:*

25 15277. The Public Safety Communications Division is
26 established within the ~~agency~~ *department*. The duties of the
27 division shall include, but not be limited to, all of the following:

28 (a) Assessing the overall long-range public safety
29 communications needs and requirements of the state considering
30 emergency operations, performance, cost, state-of-the-art
31 technology, multiuser availability, security, reliability, and other
32 factors deemed to be important to state needs and requirements.

33 (b) Developing strategic and tactical policies and plans for public
34 safety communications with consideration for the systems and
35 requirements of the state and all public agencies in this state, and
36 preparing an annual strategic communications plan that includes
37 the feasibility of interfaces with federal and other state
38 telecommunications networks and services.

1 (c) Recommending industry standards for public safety
2 communications systems to ensure multiuser availability and
3 compatibility.

4 (d) Providing advice and assistance in the selection of
5 communications equipment to ensure that the public safety
6 communications needs of state agencies are met and that
7 procurements are compatible throughout state agencies and are
8 consistent with the state’s strategic and tactical plans for public
9 safety communications.

10 (e) Providing management oversight of statewide public safety
11 communications systems developments.

12 (f) Providing for coordination of, and comment on, plans,
13 policies, and operational requirements from departments that utilize
14 public safety communications in support of their principal function,
15 such as the ~~California Office of Emergency Management Agency~~
16 *Services*, National Guard, health and safety agencies, and others
17 with primary public safety communications programs.

18 (g) Monitoring and participating on behalf of the state in the
19 proceedings of federal and state regulatory agencies and in
20 congressional and state legislative deliberations that have an impact
21 on state government public safety communications activities.

22 (h) Developing plans regarding teleconferencing as an
23 alternative to state travel during emergency situations.

24 (i) Ensuring that all radio transmitting devices owned or operated
25 by state agencies and departments are licensed, installed, and
26 maintained in accordance with the requirements of federal law. A
27 request for a federally required license for a state-owned radio
28 transmitting device shall be sought only in the name of the “State
29 of California.”

30 (j) Acquiring, installing, equipping, maintaining, and operating
31 new or existing public safety communications systems and facilities
32 for public safety agencies. To accomplish that purpose, the division
33 is authorized to enter into contracts, obtain licenses, acquire
34 property, install necessary equipment and facilities, and do other
35 necessary acts to provide adequate and efficient public safety
36 communications systems. Any systems established shall be
37 available to all public agencies in the state on terms that may be
38 agreed upon by the public agency and the division.

39 (k) Acquiring, installing, equipping, maintaining, and operating
40 all new or replacement microwave communications systems

1 operated by the state, except microwave equipment used
2 exclusively for traffic signal and signing control, traffic metering,
3 and roadway surveillance systems. To accomplish that purpose,
4 the division is authorized to enter into contracts, obtain licenses,
5 acquire property, install necessary equipment and facilities, and
6 do other necessary acts to provide adequate and efficient
7 microwave communications systems. Any system established shall
8 be available to all public safety agencies in the state on terms that
9 may be agreed upon by the public agency and the division.

10 (l) This chapter shall not apply to Department of Justice
11 communications operated pursuant to Chapter 2.5 (commencing
12 with Section 15150) of Part 6.

13 *SEC. 336. Section 15363.61 of the Government Code is*
14 *amended to read:*

15 15363.61. (a) The Legislature finds and declares as follows:

16 (1) The entertainment industry is one of California's leading
17 industries in terms of employment and tax revenue.

18 (2) While film, television, and commercial production in
19 California has expanded over the years, other states and countries
20 actively compete for California production business. It is generally
21 acknowledged that certain segments of the industry, mainly film
22 and television production, are especially hard hit in California.
23 The Legislature finds that this is due to assertive efforts of other
24 states and countries, offering various incentives for filming outside
25 of California. As a result of increased marketing efforts by other
26 states and countries, unemployment in certain film industry sectors
27 and a reduction of film business has occurred within California.

28 (3) Recognizing the vital role the entertainment industry plays
29 in California's economy, legislation enacted in 1985 created the
30 California Film Commission ~~within the Business, Transportation~~
31 ~~and Housing Agency~~ to facilitate, retain, and attract filming in
32 California.

33 (4) In order to stop the decline of California film production, it
34 is necessary and appropriate to assist in the underwriting of actual
35 costs incurred by production companies to film in California and
36 to provide opportunities for production companies and other film
37 industry companies to lease property owned by the State of
38 California at below market rates.

39 (5) Providing the funds designated under this program, and
40 leasing property owned by the State of California at below market

1 rates is in the public interest and serves a public purpose, and
2 providing incentives to production companies and other film
3 industry companies will promote the prosperity, health, safety,
4 and welfare of the citizens of the State of California.

5 (b) It is the intent of the Legislature that, commencing with the
6 2002–03 fiscal year, funding for the program from the General
7 Fund shall not exceed the General Fund funding level for the prior
8 fiscal year.

9 *SEC. 337. Section 15363.62 of the Government Code is*
10 *amended to read:*

11 15363.62. For purposes of this chapter, the following meanings
12 shall apply:

13 ~~(a) “Agency” means the Business, Transportation and Housing~~
14 ~~Agency, which includes the California Film Commission.~~

15 ~~(b)~~

16 (a) “Film” means any commercial production for motion picture,
17 television, commercial, or still photography.

18 ~~(c)~~

19 (b) “Film costs” means the usual and customary charges by a
20 public agency connected with the production of a film, limited to
21 any of the following:

22 (1) State employee costs.

23 (2) Federal employee costs.

24 (3) Federal, state, University of California, and California State
25 University permits and rental costs.

26 (4) Local public entity employee costs.

27 (5) Local property use fees.

28 (6) Rental costs for equipment owned and operated by a public
29 agency in connection with the film.

30 ~~(d)~~

31 (c) “Fund” means the Film California First Fund, established
32 pursuant to Section 15363.74.

33 (d) “Office” means the Governor’s Office of Business and
34 Economic Development, which includes the California Film
35 Commission.

36 (e) “Production company” means a company, partnership, or
37 corporation, engaged in the production of film.

38 (f) “Program” means the Film California First Program
39 established pursuant to this chapter.

40 (g) “Public agency” means any of the following:

1 (1) The State of California, and any of its agencies, departments,
2 boards, or commissions.

3 (2) The federal government, and any of its agencies,
4 departments, boards, or commissions.

5 (3) The University of California.

6 (4) The California State University.

7 (5) California local public entities.

8 (6) Any nonprofit corporation acting as an agent for the recovery
9 of costs incurred by any of the entities listed in this subdivision.

10 SEC. 338. Section 15363.63 of the Government Code is
11 amended to read:

12 15363.63. (a) (1) Except as provided in paragraph (2), the
13 ~~Business, Transportation and Housing Agency~~ office may pay and
14 reimburse the film costs incurred by a public agency, subject to
15 an audit. The director of the commission shall develop alternate
16 procedures for the reimbursement of public agency costs incurred
17 by the production company. The ~~Business, Transportation and~~
18 ~~Housing Agency~~ office shall only reimburse actual costs incurred
19 and may not reimburse for duplicative costs.

20 (2) Notwithstanding paragraph (1), the ~~Business, Transportation~~
21 ~~and Housing Agency~~ office shall not reimburse costs at rates
22 exceeding those in effect as of January 1, 2002.

23 (b) Notwithstanding any other provision of law, the Controller
24 shall pay any program invoice received from the ~~agency~~ office that
25 contains documentation detailing the film costs, and if the party
26 requesting payment or reimbursement is a public agency, a
27 certification that the invoice is not duplicative cost recovery, and
28 an agreement by the public agency that the ~~Business,~~
29 ~~Transportation and Housing Agency~~ office may audit the public
30 agency for invoice compliance with the program requirements.

31 (c) (1) Not more than three hundred thousand dollars (\$300,000)
32 shall be expended to pay or reimburse costs incurred on any one
33 film.

34 (2) In developing the procedures and guidelines for the program,
35 the commission may, in consultation with interested public
36 agencies, establish limits on per day film costs that the state will
37 reimburse. A consultation and comment period shall begin on
38 January 1, 2001, and shall end 30 days thereafter.

39 (d) (1) Upon receipt of all necessary film costs documentation
40 from a public agency, the ~~Business, Transportation and Housing~~

1 ~~Agency office~~ shall transmit the appropriate information to the
2 Controller for payment of the film costs within 30 days.

3 (2) Public agencies shall be entitled to reimbursement for certain
4 administrative costs, to be determined by the director of the
5 commission, incurred while participating in the program. The
6 reimbursement for administrative costs shall not exceed 1 percent
7 of the total amount of the invoices submitted. Reimbursement shall
8 have an annual cap imposed of not more than ten thousand dollars
9 (\$10,000) per public agency participating in the program.
10 Contracted agents working on behalf of two or more public
11 agencies shall have a cap of not more than twenty thousand dollars
12 (\$20,000) annually.

13 (e) The commission shall prepare annual preliminary reports to
14 be submitted to the Joint Legislative Budget Committee in regard
15 to the program prior to the adoption of the annual Budget Act. The
16 reports shall include a list of all entities that received funds from
17 the program, the amounts they received, and the public services
18 that were reimbursed. The commission shall prepare and submit
19 a final report to the committee no later than January 1, 2004.

20 (f) The commission shall, in consultation with the Department
21 of Industrial Relations and the Employment Development
22 Department, contract with an independent audit firm or qualified
23 academic expert, to prepare a report to be submitted to the Joint
24 Legislative Budget Committee no later than January 1, 2004, that
25 identifies the beneficiaries of expenditures from the Film California
26 First Fund, and determines the impact of these expenditures on
27 job retention and job creation in California.

28 *SEC. 339. Section 15700 of the Government Code is amended*
29 *to read:*

30 15700. There is in the state government, in the ~~Agriculture and~~
31 ~~Services~~ *Government Operations* Agency, a Franchise Tax Board
32 consisting of the ~~State~~ Controller, the Director of Finance, and the
33 ~~Chairman~~ *Chairperson* of the State Board of Equalization. The
34 Franchise Tax Board is the successor to, and is vested with, all of
35 the duties, powers, purposes, responsibilities, and jurisdiction of
36 the Franchise Tax Commissioner, but the statutes and laws under
37 which that office existed and all laws prescribing the duties,
38 powers, purposes, responsibilities, and jurisdiction of that office,
39 together with all lawful rules and regulations established
40 thereunder, are expressly continued in force. "Franchise Tax

1 Commissioner” when used in any statute, law, rule, or regulation
 2 now in force, or that may hereafter be enacted or adopted, means
 3 the Franchise Tax Board. No action to which the Franchise Tax
 4 Commissioner is a party shall abate by reason hereof but shall
 5 continue in the name of the Franchise Tax Board, and the Franchise
 6 Tax Board shall be substituted for the Franchise Tax Commissioner
 7 by the court wherein the action is pending. The substitution shall
 8 not in any way affect the rights of the parties to the action.

9 Notwithstanding any other provision of the law to the contrary,
 10 any directive or regulation adopted by the Franchise Tax Board
 11 shall take precedence over any directive or regulation adopted by
 12 its executive officer.

13 *SEC. 340. Section 15957 of the Government Code is amended*
 14 *to read:*

15 15957. “Secretary” means the Secretary of ~~the Business,~~
 16 ~~Transportation and Housing Agency~~ *Transportation.*

17 On and after January 1, 1985, any duty, power, purpose,
 18 responsibility, or jurisdiction which is vested by this part in the
 19 secretary is hereby transferred to the Director of Transportation.
 20 Whenever any reference is made in this part to the secretary, it
 21 shall be deemed to be a reference to, and to mean, the Director of
 22 Transportation.

23 *SEC. 341. Section 16304.9 of the Government Code is amended*
 24 *to read:*

25 16304.9. (a) Upon the effective date of an act transferring any
 26 of the powers or duties of any state officer or agency to another
 27 state officer or agency, the Department of Finance shall determine
 28 the portion remaining of any appropriation which was intended to
 29 be used for the performance of such powers or duties, and shall
 30 certify this amount to the ~~State~~ Controller. The ~~State~~ Controller
 31 shall thereupon transfer such amount to the state officer or agency
 32 to which such powers or duties were transferred.

33 (b) *The Department of Finance shall make the final*
 34 *determination of the budgetary and accounting transactions and*
 35 *treatments to ensure proper implementation of reorganization,*
 36 *mergers, or the elimination of state entities, offices, or agencies.*

37 *SEC. 342. Section 18521 of the Government Code is amended*
 38 *to read:*

39 18521. “Board” means the agency created by Section 2 of
 40 Article VII of the Constitution and includes the “State Personnel

1 Board” provided in Section 2(a) and the “executive officer”
2 provided in Section 2(c) thereof. *The board shall be within the*
3 *Government Operations Agency.*

4 SEC. 343. *Section 19815.25 is added to the Government Code,*
5 *to read:*

6 *19815.25. The Department of Human Resources, as established*
7 *on July 1, 2012, is hereby established within the Government*
8 *Operations Agency.*

9 SEC. 344. *Section 19844.5 of the Government Code is amended*
10 *to read:*

11 19844.5. (a) A state employee who is called into service by
12 ~~the California Emergency Management Agency Office of~~
13 *Emergency Services* pursuant to a mission assignment number for
14 the purpose of engaging in a search and rescue operation, disaster
15 mission, or other life-saving mission conducted within the state is
16 entitled to administrative time off from his or her appointing power.
17 The appointing power shall not be liable for payment of any
18 disability or death benefits in the event the employee is injured or
19 killed in the course of service to the ~~California Emergency~~
20 ~~Management Agency Office of Emergency Services~~, but the
21 employee shall remain entitled to any benefits currently provided
22 by the agency.

23 (b) The period of the duty described in subdivision (a) shall not
24 exceed 10 calendar days per fiscal year, including the time involved
25 in going to and returning from the duty. A single mission shall not
26 exceed three days, unless an extension of time is granted by the
27 office and the appointing power.

28 (c) This section shall apply only to volunteers participating in
29 the California Explorer Search and Rescue Team, Drowning
30 Accident Rescue Team, Wilderness Organization of Finders,
31 California Rescue Dog Association, and the California Wing of
32 the Civil Air Patrol.

33 (d) A state employee engaging in a duty as described in this
34 section shall not receive overtime compensation for the hours of
35 time off taken but shall receive normal compensation.

36 (e) A state employee shall be released to engage in a duty
37 described in this section at the discretion of the appointing power.
38 However, leave shall not be unreasonably denied. The appointing
39 power shall also establish a procedure whereby state employees

1 who receive weekend or evening requests to serve may be released
 2 to do so.

3 *SEC. 345. Section 20002 of the Government Code is amended*
 4 *to read:*

5 20002. The Public Employees' Retirement System created by
 6 Chapter 700 of the Statutes of 1931, as amended, is continued in
 7 existence under this part. This system is a unit of the ~~State and~~
 8 ~~Consumer Services Government Operations Agency.~~

9 *SEC. 346. Section 26614 of the Government Code is amended*
 10 *to read:*

11 26614. The board of supervisors of a county may authorize the
 12 sheriff to search for and rescue persons who are lost or are in
 13 danger of their lives within or in the immediate vicinity of the
 14 county. The expense incurred by the sheriff in the performance of
 15 those duties shall be a proper county charge. Authorization for
 16 search and rescue activities shall be consistent with guidelines and
 17 operating plans contained in the Search and Rescue Model
 18 Operating Plan, as developed and adopted by the ~~California~~
 19 ~~Emergency Management Agency Office of Emergency Services~~
 20 in consultation with fire protection and law enforcement service
 21 providers. ~~The California Emergency Management Agency Office~~
 22 ~~of Emergency Services~~ shall make the plan available to counties
 23 and fire protection and law enforcement agencies for use and
 24 adoption by the board of supervisors and the governing boards of
 25 all search and rescue providers. If the board assigns responsibility
 26 for search and rescue activities in a manner that is inconsistent
 27 with these model operating guidelines, the board shall adopt a
 28 resolution to clarify why the local model provides better protections
 29 than the Search and Rescue Model Operating Plan, as developed
 30 by the ~~California Emergency Management Agency Office of~~
 31 ~~Emergency Services~~, to residents in need of county search and
 32 rescue services. Counties are encouraged to adopt their countywide
 33 search and rescue plans and to review them on a regular basis. A
 34 review of a countywide search and rescue plan shall include, but
 35 is not limited to, changes made to the Search and Rescue Model
 36 Operating Plan by the ~~California Emergency Management Agency~~
 37 ~~Office of Emergency Services~~. This section shall not be construed
 38 to vest any additional powers for search and rescue upon sheriffs
 39 or any other public safety agency that provides search and rescue.

1 *SEC. 347. Section 51018 of the Government Code is amended*
2 *to read:*

3 51018. (a) Every rupture, explosion, or fire involving a
4 pipeline, including a pipeline system otherwise exempted by
5 subdivision (a) of Section 51010.5, and including a pipeline
6 undergoing testing, shall be immediately reported by the pipeline
7 operator to the fire department having fire suppression
8 responsibilities and to the ~~California Emergency Management~~
9 ~~Agency Office of Emergency Services~~. In addition, the pipeline
10 operator shall, within 30 days of the rupture, explosion, or fire,
11 file a report with the State Fire Marshal containing all the
12 information that the State Fire Marshal may reasonably require to
13 prepare the report required pursuant to subdivision (d).

14 (b) (1) ~~The California Emergency Management Agency Office~~
15 ~~of Emergency Services~~ shall immediately notify the State Fire
16 Marshal of the incident, who shall immediately dispatch his or her
17 employees to the scene. The State Fire Marshal or his or her
18 employees, upon arrival, shall provide technical expertise and
19 advise the operator and all public agencies on activities needed to
20 mitigate the hazard.

21 (2) For purposes of this subdivision, the Legislature does not
22 intend to hinder or disrupt the workings of the “incident
23 commander system,” but does intend to establish a recognized
24 element of expertise and direction for the incident command to
25 consult and acknowledge as an authority on the subject of pipeline
26 incident mitigation. Furthermore, it is expected that the State Fire
27 Marshal will recognize the expertise of the pipeline operator and
28 any other emergency agency personnel who may be familiar with
29 the particular location of the incident and respect their
30 knowledgeable input regarding the mitigation of the incident.

31 (c) For purposes of this section, “rupture” includes every
32 unintentional liquid leak, including any leak that occurs during
33 hydrostatic testing, except that a crude oil leak of less than five
34 barrels from a pipeline or flow line in a rural area, or any crude
35 oil or petroleum product leak in any in-plant piping system of less
36 than five barrels, when no fire, explosion, or bodily injury results
37 or no waterway is contaminated thereby, does not constitute a
38 rupture for purposes of the reporting requirements of subdivision
39 (a).

1 (d) The State Fire Marshal shall, every fifth year commencing
2 in 1999, issue a report identifying pipeline leak incident rate trends,
3 reviewing current regulatory effectiveness with regard to pipeline
4 safety, and recommending any necessary changes to the
5 Legislature. This report shall include an assessment of the condition
6 of each pipeline and shall include all of the following: total length
7 of regulated pipelines, total length of regulated piggable pipeline,
8 total number of line sections, average length of each section,
9 number of leaks during study period, average spill size, average
10 damage per incident, average age of leak pipe, average diameter
11 of leak pipe, injuries during study period, cause of the leak or spill,
12 fatalities during study period, and other information as deemed
13 appropriate by the State Fire Marshal.

14 (e) This section does not preempt any other applicable federal
15 or state reporting requirement.

16 (f) Except as otherwise provided in this section and Section
17 8589.7, a notification made pursuant to this section shall satisfy
18 any immediate notification requirement contained in any permit
19 issued by a permitting agency.

20 (g) This section does not apply to pipeline ruptures involving
21 nonreportable crude oil spills under Section 3233 of the Public
22 Resources Code, unless the spill involves a fire or explosion.

23 *SEC. 348. Section 53108.5 of the Government Code is amended*
24 *to read:*

25 53108.5. “Division,” as used in this article, means the Public
26 Safety Communications Division within the ~~California Department~~
27 ~~of Technology Agency~~.

28 *SEC. 349. Section 53126.5 of the Government Code is amended*
29 *to read:*

30 53126.5. For purposes of this article, the following definitions
31 apply:

32 (a) “Local public agency” means a city, county, city and county,
33 and joint powers authority that provides a public safety answering
34 point (PSAP).

35 (b) “Nonemergency telephone system” means a system
36 structured to provide access to only public safety agencies such
37 as police and fire, or a system structured to provide access to public
38 safety agencies and to all other services provided by a local public
39 agency such as street maintenance and animal control.

1 (c) “Public Safety Communications Division” means the Public
2 Safety Communications Division within the ~~California Department~~
3 ~~of Technology Agency~~.

4 *SEC. 350. Section 53630.5 of the Government Code is amended*
5 *to read:*

6 53630.5. (a) The definitions in Section ~~1700~~ 1750 of, and
7 Chapter 1 (commencing with Section 99) of Division 1 of, the
8 Financial Code apply to this section.

9 (b) In this article, for purposes of being a depository of moneys
10 belonging to or being in the custody of a local agency, the phrases
11 “state or national bank located in this state,” “state or national
12 bank,” “state or national bank in this state,” and “state or national
13 banks in the state” include, without limitation, any of the following:

14 (1) Any California branch office of a foreign (other state) state
15 bank that the bank is authorized to maintain under the law of its
16 domicile and federal law.

17 (2) Any California branch office of a foreign (other state)
18 national bank that the bank is authorized to maintain under federal
19 law.

20 (3) Any California branch office of a foreign (other nation) bank
21 that the bank is licensed to maintain under Article 3 (commencing
22 with Section ~~1750~~ 1800) of Chapter ~~13.5~~ 20 of Division ~~1.1~~ of
23 the Financial Code.

24 (4) Any California federal branch of a foreign (other nation)
25 bank that the bank is authorized to maintain under federal law.

26 *SEC. 351. Section 54238.3 of the Government Code is amended*
27 *to read:*

28 54238.3. (a) This article shall apply only to surplus residential
29 properties which were acquired for a state project, for which at
30 least 20 dwelling units were acquired and owned by the state on
31 January 1, 1980, or on the date the properties were declared to be
32 surplus, whichever date occurs later. For the purpose of this section,
33 a freeway route and its interchanges shall be considered one state
34 project. Except for State Highway Route 7 in Los Angeles County,
35 this article shall not apply to freeway routes rescinded on or after
36 January 1, 1984.

37 (b) Any person who is displaced from any dwelling located on
38 such residential property that is also located within the right-of-way
39 of a freeway route or its interchanges for which the property was
40 declared surplus on or after January 1, 1984, and who occupied

1 that dwelling for at least 90 days prior to the date the property was
2 declared surplus, shall be eligible to receive the relocation advisory
3 assistance provided by Section 7261, the relocation benefits
4 provided by paragraph (1) of subdivision (a) or subdivision (b) of
5 Section 7262, the payments authorized by subdivision (b) or (c)
6 of Section 7264, and the right for review of decision as provided
7 by Section 7266 if the person is forced to relocate from the
8 dwelling, as a direct result of the state agency's disposal of the
9 excess real property, within 90 days of the recordation of the deed
10 from the state agency to a new owner.

11 (c) Whenever a state surplus residential property disposal
12 project, as described in subdivision (b), includes 50 or more
13 dwelling units, a Relocation Liaison shall be appointed by the
14 Secretary of ~~the Business, Transportation and Housing Agency~~
15 *Transportation*. The term of the appointment shall be of sufficient
16 duration for the Relocation Liaison to fulfill the assignment, not
17 to exceed 180 days, and shall begin on the date that the property
18 is declared to be surplus. The Relocation Liaison shall have the
19 following assigned duties and responsibilities:

20 (1) Meet with the eligible persons and explain to them the
21 benefits defined in subdivision (b).

22 (2) In conjunction with the state agency, assist in obtaining
23 replacement housing for eligible persons.

24 (3) Assist eligible persons in completing and processing claims
25 for benefits.

26 The state agency which is disposing of the surplus residential
27 property shall be responsible for underwriting all reasonable costs
28 as determined by the secretary associated with the operation of the
29 Relocation Liaison's office necessary to perform all duties assigned
30 to it.

31 *SEC. 352. Section 63021 of the Government Code is amended*
32 *to read:*

33 63021. (a) There is within the ~~Business, Transportation and~~
34 ~~Housing Agency~~ *Governor's Office of Business and Economic*
35 *Development* the Infrastructure and Economic Development Bank
36 which shall be responsible for administering this division.

37 (b) The bank shall be under the direction of an executive director
38 appointed by the Governor, and who shall serve at the pleasure of
39 the Governor. The appointment shall be subject to confirmation
40 by the Senate.

1 *SEC. 353. Section 63021.5 of the Government Code is amended*
2 *to read:*

3 63021.5. (a) The bank shall be governed and its corporate
4 power exercised by a board of directors that shall consist of the
5 following persons:

6 (1) The Director of Finance or his or her designee.

7 (2) The Treasurer or his or her designee.

8 ~~(3) The Secretary of Business, Transportation and Housing~~
9 *Director of the Governor's Office of Economic and Business*
10 *Development* or his or her designee, who shall serve as chair of
11 the board.

12 (4) An appointee of the Governor.

13 ~~(5) The Secretary of State and Consumer Services Agency~~
14 *Transportation* or his or her designee.

15 (b) Any designated director shall serve at the pleasure of the
16 designating power.

17 (c) Three of the members shall constitute a quorum and the
18 affirmative vote of three board members shall be necessary for
19 any action to be taken by the board.

20 (d) A member of the board shall not participate in any bank
21 action or attempt to influence any decision or recommendation by
22 any employee of, or consultant to, the bank that involves a sponsor
23 of which he or she is a representative or in which the member or
24 a member of his or her immediate family has a personal financial
25 interest within the meaning of Section 87100. For purposes of this
26 section, "immediate family" means the spouse, children, and
27 parents of the member.

28 (e) Except as provided in this subdivision, the members of the
29 board shall serve without compensation, but shall be reimbursed
30 for actual and necessary expenses incurred in the performance of
31 their duties to the extent that reimbursement for these expenses is
32 not otherwise provided or payable by another public agency, and
33 shall receive one hundred dollars (\$100) for each full day of
34 attending meetings of the authority.

35 *SEC. 354. Section 65037.1 of the Government Code is repealed.*

36 ~~65037.1. The position of the Secretary of Service and~~
37 ~~Volunteering is hereby established in state government in the~~
38 ~~Office of Planning and Research. The secretary shall be appointed~~
39 ~~by, and serve at the pleasure of, the Governor. The appointment~~
40 ~~of the secretary shall be subject to Senate confirmation.~~

1 *SEC. 355. Section 65080.1 of the Government Code, as*
 2 *amended by Section 20 of Chapter 681 of the Statutes of 1982, is*
 3 *amended to read:*

4 65080.1. Once preparation of a regional transportation plan
 5 has been commenced by or on behalf of a designated transportation
 6 planning agency, the Secretary of ~~the Business, Transportation~~
 7 ~~and Housing Agency~~ *Transportation* shall not designate a new
 8 transportation planning agency pursuant to Section 29532 for all
 9 or any part of the geographic area served by the originally
 10 designated agency unless he or she first determines that
 11 redesignation will not result in the loss to California of any
 12 substantial amounts of federal funds.

13 *SEC. 356. Section 65302 of the Government Code is amended*
 14 *to read:*

15 65302. The general plan shall consist of a statement of
 16 development policies and shall include a diagram or diagrams and
 17 text setting forth objectives, principles, standards, and plan
 18 proposals. The plan shall include the following elements:

19 (a) A land use element that designates the proposed general
 20 distribution and general location and extent of the uses of the land
 21 for housing, business, industry, open space, including agriculture,
 22 natural resources, recreation, and enjoyment of scenic beauty,
 23 education, public buildings and grounds, solid and liquid waste
 24 disposal facilities, and other categories of public and private uses
 25 of land. The location and designation of the extent of the uses of
 26 the land for public and private uses shall consider the identification
 27 of land and natural resources pursuant to paragraph (3) of
 28 subdivision (d). The land use element shall include a statement of
 29 the standards of population density and building intensity
 30 recommended for the various districts and other territory covered
 31 by the plan. The land use element shall identify and annually
 32 review those areas covered by the plan that are subject to flooding
 33 identified by flood plain mapping prepared by the Federal
 34 Emergency Management Agency (FEMA) or the Department of
 35 Water Resources. The land use element shall also do both of the
 36 following:

37 (1) Designate in a land use category that provides for timber
 38 production those parcels of real property zoned for timberland
 39 production pursuant to the California Timberland Productivity Act

1 of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1
2 of Division 1 of Title 5).

3 (2) Consider the impact of new growth on military readiness
4 activities carried out on military bases, installations, and operating
5 and training areas, when proposing zoning ordinances or
6 designating land uses covered by the general plan for land, or other
7 territory adjacent to military facilities, or underlying designated
8 military aviation routes and airspace.

9 (A) In determining the impact of new growth on military
10 readiness activities, information provided by military facilities
11 shall be considered. Cities and counties shall address military
12 impacts based on information from the military and other sources.

13 (B) The following definitions govern this paragraph:

14 (i) “Military readiness activities” mean all of the following:

15 (I) Training, support, and operations that prepare the men and
16 women of the military for combat.

17 (II) Operation, maintenance, and security of any military
18 installation.

19 (III) Testing of military equipment, vehicles, weapons, and
20 sensors for proper operation or suitability for combat use.

21 (ii) “Military installation” means a base, camp, post, station,
22 yard, center, homeport facility for any ship, or other activity under
23 the jurisdiction of the United States Department of Defense as
24 defined in paragraph (1) of subsection (e) of Section 2687 of Title
25 10 of the United States Code.

26 (b) (1) A circulation element consisting of the general location
27 and extent of existing and proposed major thoroughfares,
28 transportation routes, terminals, any military airports and ports,
29 and other local public utilities and facilities, all correlated with the
30 land use element of the plan.

31 (2) (A) Commencing January 1, 2011, upon any substantive
32 revision of the circulation element, the legislative body shall
33 modify the circulation element to plan for a balanced, multimodal
34 transportation network that meets the needs of all users of streets,
35 roads, and highways for safe and convenient travel in a manner
36 that is suitable to the rural, suburban, or urban context of the
37 general plan.

38 (B) For purposes of this paragraph, “users of streets, roads, and
39 highways” mean bicyclists, children, persons with disabilities,

1 motorists, movers of commercial goods, pedestrians, users of public
2 transportation, and seniors.

3 (c) A housing element as provided in Article 10.6 (commencing
4 with Section 65580).

5 (d) (1) A conservation element for the conservation,
6 development, and utilization of natural resources including water
7 and its hydraulic force, forests, soils, rivers and other waters,
8 harbors, fisheries, wildlife, minerals, and other natural resources.

9 The conservation element shall consider the effect of development
10 within the jurisdiction, as described in the land use element, on
11 natural resources located on public lands, including military
12 installations. That portion of the conservation element including
13 waters shall be developed in coordination with any countywide
14 water agency and with all district and city agencies, including
15 flood management, water conservation, or groundwater agencies
16 that have developed, served, controlled, managed, or conserved
17 water of any type for any purpose in the county or city for which
18 the plan is prepared. Coordination shall include the discussion and
19 evaluation of any water supply and demand information described
20 in Section 65352.5, if that information has been submitted by the
21 water agency to the city or county.

22 (2) The conservation element may also cover all of the
23 following:

24 (A) The reclamation of land and waters.

25 (B) Prevention and control of the pollution of streams and other
26 waters.

27 (C) Regulation of the use of land in stream channels and other
28 areas required for the accomplishment of the conservation plan.

29 (D) Prevention, control, and correction of the erosion of soils,
30 beaches, and shores.

31 (E) Protection of watersheds.

32 (F) The location, quantity and quality of the rock, sand, and
33 gravel resources.

34 (3) Upon the next revision of the housing element on or after
35 January 1, 2009, the conservation element shall identify rivers,
36 creeks, streams, flood corridors, riparian habitats, and land that
37 may accommodate floodwater for purposes of groundwater
38 recharge and stormwater management.

39 (e) An open-space element as provided in Article 10.5
40 (commencing with Section 65560).

1 (f) (1) A noise element that shall identify and appraise noise
2 problems in the community. The noise element shall recognize the
3 guidelines established by the Office of Noise Control and shall
4 analyze and quantify, to the extent practicable, as determined by
5 the legislative body, current and projected noise levels for all of
6 the following sources:

7 (A) Highways and freeways.

8 (B) Primary arterials and major local streets.

9 (C) Passenger and freight online railroad operations and ground
10 rapid transit systems.

11 (D) Commercial, general aviation, heliport, helistop, and military
12 airport operations, aircraft overflights, jet engine test stands, and
13 all other ground facilities and maintenance functions related to
14 airport operation.

15 (E) Local industrial plants, including, but not limited to, railroad
16 classification yards.

17 (F) Other ground stationary noise sources, including, but not
18 limited to, military installations, identified by local agencies as
19 contributing to the community noise environment.

20 (2) Noise contours shall be shown for all of these sources and
21 stated in terms of community noise equivalent level (CNEL) or
22 day-night average level (L_{dn}). The noise contours shall be prepared
23 on the basis of noise monitoring or following generally accepted
24 noise modeling techniques for the various sources identified in
25 paragraphs (1) to (6), inclusive.

26 (3) The noise contours shall be used as a guide for establishing
27 a pattern of land uses in the land use element that minimizes the
28 exposure of community residents to excessive noise.

29 (4) The noise element shall include implementation measures
30 and possible solutions that address existing and foreseeable noise
31 problems, if any. The adopted noise element shall serve as a
32 guideline for compliance with the state's noise insulation standards.

33 (g) (1) A safety element for the protection of the community
34 from any unreasonable risks associated with the effects of
35 seismically induced surface rupture, ground shaking, ground
36 failure, tsunami, seiche, and dam failure; slope instability leading
37 to mudslides and landslides; subsidence; liquefaction; and other
38 seismic hazards identified pursuant to Chapter 7.8 (commencing
39 with Section 2690) of Division 2 of the Public Resources Code,
40 and other geologic hazards known to the legislative body; flooding;

1 and wildland and urban fires. The safety element shall include
2 mapping of known seismic and other geologic hazards. It shall
3 also address evacuation routes, military installations, peakload
4 water supply requirements, and minimum road widths and
5 clearances around structures, as those items relate to identified fire
6 and geologic hazards.

7 (2) The safety element, upon the next revision of the housing
8 element on or after January 1, 2009, shall also do the following:

9 (A) Identify information regarding flood hazards, including,
10 but not limited to, the following:

11 (i) Flood hazard zones. As used in this subdivision, “flood
12 hazard zone” means an area subject to flooding that is delineated
13 as either a special hazard area or an area of moderate or minimal
14 hazard on an official flood insurance rate map issued by the Federal
15 Emergency Management Agency (FEMA). The identification of
16 a flood hazard zone does not imply that areas outside the flood
17 hazard zones or uses permitted within flood hazard zones will be
18 free from flooding or flood damage.

19 (ii) National Flood Insurance Program maps published by
20 FEMA.

21 (iii) Information about flood hazards that is available from the
22 United States Army Corps of Engineers.

23 (iv) Designated floodway maps that are available from the
24 Central Valley Flood Protection Board.

25 (v) Dam failure inundation maps prepared pursuant to Section
26 8589.5 that are available from the ~~California Emergency~~
27 ~~Management Agency~~ *Office of Emergency Services*.

28 (vi) Awareness Floodplain Mapping Program maps and 200-year
29 flood plain maps that are or may be available from, or accepted
30 by, the Department of Water Resources.

31 (vii) Maps of levee protection zones.

32 (viii) Areas subject to inundation in the event of the failure of
33 project or nonproject levees or floodwalls.

34 (ix) Historical data on flooding, including locally prepared maps
35 of areas that are subject to flooding, areas that are vulnerable to
36 flooding after wildfires, and sites that have been repeatedly
37 damaged by flooding.

38 (x) Existing and planned development in flood hazard zones,
39 including structures, roads, utilities, and essential public facilities.

1 (xi) Local, state, and federal agencies with responsibility for
2 flood protection, including special districts and local offices of
3 emergency services.

4 (B) Establish a set of comprehensive goals, policies, and
5 objectives based on the information identified pursuant to
6 subparagraph (A), for the protection of the community from the
7 unreasonable risks of flooding, including, but not limited to:

8 (i) Avoiding or minimizing the risks of flooding to new
9 development.

10 (ii) Evaluating whether new development should be located in
11 flood hazard zones, and identifying construction methods or other
12 methods to minimize damage if new development is located in
13 flood hazard zones.

14 (iii) Maintaining the structural and operational integrity of
15 essential public facilities during flooding.

16 (iv) Locating, when feasible, new essential public facilities
17 outside of flood hazard zones, including hospitals and health care
18 facilities, emergency shelters, fire stations, emergency command
19 centers, and emergency communications facilities or identifying
20 construction methods or other methods to minimize damage if
21 these facilities are located in flood hazard zones.

22 (v) Establishing cooperative working relationships among public
23 agencies with responsibility for flood protection.

24 (C) Establish a set of feasible implementation measures designed
25 to carry out the goals, policies, and objectives established pursuant
26 to subparagraph (B).

27 (3) Upon the next revision of the housing element on or after
28 January 1, 2014, the safety element shall be reviewed and updated
29 as necessary to address the risk of fire for land classified as state
30 responsibility areas, as defined in Section 4102 of the Public
31 Resources Code, and land classified as very high fire hazard
32 severity zones, as defined in Section 51177. This review shall
33 consider the advice included in the Office of Planning and
34 Research's most recent publication of "Fire Hazard Planning,
35 General Technical Advice Series" and shall also include all of the
36 following:

37 (A) Information regarding fire hazards, including, but not limited
38 to, all of the following:

39 (i) Fire hazard severity zone maps available from the Department
40 of Forestry and Fire Protection.

- 1 (ii) Any historical data on wildfires available from local
2 agencies or a reference to where the data can be found.
- 3 (iii) Information about wildfire hazard areas that may be
4 available from the United States Geological Survey.
- 5 (iv) General location and distribution of existing and planned
6 uses of land in very high fire hazard severity zones and in state
7 responsibility areas, including structures, roads, utilities, and
8 essential public facilities. The location and distribution of planned
9 uses of land shall not require defensible space compliance measures
10 required by state law or local ordinance to occur on publicly owned
11 lands or open space designations of homeowner associations.
- 12 (v) Local, state, and federal agencies with responsibility for fire
13 protection, including special districts and local offices of
14 emergency services.
- 15 (B) A set of goals, policies, and objectives based on the
16 information identified pursuant to subparagraph (A) for the
17 protection of the community from the unreasonable risk of wildfire.
- 18 (C) A set of feasible implementation measures designed to carry
19 out the goals, policies, and objectives based on the information
20 identified pursuant to subparagraph (B) including, but not limited
21 to, all of the following:
- 22 (i) Avoiding or minimizing the wildfire hazards associated with
23 new uses of land.
- 24 (ii) Locating, when feasible, new essential public facilities
25 outside of high fire risk areas, including, but not limited to,
26 hospitals and health care facilities, emergency shelters, emergency
27 command centers, and emergency communications facilities, or
28 identifying construction methods or other methods to minimize
29 damage if these facilities are located in a state responsibility area
30 or very high fire hazard severity zone.
- 31 (iii) Designing adequate infrastructure if a new development is
32 located in a state responsibility area or in a very high fire hazard
33 severity zone, including safe access for emergency response
34 vehicles, visible street signs, and water supplies for structural fire
35 suppression.
- 36 (iv) Working cooperatively with public agencies with
37 responsibility for fire protection.
- 38 (D) If a city or county has adopted a fire safety plan or document
39 separate from the general plan, an attachment of, or reference to,
40 a city or county's adopted fire safety plan or document that fulfills

1 commensurate goals and objectives and contains information
2 required pursuant to this paragraph.

3 (4) After the initial revision of the safety element pursuant to
4 paragraphs (2) and (3), upon each revision of the housing element,
5 the planning agency shall review and, if necessary, revise the safety
6 element to identify new information that was not available during
7 the previous revision of the safety element.

8 (5) Cities and counties that have flood plain management
9 ordinances that have been approved by FEMA that substantially
10 comply with this section, or have substantially equivalent
11 provisions to this subdivision in their general plans, may use that
12 information in the safety element to comply with this subdivision,
13 and shall summarize and incorporate by reference into the safety
14 element the other general plan provisions or the flood plain
15 ordinance, specifically showing how each requirement of this
16 subdivision has been met.

17 (6) Prior to the periodic review of its general plan and prior to
18 preparing or revising its safety element, each city and county shall
19 consult the California Geological Survey of the Department of
20 Conservation, the Central Valley Flood Protection Board, if the
21 city or county is located within the boundaries of the Sacramento
22 and San Joaquin Drainage District, as set forth in Section 8501 of
23 the Water Code, and the ~~California Emergency Management~~
24 ~~Agency Office of Emergency Services~~ for the purpose of including
25 information known by and available to the department, the agency,
26 and the board required by this subdivision.

27 (7) To the extent that a county's safety element is sufficiently
28 detailed and contains appropriate policies and programs for
29 adoption by a city, a city may adopt that portion of the county's
30 safety element that pertains to the city's planning area in
31 satisfaction of the requirement imposed by this subdivision.

32 *SEC. 357. Section 65302.6 of the Government Code is amended*
33 *to read:*

34 65302.6. (a) A city, county, or a city and county may adopt
35 with its safety element pursuant to subdivision (g) of Section 65302
36 a local hazard mitigation plan (HMP) specified in the federal
37 Disaster Mitigation Act of 2000 (Public Law 106-390). The hazard
38 mitigation plan shall include all of the following elements called
39 for in the federal act requirements:

1 (1) An initial earthquake performance evaluation of public
 2 facilities that provide essential services, shelter, and critical
 3 governmental functions.

4 (2) An inventory of private facilities that are potentially
 5 hazardous, including, but not limited to, multiunit, soft story,
 6 concrete tilt-up, and concrete frame buildings.

7 (3) A plan to reduce the potential risk from private and
 8 governmental facilities in the event of a disaster.

9 (b) Local jurisdictions that have not adopted a local hazard
 10 mitigation plan shall be given preference by the ~~California~~
 11 ~~Emergency Management Agency~~ *Office of Emergency Services*
 12 in recommending actions to be funded from the Pre-Disaster
 13 Mitigation Program, the Hazard Mitigation Grant Program, and
 14 the Flood Mitigation Assistance Program to assist the local
 15 jurisdiction in developing and adopting a local hazard mitigation
 16 plan, subject to available funding from the Federal Emergency
 17 Management Agency.

18 *SEC. 358. Section 66427.1 of the Government Code is amended*
 19 *to read:*

20 66427.1. (a) The legislative body shall not approve a final
 21 map for a subdivision to be created from the conversion of
 22 residential real property into a condominium project, a community
 23 apartment project, or a stock cooperative project, unless it finds
 24 as follows:

25 (1) Each tenant of the proposed condominium, community
 26 apartment project, or stock cooperative project, and each person
 27 applying for the rental of a unit in the residential real property, has
 28 received or will have received all applicable notices and rights
 29 now or hereafter required by this chapter or Chapter 3
 30 (commencing with Section 66451).

31 (2) Each of the tenants of the proposed condominium,
 32 community apartment project, or stock cooperative project has
 33 received or will receive each of the following notices:

34 (A) Written notification, pursuant to Section 66452.18, of
 35 intention to convert, provided at least 60 days prior to the filing
 36 of a tentative map pursuant to Section 66452.

37 (B) Ten days' written notification that an application for a public
 38 report will be, or has been, submitted to the ~~Department of Real~~
 39 ~~Estate~~ *Bureau of Real Estate*, that the period for each tenant's right

1 to purchase begins with the issuance of the final public report, and
2 that the report will be available on request.

3 (C) Written notification that the subdivider has received the
4 public report from the ~~Department of Real Estate~~ *Bureau of Real*
5 *Estate*. This notice shall be provided within five days after the date
6 that the subdivider receives the public report from the ~~Department~~
7 ~~of Real Estate~~ *Bureau of Real Estate*.

8 (D) Written notification within 10 days after approval of a final
9 map for the proposed conversion.

10 (E) One hundred eighty days' written notice of intention to
11 convert, provided prior to termination of tenancy due to the
12 conversion or proposed conversion pursuant to Section 66452.19,
13 but not before the local authority has approved a tentative map for
14 the conversion. The notice given pursuant to this paragraph shall
15 not alter or abridge the rights or obligations of the parties in
16 performance of their covenants, including, but not limited to, the
17 provision of services, payment of rent, or the obligations imposed
18 by Sections 1941, 1941.1, and 1941.2 of the Civil Code.

19 (F) Notice of an exclusive right to contract for the purchase of
20 his or her respective unit upon the same terms and conditions that
21 the unit will be initially offered to the general public or terms more
22 favorable to the tenant pursuant to Section 66452.20. The exclusive
23 right to purchase shall commence on the date the subdivision public
24 report is issued, as provided in Section 11018.2 of the Business
25 and Professions Code, and shall run for a period of not less than
26 90 days, unless the tenant gives prior written notice of his or her
27 intention not to exercise the right.

28 (b) The written notices to tenants required by subparagraphs
29 (A) and (B) of paragraph (2) of subdivision (a) shall be deemed
30 satisfied if those notices comply with the legal requirements for
31 service by mail.

32 (c) This section shall not diminish, limit, or expand, other than
33 as provided in this section, the authority of any city, county, or
34 city and county to approve or disapprove condominium projects.

35 (d) If a rental agreement was negotiated in Spanish, Chinese,
36 Tagalog, Vietnamese, or Korean, all required written notices
37 regarding the conversion of residential real property into a
38 condominium project, a community apartment project, or a stock
39 cooperative project shall be issued in that language.

1 SEC. 359. Section 66452.17 of the Government Code is
2 amended to read:

3 66452.17. (a) Commencing at a date not less than 60 days
4 prior to the filing of a tentative map pursuant to Section 66452,
5 the subdivider or his or her agent shall give notice of the filing, in
6 the form outlined in subdivision (b), to each person applying after
7 that date for rental of a unit of the subject property immediately
8 prior to the acceptance of any rent or deposit from the prospective
9 tenant by the subdivider.

10 (b) The notice shall be as follows:

11
12 "To the prospective occupant(s) of
13 _____:
14 (address)
15

16 The owner(s) of this building, at (address), has filed or plans to
17 file a tentative map with the (city, county, or city and county) to
18 convert this building to a (condominium, community apartment,
19 or stock cooperative project). No units may be sold in this building
20 unless the conversion is approved by the (city, county, or city and
21 county) and until after a public report is issued by the ~~Department~~
22 ~~of Real Estate~~ Bureau of Real Estate. If you become a tenant of
23 this building, you shall be given notice of each hearing for which
24 notice is required pursuant to Sections 66451.3 and 66452.5 of the
25 Government Code, and you have the right to appear and the right
26 to be heard at any such hearing.
27

28 _____
29 (signature of owner or owner's agent)
30 _____

31 (dated)

32 I have received this notice on _____.
33 (date)

34 _____
35 (prospective tenant's signature)"
36

37 (c) Failure by a subdivider or his or her agent to give the notice
38 required in subdivision (a) shall not be grounds to deny the
39 conversion. However, if the subdivider or his or her agent fails to
40 give notice pursuant to this section, he or she shall pay to each

1 prospective tenant who becomes a tenant and who was entitled to
2 the notice, and who does not purchase his or her unit pursuant to
3 subparagraph (F) of paragraph (2) of subdivision (a) of Section
4 66427.1, an amount equal to the sum of the following:

5 (1) Actual moving expenses incurred when moving from the
6 subject property, but not to exceed one thousand one hundred
7 dollars (\$1,100).

8 (2) The first month's rent on the tenant's new rental unit, if any,
9 immediately after moving from the subject property, but not to
10 exceed one thousand one hundred dollars (\$1,100).

11 (d) The requirements of subdivision (c) constitute a minimum
12 state standard. However, nothing in that subdivision shall be
13 construed to prohibit any city, county, or city and county from
14 requiring, by ordinance or charter provision, a subdivider to
15 compensate any tenant, whose tenancy is terminated as the result
16 of a condominium, community apartment project, or stock
17 cooperative conversion, in amounts or by services which exceed
18 those set forth in paragraphs (1) and (2) of that subdivision. If that
19 requirement is imposed by any city, county, or city and county, a
20 subdivider who meets the compensation requirements of the local
21 ordinance or charter provision shall be deemed to satisfy the
22 requirements of subdivision (c).

23 *SEC. 360. Section 66503 of the Government Code is amended*
24 *to read:*

25 66503. The commission shall consist of 21 members as follows:

26 (a) Two members each from the City and County of San
27 Francisco and the Counties of Contra Costa and San Mateo, and
28 three members each from the Counties of Alameda and Santa
29 Clara. With respect to the members from the City and County of
30 San Francisco, the mayor shall appoint one member and the board
31 of supervisors shall appoint one member. With respect to the
32 members from Alameda, Contra Costa, San Mateo, and Santa
33 Clara Counties, the city selection committee organized in each
34 county pursuant to Article 11 (commencing with Section 50270)
35 of Chapter 1 of Part 1 of Division 1 of Title 5, shall appoint one
36 member and the board of supervisors shall appoint one member.
37 The Mayor of the City of Oakland shall be self-appointed or shall
38 appoint a member of the Oakland City Council to serve as the third
39 member from the County of Alameda. The Mayor of the City of
40 San Jose shall be self-appointed or shall appoint a member of the

1 San Jose City Council to serve as the third member from the
2 County of Santa Clara.

3 (b) One member each from Marin, Napa, Solano, and Sonoma
4 Counties. The city selection committee of these counties shall
5 furnish to the board of supervisors the names of three nominees
6 and the board of supervisors shall appoint one of the nominees to
7 represent the county.

8 (c) One representative each appointed by the Association of
9 Bay Area Governments and the San Francisco Bay Conservation
10 and Development Commission. The representative appointed by
11 the San Francisco Bay Conservation and Development Commission
12 shall be a member of the commission and a resident of the City
13 and County of San Francisco, and shall be approved by the Mayor
14 of San Francisco.

15 (d) One representative, who shall be a nonvoting member,
16 appointed by the Secretary of the ~~Business, Transportation and~~
17 ~~Housing Agency~~ *Transportation*.

18 (e) One representative each appointed by the United States
19 Department of Transportation and Department of Housing and
20 Urban Development. However, these representatives shall serve
21 only if the agencies they represent are amenable to these
22 appointments. These representatives shall be nonvoting members.

23 (f) Public officers, whether elected or appointed, may be
24 appointed and serve as members of the commission during their
25 terms of public office.

26 (g) No more than three members appointed pursuant to
27 subdivisions (a), (b), and (c) shall be residents of the same county.

28 *SEC. 361. Section 66521 of the Government Code is amended*
29 *to read:*

30 66521. (a) It is the intention of the Legislature that the federal
31 government, the state, and local agencies in the region will
32 participate in support of the commission. The Legislature further
33 intends that financial support of the activities of the commission
34 will be made available from federal, state, and local sources
35 normally available for transportation and general planning purposes
36 in the region.

37 (b) The commission and the ~~Business, Transportation and~~
38 ~~Housing~~ *Transportation* Agency shall negotiate contracts or
39 agreements whereby federal-aid highway funds available for
40 planning, and the necessary state matching funds from the State

1 Highway Account in the State Transportation Fund, may be made
2 available for support of the activities of the commission insofar
3 as they relate to highway, road, and street planning for the region.

4 (c) The commission shall also negotiate, either directly or
5 through the Office of Planning and Research or other appropriate
6 agency, with the United States Department of Housing and Urban
7 Development for grants or contributions of federal funds which
8 may be available to support the study and planning activities of
9 the commission.

10 (d) The commission shall negotiate equitable agreements with
11 the City and County of San Francisco, and other counties and cities
12 within the region, the Association of Bay Area Governments, the
13 San Francisco Bay Area Rapid Transit District, the
14 Alameda-Contra Costa Transit District, and the Golden Gate
15 Bridge, Highway and Transportation District for the contribution
16 of funds or services for the general support of the activities of the
17 commission and for required matching of federal funds as may be
18 made available. Any county, city and county, or city may use its
19 apportionments from the Motor Vehicle License Fee Account in
20 the Transportation Tax Fund for these purposes.

21 *SEC. 362. Section 66540.5 of the Government Code is amended*
22 *to read:*

23 66540.5. The authority shall have the authority to plan, manage,
24 operate, and coordinate the emergency activities of all water
25 transportation and related facilities within the bay area region,
26 except those provided or owned by the Golden Gate Bridge,
27 Highway and Transportation District. During a state of war
28 emergency, a state of emergency, or a local emergency, as
29 described in Section 8558, the authority, in cooperation with the
30 ~~California Emergency Management Agency~~ *Office of Emergency*
31 *Services*, the United States Coast Guard, the Federal Emergency
32 Management Agency, and the Metropolitan Transportation
33 Commission, shall coordinate the emergency activities for all water
34 transportation services in the bay area region and, for such
35 purposes, shall be known as the Bay Area Maritime Emergency
36 Transportation Coordinator.

37 *SEC. 363. Section 66540.32 of the Government Code is*
38 *amended to read:*

39 66540.32. (a) The authority shall create and adopt, on or before
40 July 1, 2009, an emergency water transportation system

1 management plan for water transportation services in the bay area
2 region in the event that bridges, highways, and other facilities are
3 rendered wholly or significantly inoperable.

4 (b) (1) The authority shall create and adopt, on or before July
5 1, 2009, a transition plan to facilitate the transfer of existing public
6 transportation ferry services within the bay area region to the
7 authority pursuant to this title. In the preparation of the transition
8 plan, priority shall be given to ensuring continuity in the programs,
9 services, and activities of existing public transportation ferry
10 services.

11 (2) The plan required by this subdivision shall include all of the
12 following:

13 (A) A description of existing ferry services in the bay area
14 region, as of January 1, 2008, that are to be transferred to the
15 authority pursuant to Section 66540.11 and a description of any
16 proposed changes to those services.

17 (B) A description of any proposed expansion of ferry services
18 in the bay area region.

19 (C) An inventory of the ferry and ferry-related capital assets or
20 leasehold interests, including, but not limited to, vessels, terminals,
21 maintenance facilities, and existing or planned parking facilities
22 or parking structures, and of the personnel, operating costs, and
23 revenues of public agencies operating public transportation ferries
24 and providing water transportation services as of January 1, 2008,
25 and those facilities that are to be transferred, in whole or in part,
26 to the authority pursuant to Section 66540.11.

27 (D) A description of those capital assets, leasehold interests,
28 and personnel identified in subparagraph (C) that the authority
29 proposes to be transferred pursuant to Section 66540.11.

30 (E) An operating plan that includes, at a minimum, an estimate
31 of the costs to continue the ferry services described in subparagraph
32 (A) for at least five years and a detailed description of current and
33 historically available revenues and proposed sources of revenue
34 to meet those anticipated costs. Further, the operating plan shall
35 identify options for closing any projected deficits or for addressing
36 increased cost inputs, such as fuel, for at least the five-year period.

37 (F) A description of the proposed services, duties, functions,
38 responsibilities, and liabilities of the authority and those of agencies
39 providing or proposed to provide water transportation services for
40 the authority.

1 (G) To the extent the plan may include the transfer of assets or
2 services from a local agency to the authority pursuant to Section
3 66540.11, that transfer shall be subject to negotiation and
4 agreement by the local agency. The authority and the local agency
5 shall negotiate and agree on fair terms, including just
6 compensation, prior to any transfer authorized by this title.

7 (H) An initial five-year Capital Improvement Program (CIP)
8 detailing how the authority and its local agency partners plan to
9 support financing and completion of capital improvement projects,
10 including, but not limited to, those described in subparagraph (C),
11 that are required to support the operation of transferred ferry
12 services. Priority shall be given to emergency response projects
13 and those capital improvement projects for which a Notice of
14 Determination pursuant to the California Environmental Quality
15 Act has been filed and which further the expansion, efficiency, or
16 effectiveness of the ferry system.

17 (I) A description of how existing and expanded water
18 transportation services will provide seamless connections to other
19 transit providers in the bay area region, including, but not limited
20 to, a description of how the authority will coordinate with all local
21 agencies to ensure optimal public transportation services, including
22 supplemental bus services that existed on January 1, 2008, that
23 support access to the ferry system for the immediate and
24 surrounding communities.

25 (J) The date on which the ferry services are to be transferred to
26 the authority.

27 (3) To the extent the plan required by this subdivision includes
28 proposed changes to water transportation services or related
29 facilities historically provided by the City of Vallejo or the City
30 of Alameda, the proposed changes shall be consistent with that
31 city's general plan, its redevelopment plans, and its development
32 and disposition agreements for projects related to the provision of
33 water transportation services. Those projects include, but are not
34 limited to, the construction of parking facilities and transit transfer
35 facilities within close proximity of a ferry terminal or the relocation
36 of a ferry terminal.

37 (c) In developing the plans described in subdivisions (a) and
38 (b), the authority shall cooperate to the fullest extent possible with
39 the Metropolitan Transportation Commission, the ~~California~~
40 ~~Emergency Management Agency~~ *Office of Emergency Services*,

1 the Association of Bay Area Governments, and the San Francisco
2 Bay Conservation and Development Commission, and shall, to
3 the fullest extent possible, coordinate its planning with local
4 agencies, including those local agencies that operated, or contracted
5 for the operation of, public water transportation services as of the
6 effective date of this title. To avoid duplication of work, the
7 authority shall make maximum use of data and information
8 available from the planning programs of the Metropolitan
9 Transportation Commission, the ~~California Emergency~~
10 ~~Management Agency Office of Emergency Services~~, the
11 Association of Bay Area Governments, the San Francisco Bay
12 Conservation and Development Commission, the cities and
13 counties in the San Francisco Bay area, and other public and private
14 planning agencies. In addition, the authority shall consider both
15 of the following:

16 (1) The San Francisco Bay Area Water Transit Implementation
17 and Operations Plan adopted by the San Francisco Bay Area Water
18 Transit Authority on July 10, 2003.

19 (2) Any other plan concerning water transportation within the
20 bay area region developed or adopted by any general purpose local
21 government or special district that operates or sponsors water
22 transit, including, but not limited to, those water transportation
23 services provided under agreement with a private operator.

24 (d) The authority shall prepare a specific transition plan for any
25 transfer not anticipated by the transition plan required under
26 subdivision (b).

27 (e) Prior to adopting the plans required by this section, the
28 authority shall establish a process for taking public input on the
29 plans in consultation with existing operators of public ferry services
30 affected by the plans. The public input process shall include at
31 least one public hearing conducted at least 60 days prior to the
32 adoption of the plans in each city where an operational ferry facility
33 existed as of January 1, 2008.

34 *SEC. 364. Section 91550 of the Government Code is amended*
35 *to read:*

36 91550. There is in state government the California Industrial
37 Development Financing Advisory Commission, consisting of five
38 members, as follows:

39 (a) The Treasurer, who shall serve as chairperson.

40 (b) The Controller.

1 (c) The Director of Finance.

2 (d) The Secretary of ~~Business, Transportation and Housing~~
3 *Business, Consumer Services and Housing.*

4 (e) The Commissioner of ~~Corporations~~ *Business Oversight.*

5 Members of the commission may each designate a deputy or
6 employee in his or her agency to act for him or her at all meetings
7 of the commission. The first meeting shall be convened by the
8 Treasurer.

9 *SEC. 365. Section 99503 of the Government Code is amended*
10 *to read:*

11 99503. (a) (1) All state employees working under the
12 jurisdiction of an agency secretary shall, within 30 days of traveling
13 out of the country on official state business provide, to the secretary
14 to whom they report, a memorandum detailing dates of the trip,
15 countries and localities visited, a description of attendees of any
16 official meetings or events, and the goals, outcomes, and followup
17 expected from the trip. However, attendance at formal conferences
18 may be described in more general detail, including dates, location,
19 types of groups represented in the audience, and general topics
20 covered during the course of the conference.

21 (2) Except as provided in paragraphs (3) and (4), state employees
22 who do not work within an agency structure shall report the
23 information as described in paragraph (1) to the Governor's office.

24 (3) Legislative employees shall provide the information as
25 described in paragraph (1) to their respective Committee on Rules.

26 (4) State employees working under the jurisdiction of a
27 constitutional officer shall provide the information as described
28 in paragraph (1) to the constitutional officer to whom they report.

29 (5) Except as provided in paragraphs (3) and (4), state employees
30 who undertake official state business that could impact California
31 international trade or investment shall also provide a copy of the
32 memorandum to the ~~Secretary of the Business, Transportation and~~
33 ~~Housing Agency~~ *Director of the Governor's Office of Business*
34 *and Economic Development.*

35 (b) Travel out of the country on official state business when the
36 Governor, a Member of the Legislature, or a constitutional officer,
37 or all of these persons, is present, is exempt from the requirements
38 of subdivision (a).

39 *SEC. 366. Section 30.5 is added to the Harbors and Navigation*
40 *Code, to read:*

1 30.5. Whenever the term “Business, Transportation and
2 Housing Agency” appears within the Harbors and Navigation
3 Code, it shall refer to the Transportation Agency, and whenever
4 the term “Secretary of Business, Transportation and Housing”
5 appears within the Harbors and Navigation Code, it shall refer to
6 the Secretary of Transportation.

7 SEC. 367. Section 31 of the Harbors and Navigation Code is
8 repealed.

9 ~~31. “Commission” means the Boating and Waterways~~
10 ~~Commission.~~

11 SEC. 368. Section 32 of the Harbors and Navigation Code is
12 amended to read:

13 32. “Department” or “Division” means the ~~Department~~
14 ~~Division of Boating and Waterways in the Department of Parks~~
15 ~~and Recreation.~~

16 SEC. 369. Section 33 of the Harbors and Navigation Code is
17 amended to read:

18 33. “Director” or “deputy director” means the ~~Director~~ Deputy
19 Director of Boating and Waterways.

20 SEC. 370. Section 50 of the Harbors and Navigation Code is
21 amended to read:

22 50. (a) The Department of Harbors and Watercraft and its
23 successor, the Department of Navigation and Ocean Development,
24 and the ~~Department of Boating and Waterways~~ are continued in
25 existence in the ~~Resources Agency~~ Department of Parks and
26 Recreation as the ~~Department~~ Division of Boating and Waterways.
27 The ~~Department~~ Division of Boating and Waterways is the
28 successor to, and is vested with, the powers, functions, and
29 jurisdiction of the following state departments and agencies as
30 hereinafter specified:

31 (a)

32 (1) All of the powers, functions, and jurisdiction previously
33 vested in the Division of Small Craft Harbors of the Department
34 of Parks and Recreation.

35 (b)

36 (2) All of the powers, functions, and jurisdiction of the State
37 Lands Commission with respect to the acquisition, construction,
38 development, improvement, maintenance, and operation of small
39 craft harbors.

40 (c)

1 (3) All of the powers, functions, and jurisdiction of the
2 Department of Parks and Recreation with respect to boating facility
3 planning, design, and construction, except as specifically provided
4 with respect to boating trails in the California Recreational Trails
5 Act (commencing with Section 5070 of the Public Resources Code)
6 and in Article 2.6 (commencing with Section 68) of this chapter.

7 ~~(d)~~

8 (4) All of the powers, functions, and jurisdiction of the Office
9 of Architecture and Construction in the Department of General
10 Services with respect to boating facility planning and design.

11 ~~(e)~~

12 (5) All of the powers, functions, and jurisdiction of the
13 Department of Water Resources with respect to beach erosion
14 control.

15 ~~(f)~~

16 (6) All of the policymaking and regulatory powers, functions,
17 and jurisdiction of the Harbors and Watercraft Commission as to
18 matters within the jurisdiction of the department.

19 *(b) Regulations adopted by the former Department of Boating
20 and Waterways shall remain in effect until revised or repealed by
21 the Division of Boating and Waterways.*

22 *SEC. 371. Section 50.1 of the Harbors and Navigation Code
23 is amended to read:*

24 50.1. (a) Whenever the term “Division of Small Craft Harbors”
25 or the term “Small Craft Harbors Commission” *or the term*
26 *“Department of Boating and Waterways”* is used in any provision
27 of law, it shall be construed as referring to the ~~Department~~ *Division*
28 of Boating and Waterways.

29 ~~Whenever,~~

30 (b) *Whenever,* by any statute now in force or that may be
31 hereafter enacted, any power, function, or jurisdiction, as specified
32 in Section 50, is imposed or conferred upon the State Lands
33 Commission, the Department of Parks and Recreation, the Office
34 of Architecture and Construction in the Department of General
35 Services, or the Department of Water Resources, such power,
36 function, or jurisdiction shall be deemed to be imposed or conferred
37 upon the ~~Department~~ *Division* of Boating and Waterways.

38 ~~Nothing in this~~

39 (c) *This section or in and this code shall do not* divest the State
40 Lands Commission of jurisdiction with respect to the leasing of

1 state lands, including state lands used for small craft harbors,
2 swamps and overflowed lands, or tide and submerged lands, for
3 the extraction and removal of oil and gas and other minerals.

4 *SEC. 372. Section 50.2 of the Harbors and Navigation Code*
5 *is amended to read:*

6 50.2. The ~~department~~ *division* shall be administered by an
7 executive officer known as the *Deputy Director of Boating and*
8 *Waterways. Any reference to the Director of Boating and*
9 *Waterways shall be deemed to refer to the Deputy Director of*
10 *Boating and Waterways. The deputy director shall be appointed*
11 *by and hold office at the pleasure of the Governor and shall receive*
12 *the salary provided for by Chapter 6 (commencing with Section*
13 *11550) of Part 1 of Division 3 of Title 2 of the Government Code.*
14 *The appointment of any deputy director appointed by the Governor*
15 *shall be subject to confirmation by the Senate.*

16 *SEC. 373. Section 65.4 of the Harbors and Navigation Code*
17 *is repealed.*

18 ~~65.4. Any plans for construction of beach erosion control works~~
19 ~~which may in any way affect recreational beaches under the~~
20 ~~ownership or control of the Department of Parks and Recreation~~
21 ~~shall be subject to approval by the Department of Parks and~~
22 ~~Recreation.~~

23 *SEC. 374. Section 81.8 of the Harbors and Navigation Code,*
24 *as added by Section 2 of Chapter 136 of the Statutes of 2012, is*
25 *amended to read:*

26 81.8. The *deputy* director shall act as the secretary of the
27 commission.

28 *SEC. 375. Section 85.2 of the Harbors and Navigation Code*
29 *is amended to read:*

30 85.2. (a) All moneys in the Harbors and Watercraft Revolving
31 Fund are available, upon appropriation by the Legislature, for
32 expenditure by the ~~department~~ *Department of Parks and Recreation*
33 for boating facilities development, boating safety, and boating
34 regulation programs, and for the purposes of Section 656.4,
35 including refunds, and for expenditure for construction of small
36 craft harbor and boating facilities planned, designed, and
37 constructed by the ~~department~~ *division*, as specified in subdivision
38 (c) of Section 50, at sites owned or under the control of the state.

39 (b) (1) The money in the fund is also available, upon
40 appropriation by the Legislature, ~~to the Department of Parks and~~

1 ~~Recreation~~ for the operation and maintenance of units of the state
2 park system that have boating-related activities. Funds appropriated
3 ~~to the Department of Parks and Recreation~~ may also be used for
4 boating safety and enforcement programs ~~for waters under its~~
5 ~~jurisdiction~~.

6 (2) The Department of Parks and Recreation shall submit to the
7 Legislature, on or before January 1 of each year, a report describing
8 the allocation and expenditure of funds made available to the
9 Department of Parks and Recreation from the Harbors and
10 Watercraft Revolving Fund and from the Motor Vehicle Fuel
11 Account in the Transportation Tax Fund attributable to taxes
12 imposed on the distribution of motor vehicle fuel used or usable
13 in propelling vessels during the previous fiscal year. The report
14 shall list the special project or use, project location, amount of
15 money allocated or expended, the source of funds allocated or
16 expended, and the relation of the project or use to boating activities.

17 (c) The money in the fund shall also be available, upon
18 appropriation by the Legislature, to the State Water Resources
19 Control Board for boating-related water quality regulatory
20 activities.

21 (d) The money in the fund is also available, upon appropriation
22 by the Legislature, to the Department of Fish and Game for
23 activities addressing the boating-related spread of invasive species.

24 (e) The money in the fund is also available, upon appropriation
25 by the Legislature, to the Department of Food and Agriculture for
26 activities addressing the boating-related spread of invasive species.

27 *SEC. 376. Section 1150 of the Harbors and Navigation Code*
28 *is amended to read:*

29 1150. (a) There is in the ~~Business, Transportation and Housing~~
30 *Transportation* Agency a Board of Pilot Commissioners for the
31 Bays of San Francisco, San Pablo, and Suisun, consisting of seven
32 members appointed by the Governor, with the consent of the
33 Senate, as follows:

34 (1) Two members shall be pilots licensed pursuant to this
35 division.

36 (2) Two members shall represent the industry and shall be
37 persons currently engaged as owners, officers, directors, employees,
38 or representatives of a firm or association of firms that is a
39 substantial user of pilotage service in the Bay of San Francisco,
40 San Pablo, Suisun, or Monterey, one of whom shall be engaged

1 in the field of tanker company operations, and one of whom shall
2 be engaged in dry cargo operations. The board of directors of a
3 regional maritime trade association controlled by West Coast vessel
4 operators that specifically represents the owners and operators of
5 vessels or barges engaged in transportation by water of cargo or
6 passengers from or to the Pacific area of the United States shall
7 nominate, rank, and submit to the Governor the names of three
8 persons for each category of industry member to be appointed.

9 (3) Three members shall be public members. Any person may
10 serve as a public member unless otherwise prohibited by law,
11 except that during his or her term of office or within the two years
12 preceding his or her appointment, a public member appointed shall
13 not have (A) any financial or proprietary interest in the ownership,
14 operation, or management of tugs, cargo, or passenger vessels, (B)
15 sailed under the authority of a federal or state pilot license in waters
16 under the jurisdiction of the board, (C) been employed by a
17 company that is a substantial user of pilot services, or (D) been a
18 consultant or other person providing professional services who
19 had received more than 20 percent in the aggregate of his or her
20 income from a company that is a substantial user of pilot services
21 or an association of companies that are substantial users of pilot
22 services. Ownership of less than one-tenth of 1 percent of the stock
23 of a publicly traded corporation is not a financial or proprietary
24 interest in the ownership of tugs, cargo, or passenger vessels.

25 (4) Notwithstanding any other provision of law, this chapter
26 does not prohibit the Governor from notifying the nominating
27 authority identified in paragraph (2) that persons nominated are
28 unacceptable for appointment. Following that notification, the
29 nominating authority shall submit a new list of nominees to the
30 Governor, naming three persons, none of whom were previously
31 nominated, from which the Governor may make the appointment.
32 This process shall be continued until a person nominated by the
33 nominating authority and satisfactory to the Governor has been
34 appointed.

35 (b) Members appointed pursuant to subdivision (a) shall be
36 appointed with staggered terms as follows:

37 (1) Each of the members appointed pursuant to paragraphs (1)
38 and (2) of subdivision (a) shall be appointed for a four-year term,
39 except that the first member appointed after December 31, 2012,
40 to an initial term pursuant to paragraph (1) of subdivision (a) shall

1 be appointed to a term expiring on December 31, 2014, and the
2 first member appointed after December 31, 2012, to an initial term
3 pursuant to paragraph (2) of subdivision (a) shall be appointed to
4 a term expiring on December 31, 2014.

5 (2) Members appointed pursuant to paragraph (3) of subdivision
6 (a) shall be appointed with staggered four-year terms with the
7 initial four-year terms expiring on December 31 of the years 1988,
8 1990, and 1991, respectively.

9 (3) A person shall not be appointed for more than two terms.

10 (4) Vacancies on the board for both expired and unexpired terms
11 shall be filled by the appointing power in the manner prescribed
12 by subdivision (a).

13 (c) A quorum of the board members consists of four members.
14 All actions of the board shall require the vote of four members, a
15 quorum being present.

16 (d) The Secretary of ~~Business, Transportation and Housing~~
17 *Transportation* shall serve as an ex officio member of the board
18 who, without vote, may exercise all other privileges of a member
19 of the board.

20 *SEC. 377. Section 1596.867 of the Health and Safety Code is*
21 *amended to read:*

22 1596.867. (a) All child day care facilities, as defined in Section
23 1596.750, shall include an Earthquake Preparedness Checklist as
24 an attachment to the disaster plan prescribed by Section 1596.95
25 or 1597.54. However, the Earthquake Preparedness Checklist shall
26 not be considered a requirement for obtaining or maintaining a
27 license for a child day care center or family day care home. The
28 Earthquake Preparedness Checklist shall be made accessible to
29 the public at the child day care center, or family day care home.
30 The licensing agency shall not monitor or be responsible for
31 enforcing any provision contained in the Earthquake Preparedness
32 Checklist or ensuring that the checklist is made accessible to the
33 public.

34 (b) The Earthquake Preparedness Checklist shall not exceed
35 two typewritten pages and the department may add to or delete
36 from the list, as it deems appropriate. The checklist may include,
37 but not be limited to, all of the procedures that are listed in the
38 following proposed Earthquake Preparedness Checklist. A licensee
39 of a child day care center or family day care home shall have the
40 option of selecting from the checklist the procedures, if any, the

1 licensee chooses to use in the child day care center or family day
 2 care home.

3
 4
 5

6 Earthquake Preparedness Checklist (EPC)*

7
 8 Eliminate potential hazards in classrooms and throughout the
 9 site:

- 10 Bolt bookcases in high traffic areas securely to wall studs
- 11 Move heavy books and items from high to low shelves
- 12 Secure and latch filing cabinets
- 13 Secure cabinets in high traffic areas with child safety latches
- 14 Secure aquariums, computers, typewriters, TV-VCR
- 15 equipment to surfaces, such as by using Velcro tabs
- 16 Make provisions for securing rolling portable items such as
- 17 TV-VCRs, pianos, refrigerators
- 18 Move children’s activities and play areas away from
- 19 windows, or protect windows with blinds or adhesive
- 20 plastic sheeting
- 21 Secure water heater to wall using plumber’s tape
- 22 Assess and determine possible escape routes

23
 24 Establish a coordinated response plan involving all of the following:

25 Involving children:

- 26 Teach children about earthquakes and what to do (see
- 27 resource list below)
- 28 Practice “duck, cover, and hold” earthquake drills under
- 29 tables or desks no less than 4 times a year

30 Involving parents:

- 31 Post, or make available to parents, copies of the school
- 32 earthquake safety plan (including procedures for
- 33 reuniting parents or alternate guardians with children,
- 34 location of planned evacuation site, method for leaving
- 35 messages and communicating)
- 36 Enlist parent and community resource assistance in securing
- 37 emergency supplies or safeguarding the child day care
- 38 site:

- 1 _____ store a 3-day supply of nonperishable food (including
- 2 juice, canned food items, snacks, and infant
- 3 formula)
- 4 _____ store a 3-day supply of water and juice
- 5 _____ store food and water in an accessible location, such as
- 6 portable plastic storage containers
- 7 _____ store other emergency supplies such as flashlights, a
- 8 radio with extra batteries, heavy gloves, trash bags,
- 9 and tools
- 10 _____ maintain a complete, up-to-date listing of children,
- 11 emergency numbers, and contact people for each
- 12 classroom stored with emergency supplies

13 Involving child day care personnel and local emergency
14 agencies:

- 15 _____ Identify and assign individual responsibilities for staff
- 16 following an earthquake (including accounting for and
- 17 evacuating children, injury control, damage assessment)
- 18 _____ Involve and train all staff members about the earthquake
- 19 safety plan, including location and procedure for turning
- 20 off utilities and gas
- 21 _____ Contact nearby agencies (including police, fire, Red Cross,
- 22 and local government) for information and materials in
- 23 developing the child day care center earthquake safety plan
- 24

25 *For more free resources contact:

- 26 (1) Federal Emergency Management Agency (FEMA)
- 27 (2) ~~California Emergency Management Agency (Cal EMA)~~ *Office of*
- 28 *Emergency Services*
- 29 (3) Red Cross
- 30

31 (c) Nothing in this section shall be construed to prevent the
32 adoption or enforcement of earthquake safety standards for child
33 day care facilities by local ordinance.

34 (d) Nothing in this section shall be construed to prevent the
35 department from adopting or enforcing regulations on earthquake
36 safety or making earthquake safety drills mandatory.

37 *SEC. 378. Section 1797.132 of the Health and Safety Code is*
38 *amended to read:*

39 1797.132. An Interdepartmental Committee on Emergency
40 Medical Services is hereby established. This committee shall advise

1 the authority on the coordination and integration of all state
2 activities concerning emergency medical services. The committee
3 shall include a representative from each of the following state
4 agencies and departments: the ~~California Emergency Management~~
5 ~~Agency Office of Emergency Services~~, the Department of the
6 California Highway Patrol, the Department of Motor Vehicles, a
7 representative of the administrator of the California Traffic Safety
8 Program as provided by Chapter 5 (commencing with Section
9 2900) of Division 2 of the Vehicle Code, the Medical Board of
10 California, the State Department of *Public Health Services*, the
11 Board of Registered Nursing, the State Department of Education,
12 the National Guard, the Office of Statewide Health Planning and
13 Development, the State Fire Marshal, the California Conference
14 of Local Health Officers, the Department of Forestry and Fire
15 Protection, the Chancellor's Office of the California Community
16 Colleges, and the Department of General Services.

17 *SEC. 379. Section 1797.150 of the Health and Safety Code is*
18 *amended to read:*

19 1797.150. In cooperation with the ~~California Emergency~~
20 ~~Management Agency Office of Emergency Services~~, the authority
21 shall respond to any medical disaster by mobilizing and
22 coordinating emergency medical services mutual aid resources to
23 mitigate health problems.

24 *SEC. 380. Section 1797.151 of the Health and Safety Code is*
25 *amended to read:*

26 1797.151. The authority shall coordinate, through local EMS
27 agencies, medical and hospital disaster preparedness with other
28 local, state, and federal agencies and departments having a
29 responsibility relating to disaster response, and shall assist the
30 ~~California Emergency Management Agency Office of Emergency~~
31 *Services* in the preparation of the emergency medical services
32 component of the State Emergency Plan as defined in Section 8560
33 of the Government Code.

34 *SEC. 381. Section 1797.152 of the Health and Safety Code is*
35 *amended to read:*

36 1797.152. (a) The director and the ~~Director of State Public~~
37 ~~Health Services Officer~~ may jointly appoint a regional disaster
38 medical and health coordinator for each mutual aid region of the
39 state. A regional disaster medical and health coordinator shall be
40 either a county health officer, a county coordinator of emergency

1 services, an administrator of a local EMS agency, or a medical
2 director of a local EMS agency. Appointees shall be chosen from
3 among persons nominated by a majority vote of the local health
4 officers in a mutual aid region.

5 (b) In the event of a major disaster which results in a
6 proclamation of emergency by the Governor, and in the need to
7 deliver medical or public and environmental health mutual aid to
8 the area affected by the disaster, at the request of the authority, the
9 State Department of ~~Public Health Services~~, or the ~~California~~
10 ~~Emergency Management Agency Office of Emergency Services~~,
11 a regional disaster medical and health coordinator in a region
12 unaffected by the disaster may coordinate the acquisition of
13 requested mutual aid resources from the jurisdictions in the region.

14 (c) A regional disaster medical and health coordinator may
15 develop plans for the provision of medical or public health mutual
16 aid among the counties in the region.

17 (d) No person may be required to serve as a regional disaster
18 medical and health coordinator. No state compensation shall be
19 paid for a regional disaster medical and health coordinator position,
20 except as determined appropriate by the state, if funds become
21 available.

22 *SEC. 382. Section 1797.153 of the Health and Safety Code is*
23 *amended to read:*

24 1797.153. (a) In each operational area the county health officer
25 and the local EMS agency administrator may act jointly as the
26 medical health operational area coordinator (MHOAC). If the
27 county health officer and the local EMS agency administrator are
28 unable to fulfill the duties of the MHOAC they may jointly appoint
29 another individual to fulfill these responsibilities. If an operational
30 area has a MHOAC, the MHOAC in cooperation with the county
31 office of emergency services, local public health department, the
32 local office of environmental health, the local department of mental
33 health, the local EMS agency, the local fire department, the
34 regional disaster and medical health coordinator (RDMHC), and
35 the regional office of the ~~California Emergency Management~~
36 ~~Agency Office of Emergency Services~~, shall be responsible for
37 ensuring the development of a medical and health disaster plan
38 for the operational area. The medical and disaster plans shall follow
39 the Standard Emergency Management System and National
40 Incident Management System. The MHOAC shall recommend to

1 the operational area coordinator of the ~~California Emergency~~
2 ~~Management Agency Office of Emergency Services~~ a medical and
3 health disaster plan for the provision of medical and health mutual
4 aid within the operational area.

5 (b) For purposes of this section, “operational area” has the same
6 meaning as that term is defined in subdivision (b) of Section 8559
7 of the Government Code.

8 (c) The medical and health disaster plan shall include
9 preparedness, response, recovery, and mitigation functions
10 consistent with the State Emergency Plan, as established under
11 Sections 8559 and 8560 of the Government Code, and, at a
12 minimum, the medical and health disaster plan, policy, and
13 procedures shall include all of the following:

- 14 (1) Assessment of immediate medical needs.
 - 15 (2) Coordination of disaster medical and health resources.
 - 16 (3) Coordination of patient distribution and medical evaluations.
 - 17 (4) Coordination with inpatient and emergency care providers.
 - 18 (5) Coordination of out-of-hospital medical care providers.
 - 19 (6) Coordination and integration with fire agencies personnel,
20 resources, and emergency fire prehospital medical services.
 - 21 (7) Coordination of providers of nonfire based prehospital
22 emergency medical services.
 - 23 (8) Coordination of the establishment of temporary field
24 treatment sites.
 - 25 (9) Health surveillance and epidemiological analyses of
26 community health status.
 - 27 (10) Assurance of food safety.
 - 28 (11) Management of exposure to hazardous agents.
 - 29 (12) Provision or coordination of mental health services.
 - 30 (13) Provision of medical and health public information
31 protective action recommendations.
 - 32 (14) Provision or coordination of vector control services.
 - 33 (15) Assurance of drinking water safety.
 - 34 (16) Assurance of the safe management of liquid, solid, and
35 hazardous wastes.
 - 36 (17) Investigation and control of communicable disease.
- 37 (d) In the event of a local, state, or federal declaration of
38 emergency, the MHOAC shall assist the agency operational area
39 coordinator in the coordination of medical and health disaster
40 resources within the operational area, and be the point of contact

1 in that operational area, for coordination with the RDMHC, the
2 agency, the regional office of the agency, the State Department of
3 Public Health, and the authority.

4 (e) Nothing in this section shall be construed to revoke or alter
5 the current authority for disaster management provided under either
6 of the following:

7 (1) The State Emergency Plan established pursuant to Section
8 8560 of the Government Code.

9 (2) The California standardized emergency management system
10 established pursuant to Section 8607 of the Government Code.

11 *SEC. 383. Section 11998.1 of the Health and Safety Code is*
12 *amended to read:*

13 11998.1. It is the intent of the Legislature that the following
14 long-term five-year goals be achieved:

15 (a) With regard to education and prevention of drug and alcohol
16 abuse programs, the following goals:

17 (1) Drug and alcohol abuse education has been included within
18 the mandatory curriculum in kindergarten and grades 1 to 12,
19 inclusive, in every public school in California.

20 (2) Basic training on how to recognize, and understand what to
21 do about, drug and alcohol abuse has been provided to
22 administrators and all teachers of kindergarten and grades 1 to 12,
23 inclusive.

24 (3) All school counselors and school nurses have received
25 comprehensive drug and alcohol abuse training.

26 (4) Each school district with kindergarten and grades 1 to 12,
27 inclusive, has appointed a drug and alcohol abuse advisory team
28 of school administrators, teachers, counselors, students, parents,
29 community representatives, and health care professionals, all of
30 whom have expertise in drug and alcohol abuse prevention. The
31 team coordinates with and receives consultation from the county
32 alcohol and drug program administrators.

33 (5) Every school board member has received basic drug and
34 alcohol abuse information.

35 (6) Each school district has a drug and alcohol abuse specialist
36 to assist the individual schools.

37 (7) Each school in grades 7 to 12, inclusive, has student peer
38 group drug and alcohol abuse programs.

39 (8) Every school district with kindergarten and grades 1 to 12,
40 inclusive, has updated written drug and alcohol abuse policies and

1 procedures including disciplinary procedures which will be given
2 to every school employee, every student, and every parent.

3 (9) The California State University and the University of
4 California have evaluated and, if feasible, established educational
5 programs and degrees in the area of drug and alcohol abuse.

6 (10) Every school district with kindergarten and grades 1 to 12,
7 inclusive, has an established parent teachers group with drug and
8 alcohol abuse prevention goals.

9 (11) Every school district has instituted a drug and alcohol abuse
10 education program for parents.

11 (12) Drug and alcohol abuse training has been imposed as a
12 condition for teacher credentialing and license renewal, and
13 knowledge on the issue is measured on the California Basic
14 Education Skills Test.

15 (13) Drug and alcohol abuse knowledge has been established
16 as a component on standardized competency tests as a requirement
17 for graduation.

18 (14) Every school district has established a parent support group.

19 (15) Every school district has instituted policies that address
20 the special needs of children who have been rehabilitated for drug
21 or alcohol abuse problems and who are reentering school. These
22 policies shall consider the loss of schooltime, the loss of academic
23 credits, and the sociological problems associated with drug and
24 alcohol abuse, its rehabilitation, and the educational delay it causes.

25 (16) The number of drug and alcohol abuse related incidents
26 on school grounds has decreased by 20 percent.

27 (b) With regard to community programs, the following goals:

28 (1) Every community-based social service organization that
29 receives state and local financial assistance has drug and alcohol
30 abuse information available for clients.

31 (2) All neighborhood watch, business watch, and community
32 conflict resolution programs have included drug and alcohol abuse
33 prevention efforts.

34 (3) All community-based programs that serve schoolaged
35 children have staff trained in drug and alcohol abuse and give a
36 clear, drug- and alcohol-free message.

37 (c) With regard to drug and alcohol abuse programs of the
38 media, the following goals:

39 (1) The state has established a comprehensive media campaign
40 that involves all facets of the drug and alcohol abuse problem,

1 including treatment, education, prevention, and intervention that
2 will result in increasing the public's knowledge and awareness of
3 the detrimental effects of alcohol and drug use, reducing the use
4 of alcohol and drugs, and increasing healthy lifestyle choices.

5 (2) The department on a statewide basis, and the county board
6 of supervisors or its designees at the local level, have:

7 (A) Assisted the entertainment industry in identifying ways to
8 use the entertainment industry effectively to encourage lifestyles
9 free of substance abuse.

10 (B) Assisted the manufacturers of drug and alcohol products in
11 identifying ways to use product advertising effectively to
12 discourage substance abuse.

13 (C) Assisted television stations in identifying ways to use
14 television programming effectively to encourage lifestyles free of
15 substance abuse.

16 (3) A statewide cooperative fundraising program with recording
17 artists and the entertainment industry has been encouraged to fund
18 drug and alcohol abuse prevention efforts in the state.

19 (d) With regard to drug and alcohol abuse health care programs,
20 the following goals:

21 (1) The number of drug and alcohol abuse-related medical
22 emergencies has decreased by 4 percent per year.

23 (2) All general acute care hospitals and AIDS medical service
24 providers have provided information to their patients on drug and
25 alcohol abuse.

26 (3) The Medical Board of California, the Psychology Examining
27 Committee, the Board of Registered Nursing, and the Board of
28 Behavioral Science Examiners have developed and implemented
29 the guidelines or regulations requiring drug and alcohol abuse
30 training for their licensees, and have developed methods of
31 providing training for those professionals.

32 (e) With regard to private sector drug and alcohol abuse
33 programs, the following goals:

34 (1) A significant percentage of businesses in the private sector
35 have developed personnel policies that discourage drug and alcohol
36 abuse and encourage supervision, training, and employee education.

37 (2) Noteworthy and publicly recognized figures and private
38 industry have been encouraged to sponsor fundraising events for
39 drug and alcohol abuse prevention.

1 (3) Every public or private athletic team has been encouraged
2 to establish policies forbidding drug and alcohol abuse.

3 (4) The private sector has established personnel policies that
4 discourage drug and alcohol abuse but encourage treatment for
5 those employees who require this assistance.

6 (f) With regard to local government drug and alcohol abuse
7 programs, the following goals:

8 (1) Every county has a five-year master plan to eliminate drug
9 and alcohol abuse developed jointly by the county-designated
10 alcohol and drug program administrators, reviewed jointly by the
11 advisory boards set forth in paragraph (2), and approved by the
12 board of supervisors. For those counties in which the alcohol and
13 drug programs are jointly administered, the administrator shall
14 develop the five-year master plan. To the degree possible, all
15 existing local plans relating to drug or alcohol abuse shall be
16 incorporated into the master plan.

17 (2) Every county has an advisory board on alcohol problems
18 and an advisory board on drug programs. The membership of these
19 advisory boards is representative of the county's population and
20 is geographically balanced. To the maximum extent possible, the
21 county advisory board on alcohol problems and the county advisory
22 board on drug programs will have representatives of the following:

23 (A) Law enforcement.

24 (B) Education.

25 (C) The treatment and recovery community, including a
26 representative with expertise in AIDS treatment services.

27 (D) Judiciary.

28 (E) Students.

29 (F) Parents.

30 (G) Private industry.

31 (H) Other community organizations involved in drug and alcohol
32 services.

33 (I) A representative of organized labor responsible for the
34 provision of Employee Assistance Program services.

35 If any of these areas is not represented on the advisory bodies,
36 the administrator designated in paragraph (1) shall solicit input
37 from a representative of the nonrepresented area prior to the
38 development of a master plan pursuant to paragraph (1).

1 (3) Every county public social service agency has established
2 policies that discourage drug and alcohol abuse and encourage
3 treatment and recovery services when necessary.

4 (4) Every local unit of government has an employee assistance
5 program that addresses drug and alcohol abuse problems.

6 (5) Every local unit of government has considered the potential
7 for drug and alcohol abuse problems when developing zoning
8 ordinances and issuing conditional use permits.

9 (6) Every county master plan includes treatment and recovery
10 services.

11 (6.5) Every county master plan includes specialized provisions
12 to ensure optimum alcohol and drug abuse service delivery for
13 handicapped and disabled persons.

14 (7) Every local unit of government has been encouraged to
15 establish an employee assistance program that includes the
16 treatment of drug and alcohol abuse-related programs.

17 (8) Every local governmental social service provider has
18 established a referral system under which clients with drug and
19 alcohol abuse problems can be referred for treatment.

20 (9) Every county drug and alcohol abuse treatment or recovery
21 program that serves women gives priority for services to pregnant
22 women.

23 (10) Every alcohol and drug abuse program provides AIDS
24 information to all program participants.

25 (g) With regard to state and federal government drug and alcohol
26 abuse programs, the following goals:

27 (1) The Department of Alcoholic Beverage Control has informed
28 all alcohol retailers of the laws governing liquor sales and has
29 provided training available to all personnel selling alcoholic
30 beverages, on identifying and handling minors attempting to
31 purchase alcohol.

32 (2) ~~The California Emergency Management Agency~~ *Office of*
33 *Emergency Services* has required all applicants for crime prevention
34 and juvenile justice and delinquency prevention funds to include
35 drug and alcohol abuse prevention efforts in their programs.

36 (3) All county applications for direct or indirect drug and alcohol
37 services funding from the department include a prevention
38 component.

1 (4) The Superintendent of Public Instruction has employed drug
2 and alcohol abuse school prevention specialists and assisted school
3 districts with the implementation of prevention programs.

4 (5) The State Department of Health Care Services has staff
5 trained in drug and alcohol abuse prevention who can assist local
6 mental health programs with prevention efforts.

7 (6) The Department of the California Highway Patrol, as
8 permitted by the United States Constitution, has established routine
9 statewide sobriety checkpoints for driving while under the
10 influence.

11 (7) The Department of Corrections and the Department of the
12 Youth Authority have provided drug and alcohol abuse education
13 and prevention services for all inmates, wards, and parolees. Both
14 departments have provided drug and alcohol abuse treatment
15 services for any inmate, ward, or parolee determined to be in need
16 of these services, or who personally requests these services.

17 (8) The Department of Motor Vehicles has distributed prevention
18 materials with each driver’s license or certificate of renewal and
19 each vehicle registration renewal mailed by the Department of
20 Motor Vehicles.

21 (9) Federal prevention programs have been encouraged to follow
22 the master plan.

23 (10) State licensing and program regulations for drug and
24 alcohol abuse treatment programs have been consolidated and
25 administered by one state agency.

26 (11) State treatment funding priorities have been included to
27 specially recognize the multiple diagnosed client who would be
28 eligible for services from more than one state agency.

29 (12) Every state agency has formalized employee assistance
30 programs that include the treatment of drug and alcohol
31 abuse-related problems.

32 (13) The state master plan includes specialized provisions to
33 ensure optimum drug and alcohol abuse service delivery for
34 handicapped and disabled persons.

35 (h) With regard to private sector direct service providers, the
36 following goals:

37 (1) Drinking drivers programs have provided clear
38 measurements of successful completion of the program to the
39 courts for each court-ordered client.

1 (2) Sufficient drug and alcohol treatment and recovery services
2 exist throughout the state to meet all clients' immediate and
3 long-range needs.

4 (3) Each county to the extent possible provides localized alcohol
5 and drug treatment and recovery services designed for individuals
6 seeking assistance for polydrug abuse.

7 (4) Adequate nonresidential and residential services are available
8 statewide for juveniles in need of alcohol or drug abuse services.

9 (5) Each provider of alcohol or drug services has been certified
10 by the state.

11 (6) Drug and alcohol abuse treatment providers provide general
12 AIDS information during treatment.

13 (i) With regard to supply regulation and reduction in conjunction
14 with drug and alcohol abuse, the following goals:

15 (1) The California National Guard supports federal, state, and
16 local drug enforcement agencies in counternarcotic operations as
17 permitted by applicable laws and regulations.

18 (2) Each county has a drug and alcohol abuse enforcement team,
19 designated by the board of supervisors. This team includes all
20 components of the criminal justice system. This team shall be
21 responsible to the board of supervisors, shall coordinate with the
22 drug and alcohol abuse advisory board and the county on all
23 criminal justice matters relating to drug and alcohol abuse, and
24 shall coordinate, and actively participate, with the county alcohol
25 and drug program administrators throughout the development and
26 implementation of the five-year master plan.

27 (3) ~~The California Emergency Management Agency~~ *Office of*
28 *Emergency Services*, the Youth and Adult Correctional Agency,
29 the Department of the California Highway Patrol, the Office of
30 Traffic Safety, and the Department of Justice have established a
31 state level drug and alcohol abuse enforcement team that includes
32 representatives from all facets of criminal justice. The lead agency
33 for the enforcement team has been designated by the Governor.
34 This team advises the state and assists the local teams.

35 (4) ~~The California Emergency Management Agency~~ *Office of*
36 *Emergency Services*, the Youth and Adult Correctional Agency,
37 and the Department of Justice have, as a priority when determining
38 training subjects, prevention seminars on drug and alcohol abuse.
39 The Commission on Peace Officer Standards and Training has, as

1 a priority, when determining training subjects, drug and alcohol
2 enforcement.

3 (5) The Department of the California Highway Patrol, as
4 permitted by the United States Constitution, will, in conjunction
5 with establishing sobriety checkpoints statewide, assist local law
6 enforcement agencies with the establishment of local programs.

7 (6) Counties with more than 10 superior court judgeships have
8 established programs under which drug cases receive swift
9 prosecution by well-trained prosecutors before judges who are
10 experienced in the handling of drug cases.

11 (7) The courts, when determining bail eligibility and the amount
12 of bail for persons suspected of a crime involving a controlled
13 substance, shall consider the quantity of the substance involved
14 when measuring the danger to society if the suspect is released.

15 (8) Drunk driving jails have been established that provide
16 offender education and treatment during incarceration.

17 (9) All probation and parole officers have received drug and
18 alcohol abuse training, including particular training on drug
19 recognition.

20 (10) All parolees and persons on probation with a criminal
21 history that involves drug or alcohol abuse have conditions of
22 parole or probation that prohibit drug and alcohol abuse.

23 (11) The Judicial Council has provided training on drug and
24 alcohol abuse for the judges.

25 (12) The courts, when sentencing offenders convicted of selling
26 drugs, consider “street value” of the drugs involved in the
27 underlying crime.

28 (13) Judges have been encouraged to include drug and alcohol
29 abuse treatment and prevention services in sentences for all
30 offenders. Judges are requiring, as a condition of sentencing, drug
31 and alcohol abuse education and treatment services for all persons
32 convicted of driving under the influence of alcohol or drugs.

33 (14) Juvenile halls and jails provide clients with information on
34 drug and alcohol abuse.

35 (15) The estimated number of clandestine labs operating in
36 California has decreased by 10 percent per year.

37 (16) Each local law enforcement agency has developed, with
38 the schools, protocol on responding to school drug and alcohol
39 abuse problems.

1 (17) Every county has instituted a mandatory
2 driving-under-the-influence presentence offender evaluation
3 program.

4 *SEC. 384. Section 13071 of the Health and Safety Code is*
5 *amended to read:*

6 13071. ~~The California Emergency Management Agency Office~~
7 *of Emergency Services* shall establish and administer a program,
8 which shall be denominated the FIRESCOPE Program
9 (FIrefighting RESources of California Organized for Potential
10 Emergencies), to maintain and enhance the efficiency and
11 effectiveness of managing multiagency firefighting resources in
12 responding to an incident. The program shall be based on the
13 concepts and components developed or under development by the
14 Firescope project chartered by the United States Congress in 1972.
15 The program shall provide for the research, development, and
16 implementation of technologies, facilities, and procedures to assist
17 state and local fire agencies in the better utilization and
18 coordination of firefighting resources in responding to incidents.

19 *SEC. 385. Section 13073 of the Health and Safety Code is*
20 *amended to read:*

21 13073. ~~The California Emergency Management Agency Office~~
22 *of Emergency Services* shall carry out this chapter in cooperation
23 with the Department of Forestry and Fire Protection, including the
24 Office of the State Fire Marshal, and with the advice of the Fire
25 and Rescue Service Advisory Committee/FIRESCOPE Board of
26 Directors within the ~~California Emergency Management Agency~~
27 *Office of Emergency Services*.

28 *SEC. 386. Section 13140.5 of the Health and Safety Code is*
29 *amended to read:*

30 13140.5. The board shall be composed of the following voting
31 members: the State Fire Marshal, the Chief Deputy Director of the
32 Department of Forestry and Fire Protection who is not the State
33 Fire Marshal, ~~the Secretary of Emergency Management Director~~
34 *of Emergency Services*, the Chairperson of the California Fire
35 Fighter Joint Apprenticeship Program, one representative of the
36 insurance industry, one volunteer firefighter, three fire chiefs, five
37 fire service labor representatives, one representative from city
38 government, one representative from a fire district, and one
39 representative from county government.

1 The following members shall be appointed by the Governor:
2 one representative of the insurance industry, one volunteer
3 firefighter, three fire chiefs, five fire service labor representatives,
4 one representative from city government, one representative from
5 a fire district, and one representative from county government.
6 Each member appointed shall be a resident of this state. The
7 volunteer firefighter shall be selected from a list of names
8 submitted by the California State Firefighters Association. One
9 fire chief shall be selected from a list of names submitted by the
10 California Fire Chiefs' Association; one fire chief shall be selected
11 from a list of names submitted by the Fire Districts Association
12 of California; and one fire chief shall be selected from a list of
13 names submitted by the California Metropolitan Fire Chiefs. One
14 fire service labor representative shall be selected from a list of
15 names submitted by the California Labor Federation; one fire
16 service labor representative shall be selected from a list of names
17 submitted by the California Professional Firefighters; one fire
18 service labor representative shall be selected from a list of names
19 submitted by the International Association of Fire Fighters; one
20 fire service labor representative shall be selected from a list of
21 names submitted by the California Department of Forestry
22 Firefighters; and one fire service labor representative shall be
23 selected from a list of names submitted by the California State
24 Firefighters Association. The city government representative shall
25 be selected from elected or appointed city chief administrative
26 officers or elected city mayors or council members. The fire district
27 representative shall be selected from elected or appointed directors
28 of fire districts. The county government representative shall be
29 selected from elected or appointed county chief administrative
30 officers or elected county supervisors. The appointed members
31 shall be appointed for a term of four years. Any member chosen
32 by the Governor to fill a vacancy created other than by expiration
33 of a term shall be appointed for the unexpired term of the member
34 he or she is to succeed.

35 *SEC. 387. Section 13143.9 of the Health and Safety Code is*
36 *amended to read:*

37 13143.9. (a) The State Fire Marshal shall, in carrying out
38 Section 13143, prepare, adopt, and submit building standards and
39 other fire and life safety regulations for approval pursuant to
40 Chapter 4 (commencing with Section 18935) of Part 2.5 of Division

1 13 establishing minimum requirements for the storage, handling,
2 and use of hazardous materials, as defined, in Article 9 of the 1988
3 Uniform Fire Code, and any subsequent editions, published by the
4 Western Fire Chiefs Association and the International Conference
5 of Building Officials. The State Fire Marshal shall seek the advice
6 of the ~~California Emergency Management Agency Office of~~
7 *Emergency Services* in establishing these requirements. This section
8 does not prohibit a city, county, or district from adopting an
9 ordinance, resolution, or regulation imposing stricter or more
10 stringent requirements than a standard adopted pursuant to this
11 section.

12 (b) A business which files the annual inventory form in
13 compliance with Chapter 6.95 (commencing with Section 25500)
14 of Division 20, including the addendum adopted pursuant to
15 Section 25503.9, shall be deemed to have met the requirements of
16 subdivision (c) of Section 80.103 of the Uniform Fire Code, as
17 adopted by the State Fire Marshal pursuant to this section.

18 (c) A business which is not required to file a hazardous materials
19 inventory form pursuant to Section 25509 but which is required
20 by the local fire chief to comply with subdivision (c) of Section
21 80.103 of the Uniform Fire Code, as adopted by the State Fire
22 Marshal pursuant to this section, shall, notwithstanding Chapter
23 6.95 (commencing with Section 25500) of Division 20, file the
24 inventory form adopted pursuant to Section 25503.3 and the
25 addendum adopted pursuant to Section 25503.9 with the local fire
26 chief for purposes of complying with this requirement, if
27 determined to be necessary by the fire chief.

28 *SEC. 388. Section 18603 of the Health and Safety Code is*
29 *amended to read:*

30 18603. (a) In every park there shall be a person available by
31 telephonic or like means, including telephones, cellular phones,
32 telephone answering machines, answering services or pagers, or
33 in person who shall be responsible for, and who shall reasonably
34 respond in a timely manner to emergencies concerning, the
35 operation and maintenance of the park. In every park with 50 or
36 more units, that person or his or her designee shall reside in the
37 park, have knowledge of emergency procedures relative to utility
38 systems and common facilities under the ownership and control
39 of the owner of the park, and shall be familiar with the emergency
40 preparedness plans for the park.

1 (b) (1) On or before September 1, 2010, an owner or operator
2 of an existing park shall adopt an emergency preparedness plan.

3 (2) For a park constructed after September 1, 2010, an owner
4 or operator of a park shall adopt a plan in accordance with this
5 section prior to the issuance of the permit to operate.

6 (3) An owner or operator may comply with paragraph (1) by
7 either of the following methods:

8 (A) Adopting the emergency procedures and plans approved
9 by the Standardized Emergency Management System Advisory
10 Board on November 21, 1997, entitled “Emergency Plans for
11 Mobilehome Parks,” and compiled by the ~~California Emergency~~
12 ~~Management Agency~~ *Office of Emergency Services* in compliance
13 with the Governor’s Executive Order W-156-97, or any subsequent
14 version.

15 (B) Adopting a plan that is developed by the park management
16 and is comparable to the procedures and plans specified in
17 subparagraph (A).

18 (c) For an existing park, and in the case of a park constructed
19 after September 10, 2010, prior to the issuance of the permit to
20 operate, an owner or operator of a park shall do both of the
21 following:

22 (1) Post notice of the emergency preparedness plan in the park
23 clubhouse or in another conspicuous area within the mobilehome
24 park.

25 (2) On or before September 10, 2010, provide notice of how to
26 access the plan and information on individual emergency
27 preparedness information from the appropriate state or local
28 agencies, including, but not limited to, the ~~California Emergency~~
29 ~~Management Agency~~ *Office of Emergency Services*, to all existing
30 residents and, upon approval of tenancy, for all new residents
31 thereafter. This may be accomplished in a manner that includes,
32 but is not limited to, distribution of materials and posting notice
33 of the plan or information on how to access the plan via the
34 Internet.

35 (d) An enforcement agency shall determine whether park
36 management is in compliance with this section. The agency may
37 ascertain compliance by receipt of a copy of the plan during site
38 inspections conducted in response to complaints of alleged
39 violations, or for any other reason.

1 (e) Notwithstanding any other provision of this part, a violation
2 of this section shall constitute an unreasonable risk to life, health,
3 or safety and shall be corrected by park management within 60
4 days of notice of the violation.

5 *SEC. 389. Section 18901 of the Health and Safety Code is*
6 *amended to read:*

7 18901. (a) This part shall be known and may be cited as the
8 California Building Standards Law.

9 (b) The California Building Standards Commission shall
10 continue within the ~~State and Consumer Services Agency~~
11 *Department of General Services.*

12 *SEC. 390. Section 18917.5 of the Health and Safety Code is*
13 *amended to read:*

14 18917.5. “Secretary” means the Secretary of ~~the State and~~
15 ~~Consumer Services Agency~~ *Government Operations.*

16 *SEC. 391. Section 18920 of the Health and Safety Code is*
17 *amended to read:*

18 18920. There is continued in existence in the ~~State and~~
19 ~~Consumer Services~~ *Government Operations* Agency a California
20 Building Standards Commission consisting of the Secretary of
21 ~~State and Consumer Services Agency,~~ *Government Operations*
22 and 10 members appointed by the Governor subject to confirmation
23 by the Senate.

24 *SEC. 392. Section 18922 of the Health and Safety Code is*
25 *amended to read:*

26 18922. The Secretary of ~~the State and Consumer Services~~
27 ~~Agency~~ *Government Operations* or the secretary’s representative
28 shall serve as the chair of the commission. The commission shall
29 elect a vice chair annually from among its members.

30 *SEC. 393. Section 25169.7 of the Health and Safety Code is*
31 *amended to read:*

32 25169.7. Except as specified otherwise in subdivision (b), on
33 and after July 1, 2003, all of the following requirements, including
34 any regulations adopted by the department pursuant to Section
35 25169.8, shall apply to any person handling any hazardous waste
36 of concern:

37 (a) (1) If a hazardous waste transporter or the owner or operator
38 of a hazardous waste facility discovers that a hazardous waste of
39 concern is missing during transportation or storage, and the amount
40 of waste missing equals or exceeds the reportable quantity specified

1 in the regulations adopted pursuant to Section 25169.6, the
2 hazardous waste transporter or the owner or operator shall
3 immediately, as specified in the regulations adopted by the
4 department, provide a verbal notification to the department and
5 report the discrepancy to the department in writing by letter within
6 five days after the discovery. The transporter or the owner or
7 operator shall also comply with the applicable manifest discrepancy
8 reporting requirements specified in the regulations adopted by the
9 department pursuant to this chapter.

10 (2) Within 24 hours after receiving a notification of a missing
11 hazardous waste of concern pursuant to paragraph (1), the
12 department shall make a preliminary determination whether there
13 is a potential risk to public safety. If, after making that preliminary
14 determination, or at any time thereafter, the department determines
15 the missing hazardous waste of concern presents a significant
16 potential risk to public safety from its use in a terrorist or other
17 criminal act, the department shall notify the ~~California Emergency~~
18 ~~Management Agency~~ *Office of Emergency Services* and the
19 Department of the California Highway Patrol.

20 (3) The Department of the California Highway Patrol may enter
21 and inspect any hazardous waste facility at the department's request
22 to perform an investigation of any hazardous waste that the
23 department determines may be missing.

24 (b) (1) Notwithstanding Section 25200.4, any person applying
25 for a hazardous waste facilities permit or other grant of
26 authorization to use and operate a hazardous waste facility that
27 would handle hazardous waste of concern shall submit to the
28 department a disclosure statement containing the information
29 specified in Section 25112.5.

30 (2) On or before January 1, 2004, and at any time upon the
31 request of the department, any person owning or operating a
32 hazardous waste facility that handles any hazardous waste of
33 concern shall submit to the department a disclosure statement
34 containing the information specified in Section 25112.5.

35 (3) (A) Except as provided in subparagraph (B), on and after
36 January 1, 2004, any person applying for registration as a hazardous
37 waste transporter who will transport hazardous waste of concern
38 shall submit to the department a disclosure statement containing
39 the information specified in Section 25112.5.

1 (B) Subparagraph (A) does not apply to a transporter who has
2 submitted a disclosure statement to the department within the
3 two-year period immediately preceding the application for
4 registration, unless there has been a change in the information
5 required to be contained in the disclosure statement or the
6 department requests the transporter to submit a disclosure
7 statement.

8 (4) At any time upon the request of the department, any
9 registered hazardous waste transporter who transports any
10 hazardous waste of concern shall submit to the department a
11 disclosure statement containing the information specified in Section
12 25112.5.

13 (5) Whenever any change pertaining to the information required
14 to be contained in a disclosure statement filed pursuant to
15 paragraphs (1) to (4), inclusive, occurs after the date of the filing
16 of the disclosure statement, the transporter or the facility owner
17 or operator shall provide the updated information in writing to the
18 department within 30 days of the change.

19 (6) On or before 180 days after receiving a disclosure statement
20 pursuant to this subdivision, the department shall conduct a
21 background check, as defined in subdivision (a) of Section 25169.5.

22 (7) This subdivision does not apply to any federal, state, or local
23 agency or any person operating pursuant to a permit-by-rule,
24 conditional authorization, or conditional exemption.

25 *SEC. 394. Section 25197.2 of the Health and Safety Code is*
26 *amended to read:*

27 25197.2. (a) The department shall establish a statewide
28 Hazardous Waste Strike Force which shall consist of a
29 representative from each of the following agencies:

- 30 (1) The Department of Transportation.
- 31 (2) The Department of Industrial Relations.
- 32 (3) The Department of Food and Agriculture.
- 33 (4) The State Water Resources Control Board.
- 34 (5) The State Air Resources Board.
- 35 (6) The Department of the California Highway Patrol.
- 36 (7) The Office of the State Fire Marshal in the Department of
37 Forestry and Fire Protection.
- 38 (8) The California Integrated Waste Management Board.
- 39 (9) The Department of Fish and Game.

1 (10) ~~The California Emergency Management Agency Office of~~
2 *Emergency Services.*

3 (11) The Department of Toxic Substances Control.

4 (12) The Attorney General.

5 (13) The Department of Pesticide Regulation.

6 (b) The director, or the director’s designee, shall direct and
7 coordinate the activities of the Hazardous Waste Strike Force.

8 (c) The Hazardous Waste Strike Force shall do all of the
9 following:

10 (1) Recommend standardized programs among the agencies
11 represented on the Hazardous Waste Strike Force for the purposes
12 of uniformly enforcing state hazardous waste statutes and
13 regulations and reporting violators of these statutes and regulations.

14 (2) Recommend programs to publicize and improve the
15 statewide telephone number established pursuant to paragraph (5)
16 of subdivision (b) of Section 25197.1.

17 (3) Recommend local and regional programs to report
18 information concerning violations of this chapter and any other
19 hazardous waste statutes and regulations.

20 *SEC. 395. Section 25210.6 of the Health and Safety Code is*
21 *amended to read:*

22 25210.6. (a) On or before December 31, 2005, the department
23 shall adopt regulations specifying the best management practices
24 for a person managing perchlorate materials. These practices may
25 include, but are not limited to, all of the following:

26 (1) Procedures for documenting the amount of perchlorate
27 materials managed by the facility.

28 (2) Management practices necessary to prevent releases of
29 perchlorate materials, including, but not limited to, containment
30 standards, usage, processing and transferring practices, and spill
31 response procedures.

32 (b) (1) The department shall consult with the State Air
33 Resources Board, the Office of Environmental Health Hazard
34 Assessment, the State Water Resources Control Board, the
35 ~~California Emergency Management Agency Office of Emergency~~
36 *Services*, the State Fire Marshal, and the California certified unified
37 program agencies forum before adopting regulations pursuant to
38 subdivision (a).

39 (2) The department shall also, before adopting regulations
40 pursuant to subdivision (a), review existing federal, state, and local

1 laws governing the management of perchlorate materials to
2 determine the degree to which uniform and adequate requirements
3 already exist, so as to avoid any unnecessary duplication of, or
4 interference with the application of, those existing requirements.

5 (3) In adopting regulations pursuant to subdivision (a), the
6 department shall ensure that those regulations are at least as
7 stringent as, and to the extent practical consistent with, the existing
8 requirements of Chapter 6.95 (commencing with Section 25500)
9 and the California Fire Code governing the management of
10 perchlorate materials.

11 (c) The regulations adopted by the department pursuant to this
12 section shall be adopted as emergency regulations in accordance
13 with Chapter 3.5 (commencing with Section 11340) of Part 1 of
14 Division 3 of Title 2 of the Government Code, and for the purposes
15 of that chapter, including Section 11349.6 of the Government
16 Code, the adoption of these regulations is an emergency and shall
17 be considered by the Office of Administrative Law as necessary
18 for the immediate preservation of the public peace, health and
19 safety, and general welfare. Notwithstanding Chapter 3.5
20 (commencing with Section 11340) of Part 1 of Division 3 of Title
21 2 of the Government Code, including subdivision (e) of Section
22 11346.1 of the Government Code, any emergency regulations
23 adopted pursuant to this section shall be filed with, but not be
24 repealed by, the Office of Administrative Law and shall remain
25 in effect until revised by the department.

26 (d) The department may implement an outreach effort to educate
27 persons who manage perchlorate materials concerning the
28 regulations promulgated pursuant to subdivision (a).

29 *SEC. 396. Section 25270.8 of the Health and Safety Code is*
30 *amended to read:*

31 25270.8. Each owner or operator of a tank facility shall
32 immediately, upon discovery, notify the ~~California Emergency~~
33 ~~Management Agency Office of Emergency Services~~ and the UPA
34 using the appropriate 24-hour emergency number or the 911
35 number, as established by the UPA, or by the governing body of
36 the UPA, of the occurrence of a spill or other release of one barrel
37 (42 gallons) or more of petroleum that is required to be reported
38 pursuant to subdivision (a) of Section 13272 of the Water Code.

39 *SEC. 397. Section 25299.1 of the Health and Safety Code is*
40 *amended to read:*

1 25299.1. (a) Any city or county which prior to January 1, 1984,
2 adopted an ordinance which, at a minimum, met the requirements
3 set forth in Sections 25284 and 25284.1, as they read on January
4 1, 1984, prior to being amended and renumbered, providing for
5 double containment, and monitoring of underground storage tanks
6 which was exempt from this chapter as of December 31, 1989, is
7 not exempt from implementing this chapter and shall implement
8 this chapter on or before January 1, 1991.

9 (b) Until a city or county specified in subdivision (a) implements
10 this chapter, the city or the county shall, at a minimum, do all of
11 the following:

12 (1) Submit to the board the application form and annual
13 information specified by Section 25286 and submit a written report
14 of any unauthorized release from an underground storage tank to
15 the ~~California Emergency Management Agency~~ *Office of*
16 *Emergency Services* within 10 working days from the time the
17 local agency is notified of the unauthorized release.

18 (2) Collect and transmit to the board the surcharge specified in
19 subdivision (b) of Section 25287.

20 (3) Issue permits for the operation of an underground storage
21 tank, which, at a minimum, ensure compliance with any applicable
22 requirement of the federal act and any applicable regulation adopted
23 by the board pursuant to Section 25299.3 which the board
24 determines is necessary to ensure consistency with the federal act.

25 (c) A permit issued on or after January 1, 1991, by a city or
26 county specified in subdivision (a) shall require compliance with
27 all applicable requirements of this chapter and with the regulations
28 adopted by the board pursuant to Section 25299.3.

29 (d) This chapter does not limit or abridge the authority of any
30 city or county to adopt an ordinance requiring information,
31 conducting investigations, inspections, or implementing and
32 enforcing this chapter.

33 *SEC. 398. Section 25359.4 of the Health and Safety Code is*
34 *amended to read:*

35 25359.4. (a) A person shall not release, or allow or cause a
36 release of, a reportable quantity of a hazardous substance into the
37 environment that is not authorized or permitted pursuant to state
38 law.

1 (b) Any release of a reportable quantity of hazardous substance
2 shall be reported to the department in writing within 30 days of
3 discovery, unless any of the following apply:

- 4 (1) The release is permitted or in the permit process.
- 5 (2) The release is authorized by state law.
- 6 (3) The release requires immediate reporting to the ~~California~~
7 ~~Emergency Management Agency Office of Emergency Services~~
8 pursuant to Section 11002 or 11004 of Title 42 of the United States
9 Code, or pursuant to Section 25507.

10 (4) The release has previously been reported to the department
11 or the ~~California Emergency Management Agency Office of~~
12 ~~Emergency Services~~.

13 (5) The release occurred prior to January 1, 1994.

14 (c) For the purposes of this section, “reportable quantity” means
15 either of the following:

16 (1) The quantity of a hazardous substance established in Part
17 302 (commencing with Section 302.1) of Title 40 of the Code of
18 Federal Regulations, the release of which requires notification
19 pursuant to that part.

20 (2) Any quantity of a hazardous substance that is not reportable
21 pursuant to paragraph (1), but that may pose a significant threat
22 to public health and safety or to the environment. The department
23 may establish guidelines for determining which releases are
24 reportable under this paragraph.

25 (d) The owner of property on which a reportable release has
26 occurred and any person who releases, or causes a reportable
27 release and who fails to make the written report required by
28 subdivision (b), shall be liable for a penalty not to exceed
29 twenty-five thousand dollars (\$25,000) for each separate violation
30 and for each day that a violation continues. Each day on which the
31 released hazardous substance remains is a separate violation unless
32 the person has either filed the report or is in compliance with an
33 order issued by a local, state, or federal agency with regard to the
34 release.

35 (e) Liability under this section may be imposed in a civil action
36 or may be administratively imposed by the department pursuant
37 to Section 25359.3.

38 (f) If the violation of subdivision (b) results in, or significantly
39 contributes to, an emergency, including, but not limited to, a fire,
40 to which a county, city, or district is required to respond, the

1 responsible party may be assessed the full cost of the emergency
2 response by the city, county, or district.

3 *SEC. 399. Section 25404.3 of the Health and Safety Code is*
4 *amended to read:*

5 25404.3. (a) The secretary shall, within a reasonable time after
6 submission of a complete application for certification pursuant to
7 Section 25404.2, and regulations adopted pursuant to that section,
8 but not to exceed 180 days, review the application, and, after
9 holding a public hearing, determine if the application should be
10 approved. Before disapproving an application for certification, the
11 secretary shall submit to the applicant agency a notification of the
12 secretary's intent to disapprove the application, in which the
13 secretary shall specify the reasons why the applicant agency does
14 not have the capability or the resources to fully implement and
15 enforce the unified program in a manner that is consistent with the
16 regulations implementing the unified program adopted by the
17 secretary pursuant to this chapter. The secretary shall provide the
18 applicant agency with a reasonable time to respond to the reasons
19 specified in the notification and to correct deficiencies in its
20 application. The applicant agency may request a second public
21 hearing, at which the secretary shall hear the applicant agency's
22 response to the reasons specified in the notification.

23 (b) In determining whether an applicant agency should be
24 certified, or designated as certified, the secretary, after receiving
25 comments from the director, the ~~Secretary of Emergency~~
26 ~~Management~~ *Director of Emergency Services*, the State Fire
27 Marshal, and the Executive Officers and Chairpersons of the State
28 Water Resources Control Board and the California regional water
29 quality control boards, shall consider at least all of the following
30 factors:

31 (1) Adequacy of the technical expertise possessed by each
32 unified program agency that will be implementing each element
33 of the unified program, including, but not limited to, whether the
34 agency responsible for implementing and enforcing the
35 requirements of Chapter 6.5 (commencing with Section 25100)
36 satisfies the requirements of Section 15260 of Title 27 of the
37 California Code of Regulations.

38 (2) Adequacy of staff resources.

39 (3) Adequacy of budget resources and funding mechanisms.

40 (4) Training requirements.

1 (5) Past performance in implementing and enforcing
2 requirements related to the handling of hazardous materials and
3 hazardous waste.

4 (6) Recordkeeping and cost accounting systems.

5 (7) Compliance with the criteria in Section 15170 of Title 27
6 of the California Code of Regulations.

7 (c) (1) In making the determination of whether or not to certify
8 a particular applicant agency as a certified unified program agency,
9 the secretary shall consider the applications of every other applicant
10 agency applying to be a certified unified program agency within
11 the same county, in order to determine the impact of each
12 certification decision on the county. If the secretary identifies that
13 there may be adverse impacts on the county if any particular agency
14 in a county is certified, the secretary shall work cooperatively with
15 each affected agency to address the secretary's concerns.

16 (2) The secretary shall not certify an agency to be a certified
17 unified program agency unless the secretary finds both of the
18 following:

19 (A) The unified program will be implemented in a coordinated
20 and consistent manner throughout the entire county in which the
21 applicant agency is located.

22 (B) The administration of the unified program throughout the
23 entire county in which the applicant agency is located will be less
24 fragmented between jurisdictions, as compared to before January
25 1, 1994, with regard to the administration of the provisions
26 specified in subdivision (c) of Section 25404.

27 (d) (1) The secretary shall not certify an applicant agency that
28 proposes to allow participating agencies to implement certain
29 elements of the unified program unless the secretary makes all of
30 the following findings:

31 (A) The applicant agency has adequate authority, and has in
32 place adequate systems, protocols, and agreements, to ensure that
33 the actions of the other agencies proposed to implement certain
34 elements of the unified program are fully coordinated and
35 consistent with each other and with those of the applicant agency,
36 and to ensure full compliance with the regulations implementing
37 the unified program adopted by the secretary pursuant to this
38 chapter.

39 (B) An agreement between the applicant and other agencies
40 proposed to implement any elements of the unified program

1 contains procedures for removing any agencies proposed and
2 engaged to implement any element of the unified program. The
3 procedures in the agreement shall include, at a minimum,
4 provisions for providing notice, stating causes, taking public
5 comment, making appeals, and resolving disputes.

6 (C) The other agencies proposed to implement certain elements
7 of the unified program have the capability and resources to
8 implement those elements, taking into account the factors
9 designated in subdivision (b).

10 (D) All other agencies proposed to implement certain elements
11 of the unified program shall maintain an agreement with the
12 applicant agency that ensures that the requirements of Section
13 25404.2 will be fully implemented.

14 (E) If the applicant agency proposes that any agency other than
15 itself will be responsible for implementing aspects of the single
16 fee system imposed pursuant to Section 25404.5, the applicant
17 agency maintains an agreement with that agency that ensures that
18 the fee system is implemented in a fully consistent and coordinated
19 manner, and that ensures that each participating agency receives
20 the amount that it determines to constitute its necessary and
21 reasonable costs of implementing the element or elements of the
22 unified program that it is responsible for implementing.

23 (2) After the secretary has certified an applicant agency pursuant
24 to this subdivision, that agency shall obtain the approval of the
25 secretary before removing and replacing a participating agency
26 that is implementing an element of the unified program.

27 (3) Any state agency, including, but not limited to, the State
28 Department of Health Services, acting as a participating agency,
29 may contract with a unified program agency to implement or
30 enforce the unified program.

31 (e) Until a city's or county's application for certification to
32 implement the unified program is acted upon by the secretary, the
33 roles, responsibilities, and authority for implementing the programs
34 identified in subdivision (c) of Section 25404 that existed in that
35 city or county pursuant to statutory authorization as of December
36 31, 1993, shall remain in effect.

37 (f) (1) Except as provided in subparagraph (C) of paragraph
38 (2) or in Section 25404.8, if no local agency has been certified by
39 January 1, 1997, to implement the unified program within a city,
40 the secretary shall designate either the county in which the city is

1 located or another agency pursuant to subparagraph (A) of
2 paragraph (2) as the unified program agency.

3 (2) (A) Except as provided in subparagraph (C), if no local
4 agency has been certified by January 1, 2001, to implement the
5 unified program within the unincorporated or an incorporated area
6 of a county, the secretary shall determine how the unified program
7 shall be implemented in the unincorporated area of the county,
8 and in any city in which there is no agency certified to implement
9 the unified program. In such an instance, the secretary shall work
10 in consultation with the county and cities to determine which state
11 or local agency or combination of state and local agencies should
12 implement the unified program, and shall determine which state
13 or local agency shall be designated as the certified unified program
14 agency.

15 (B) The secretary shall determine the method by which the
16 unified program shall be implemented throughout the county and
17 may select any combination of the following implementation
18 methods:

19 (i) The certification of a state or local agency as a certified
20 unified program agency.

21 (ii) The certification of an agency from another county as the
22 certified unified program agency.

23 (iii) The certification of a joint powers agency as the certified
24 unified program agency.

25 (C) Notwithstanding paragraph (1) and subparagraphs (A) and
26 (B), if the Cities of Sunnyvale, Anaheim, and Santa Ana prevail
27 in litigation filed in 1997 against the secretary, and, to the extent
28 the secretary determines that these three cities meet the
29 requirements for certification, the secretary may certify these cities
30 as certified unified program agencies.

31 (g) (1) If a certified unified program agency wishes to withdraw
32 from its obligations to implement the unified program and is a city
33 or a joint powers agency implementing the unified program within
34 a city, the agency may withdraw after providing 180 days' notice
35 to the secretary and to the county within which the city is located,
36 or to the joint powers agency with which the county has an
37 agreement to implement the unified program.

38 (2) Whenever a certified unified program agency withdraws
39 from its obligations to implement the unified program, or the
40 secretary withdraws an agency's certification pursuant to Section

1 25404.4, the successor certified unified program agency shall be
2 determined in accordance with subdivision (f).

3 *SEC. 400. Section 25501 of the Health and Safety Code is*
4 *amended to read:*

5 25501. Unless the context indicates otherwise, the following
6 definitions govern the construction of this chapter:

7 (a) “Administering agency” means the local agency authorized,
8 pursuant to Section 25502, to implement and enforce this chapter.

9 (b) “Agency” or “office” means the ~~California Emergency~~
10 ~~Management Agency Office of Emergency Services.~~

11 (c) “Agricultural handler” means an entity identified in
12 paragraph (5) of subdivision (c) of Section 25503.5.

13 (d) “Area plan” means a plan established pursuant to Section
14 25503 by an administering agency for emergency response to a
15 release or threatened release of a hazardous material within a city
16 or county.

17 (e) “Business” means an employer, self-employed individual,
18 trust, firm, joint stock company, corporation, partnership, or
19 association. For purposes of this chapter, “business” includes a
20 business organized for profit and a nonprofit business.

21 (f) “Business plan” means a separate plan for each facility, site,
22 or branch of a business that meets the requirements of Section
23 25504.

24 (g) “Certification statement” means a statement signed by the
25 business owner, operator, or officially designated representative
26 that attests to all of the following:

27 (1) The information contained in the annual inventory form
28 most recently submitted to the administering agency is complete,
29 accurate, and up to date.

30 (2) There has been no change in the quantity of any hazardous
31 material as reported in the most recently submitted annual
32 inventory form.

33 (3) No hazardous materials subject to the inventory requirements
34 of this chapter are being handled that are not listed on the most
35 recently submitted annual inventory form.

36 (4) The most recently submitted annual inventory form contains
37 the information required by Section 11022 of Title 42 of the United
38 States Code.

39 (h) (1) “Certified Unified Program Agency” or “CUPA” means
40 the agency certified by the secretary to implement the unified

1 program specified in Chapter 6.11 (commencing with Section
2 25404) within a jurisdiction.

3 (2) “Participating Agency” or “PA” means an agency that has
4 a written agreement with the CUPA pursuant to subdivision (d)
5 of Section 25404.3, and is approved by the secretary, to implement
6 or enforce one or more of the unified program elements specified
7 in paragraphs (4) and (5) of subdivision (c) of Section 25404, in
8 accordance with the provisions of Sections 25404.1 and 25404.2.

9 (3) “Unified Program Agency” or “UPA” means the CUPA, or
10 its participating agencies to the extent each PA has been designated
11 by the CUPA, pursuant to a written agreement, to implement or
12 enforce a particular unified program element specified in
13 paragraphs (4) and (5) of subdivision (c) of Section 25404. For
14 purposes of this chapter, the UPAs have the responsibility and
15 authority, to the extent provided by this chapter and Sections
16 25404.1 and 25404.2, to implement and enforce only those
17 requirements of this chapter listed in paragraphs (4) and (5) of
18 subdivision (c) of Section 25404. The UPAs also have the
19 responsibility and authority, to the extent provided by this chapter
20 and Sections 25404.1 and 25404.2, to implement and enforce the
21 regulations adopted to implement the requirements of this chapter
22 listed in paragraphs (4) and (5) of subdivision (c) of Section 25404.
23 After a CUPA has been certified by the secretary, the unified
24 program agencies shall be the only local agencies authorized to
25 enforce the requirements of this chapter listed in paragraphs (4)
26 and (5) of subdivision (c) of Section 25404 within the jurisdiction
27 of the CUPA.

28 (i) “City” includes any city and county.

29 (j) “Chemical name” means the scientific designation of a
30 substance in accordance with the nomenclature system developed
31 by the International Union of Pure and Applied Chemistry or the
32 system developed by the Chemical Abstracts Service.

33 (k) “Common name” means any designation or identification,
34 such as a code name, code number, trade name, or brand name,
35 used to identify a substance by other than its chemical name.

36 (l) “Department” means the Department of Toxic Substances
37 Control and “director” means the Director of Toxic Substances
38 Control.

39 (m) “Emergency rescue personnel” means any public employee,
40 including, but not limited to, any fireman, firefighter, or emergency

1 rescue personnel, as defined in Section 245.1 of the Penal Code,
2 or personnel of a local EMS agency, as designated pursuant to
3 Section 1797.200, or a poison control center, as defined by Section
4 1797.97, who responds to any condition caused, in whole or in
5 part, by a hazardous material that jeopardizes, or could jeopardize,
6 public health or safety or the environment.

7 (n) “Handle” means to use, generate, process, produce, package,
8 treat, store, emit, discharge, or dispose of a hazardous material in
9 any fashion.

10 (o) “Handler” means any business that handles a hazardous
11 material.

12 (p) “Hazardous material” means any material that, because of
13 its quantity, concentration, or physical or chemical characteristics,
14 poses a significant present or potential hazard to human health and
15 safety or to the environment if released into the workplace or the
16 environment. “Hazardous materials” include, but are not limited
17 to, hazardous substances, hazardous waste, and any material that
18 a handler or the administering agency has a reasonable basis for
19 believing that it would be injurious to the health and safety of
20 persons or harmful to the environment if released into the
21 workplace or the environment.

22 (q) “Hazardous substance” means any substance or chemical
23 product for which one of the following applies:

24 (1) The manufacturer or producer is required to prepare a MSDS
25 for the substance or product pursuant to the Hazardous Substances
26 Information and Training Act (Chapter 2.5 (commencing with
27 Section 6360) of Part 1 of Division 5 of the Labor Code) or
28 pursuant to any applicable federal law or regulation.

29 (2) The substance is listed as a radioactive material in Appendix
30 B of Chapter 1 of Title 10 of the Code of Federal Regulations,
31 maintained and updated by the Nuclear Regulatory Commission.

32 (3) The substances listed pursuant to Title 49 of the Code of
33 Federal Regulations.

34 (4) The materials listed in subdivision (b) of Section 6382 of
35 the Labor Code.

36 (r) “Hazardous waste” means hazardous waste, as defined by
37 Sections 25115, 25117, and 25316.

38 (s) “Release” means any spilling, leaking, pumping, pouring,
39 emitting, emptying, discharging, injecting, escaping, leaching,

1 dumping, or disposing into the environment, unless permitted or
2 authorized by a regulatory agency.

3 (t) “Secretary” means the Secretary for Environmental
4 Protection.

5 (u) “SIC Code” means the identification number assigned by
6 the Standard Industrial Classification Code to specific types of
7 businesses.

8 (v) “Threatened release” means a condition creating a substantial
9 probability of harm, when the probability and potential extent of
10 harm make it reasonably necessary to take immediate action to
11 prevent, reduce, or mitigate damages to persons, property, or the
12 environment.

13 (w) “Trade secret” means trade secrets as defined in subdivision
14 (d) of Section 6254.7 of the Government Code and Section 1060
15 of the Evidence Code.

16 (x) “Unified Program Facility” means all contiguous land and
17 structures, other appurtenances, and improvements on the land
18 that are subject to the requirements of paragraphs (4) and (5) of
19 subdivision (c) of Section 25404.

20 *SEC. 401. Section 25502 of the Health and Safety Code is*
21 *amended to read:*

22 25502. (a) (1) This chapter, as it pertains to the handling of
23 hazardous material, shall be implemented by one of the following:

24 (A) If there is a CUPA, the Unified Program Agency.

25 (B) If there is no CUPA, the agency authorized pursuant to
26 subdivision (f) of Section 25404.3.

27 (2) The agency responsible for implementing this chapter shall
28 ensure full access to, and the availability of, information submitted
29 under this chapter to emergency rescue personnel and other
30 appropriate governmental entities within its jurisdiction.

31 (b) (1) If there is no CUPA, a city may, by ordinance or
32 resolution, assume responsibility for the implementation of this
33 chapter and, if so, shall have exclusive jurisdiction within the
34 boundary of the city for the purposes of carrying out this chapter.
35 The ordinance shall require that a person who violates Section
36 25507 shall be subject to the penalties specified in Section 25515.
37 A city that assumes responsibility for implementation of this
38 chapter shall provide notice of its ordinance or resolution to the
39 *agency office* and to the administering agency of its county. It shall
40 also consult with, and coordinate its activities with, the county in

1 which the city is located to avoid duplicating efforts or any
2 misunderstandings regarding the areas, duties, and responsibilities
3 of each administering agency.

4 (2) A city may not assume responsibility for the implementation
5 of this chapter unless it has enacted an implementing ordinance
6 or adopted an implementing resolution not later than 60 days after
7 the ~~agency office~~ adopts regulations pursuant to Section 25503,
8 except that a city may enact an implementing ordinance or adopt
9 an implementing resolution after this 60-day period, if it has an
10 agreement with the county to do so. A new city has one year from
11 the date of incorporation to enact an ordinance or adopt a resolution
12 implementing this chapter.

13 (3) The local agency responsible for administering and enforcing
14 this chapter shall be the agency so authorized pursuant to
15 subdivision (f) of Section 25404.3.

16 (c) If there is no CUPA, the county and any city that assume
17 responsibility pursuant to subdivision (b) shall designate a
18 department, office, or other agency of the county or city, as the
19 case may be, or the city or county may designate a fire district, as
20 the administering agency responsible for administering and
21 enforcing this chapter. The county and any city that assume
22 responsibility pursuant to subdivision (b) shall notify the ~~agency~~
23 *office* immediately upon making a designation. The local agency
24 responsible for administering and enforcing this chapter shall be
25 the agency so authorized pursuant to subdivision (f) of Section
26 25404.3.

27 *SEC. 402. Section 25503 of the Health and Safety Code is*
28 *amended to read:*

29 25503. (a) Not later than September 1, 1986, the ~~agency office~~
30 shall adopt, after public hearing and consultation with the Office
31 of the State Fire Marshal and other appropriate public entities,
32 regulations for minimum standards for business plans and area
33 plans. All business plans and area plans shall meet the standards
34 adopted by the agency.

35 (b) The standards for business plans in the regulations adopted
36 pursuant to subdivision (a) shall do all of the following:

37 (1) Set forth minimum requirements of adequacy, and not
38 preclude the imposition of additional or more stringent
39 requirements by local government.

1 (2) Take into consideration and adjust for the size and nature
2 of the business, the proximity of the business to residential areas
3 and other populations, and the nature of the damage potential of
4 its hazardous materials in establishing standards for subdivisions
5 (b) and (c) of Section 25504.

6 (3) Take into account the existence of local area and business
7 plans which meet the requirements of this chapter so as to minimize
8 the duplication of local efforts, consistent with the objectives of
9 this chapter.

10 (4) Define what releases and threatened releases are required
11 to be reported pursuant to Section 25507. The ~~agency~~ *office* shall
12 consider the existing federal reporting requirements in determining
13 a definition of reporting releases pursuant to Section 25507.

14 (c) An administering agency shall establish an area plan for
15 emergency response to a release or threatened release of a
16 hazardous material within its jurisdiction. An area plan is not a
17 statute, ordinance, or regulation for purposes of Section 669 of the
18 Evidence Code. The standards for area plans in the regulations
19 adopted pursuant to subdivision (a) shall provide for all of the
20 following:

21 (1) Procedures and protocols for emergency rescue personnel,
22 including the safety and health of those personnel.

23 (2) Preemergency planning.

24 (3) Notification and coordination of onsite activities with state,
25 local, and federal agencies, responsible parties, and special districts.

26 (4) Training of appropriate employees.

27 (5) Onsite public safety and information.

28 (6) Required supplies and equipment.

29 (7) Access to emergency response contractors and hazardous
30 waste disposal sites.

31 (8) Incident critique and followup.

32 (9) Requirements for notification to the ~~agency~~ *office* of reports
33 made pursuant to Section 25507.

34 (d) (1) The administering agency shall submit a copy of its
35 proposed area plan, within 180 days after adoption of regulations
36 by the ~~agency~~ *office* establishing area plan standards, to the ~~agency~~
37 *office* for review. The ~~agency~~ *office* shall notify the administering
38 agency as to whether the area plan is adequate and meets the area
39 plan standards. The administering agency shall within 45 days of
40 this notice submit a corrected area plan.

1 (2) The administering agency shall certify to the ~~agency office~~
2 every three years that it has conducted a complete review of its
3 area plan and has made any necessary revisions. Any time an
4 administering agency makes any substantial changes to its area
5 plan, it shall forward the changes to the ~~agency office~~ within 14
6 days after the changes have been made.

7 (e) An administering agency shall submit to the ~~agency office~~,
8 along with its area plan, both of the following:

9 (1) The basic provisions of a plan to conduct onsite inspections
10 of businesses subject to this chapter by either the administering
11 agency or other designated entity. These inspections shall ensure
12 compliance with this chapter and shall identify existing safety
13 hazards that could cause or contribute to a release and, where
14 appropriate, enforce any applicable laws and suggest preventative
15 measures designed to minimize the risk of the release of hazardous
16 material into the workplace or environment. The requirements of
17 this paragraph do not alter or affect the immunity provided a public
18 entity pursuant to Section 818.6 of the Government Code.

19 (2) A plan to institute a data management system which will
20 assist in the efficient access to and utilization of information
21 collected under this chapter. This data management system shall
22 be in operation within two years after the business plans are
23 required to be submitted to the administering agency pursuant to
24 Section 25505.

25 (f) The regulations adopted by the ~~agency office~~ pursuant to
26 subdivision (a) shall include an optional model reporting form for
27 business and area plans.

28 *SEC. 403. Section 25503.1 of the Health and Safety Code is*
29 *amended to read:*

30 25503.1. The ~~agency office~~ and each administering agency
31 shall adopt reporting requirements, in cooperation with the
32 Chemical Emergency Planning and Response Commission,
33 established by the Governor as the state emergency response
34 commission pursuant to subsection (a) of Section 11001 of Title
35 42 of the United States Code, which are consistent with the intent
36 and provisions of this chapter and with Chapter 116 (commencing
37 with Section 11001) of Title 42 of the United States Code, for the
38 purpose of eliminating duplicative reporting requirements, to the
39 extent achievable and practicable.

1 *SEC. 404. Section 25503.3 of the Health and Safety Code is*
2 *amended to read:*

3 25503.3. (a) ~~The agency office~~ shall, in consultation with the
4 administering agencies, in accordance with Section 25503.1, adopt
5 by regulation a single comprehensive hazardous material reporting
6 form for businesses to submit to administering agencies for
7 purposes of Section 25509. The form shall include a section for
8 additional information that may be requested by the administering
9 agency. The regulations shall also specify criteria for sharing data
10 electronically. Except as provided in subdivisions (b) and (c), after
11 January 1, 1997, each administering agency shall require businesses
12 to use this form annually when complying with Section 25509.

13 (b) (1) Except as provided in paragraph (2), an administering
14 agency may allow a business to submit a form designated by the
15 administering agency for purposes of the inventory required by
16 Section 25509 instead of the single comprehensive hazardous
17 material reporting form adopted pursuant to subdivision (a). Any
18 form designated by an administering agency pursuant to this
19 paragraph shall ensure that all of the information required by
20 Section 25509 is reported. The form shall be developed in
21 consultation with the other agencies within the jurisdiction that
22 are responsible for fire protection, emergency response, and
23 environmental health. If the administering agency permits inventory
24 information to be submitted by electronic means, the format and
25 mode of submittal shall be developed in consultation with those
26 other agencies and, following the adoption of standards for the
27 sharing of electronic data pursuant to subdivision (e) of Section
28 25404, shall be consistent with those standards.

29 (2) If a business chooses to submit the single comprehensive
30 hazardous material reporting form adopted pursuant to subdivision
31 (a), the administering agency shall accept that form.

32 (c) Notwithstanding Section 25509, a business may comply
33 with the annual inventory reporting requirements of this article by
34 submitting a certification statement to the administering agency
35 if both of the following apply:

36 (1) The business has previously filed the single comprehensive
37 hazardous material reporting form required by subdivision (a) or
38 the alternative form designated by the administering agency
39 pursuant to subdivision (b).

1 (2) The business can attest to the statements set forth in
 2 paragraphs (1) to (4), inclusive, of subdivision (f) of Section 25501.
 3 *SEC. 405. Section 25503.4 of the Health and Safety Code is*
 4 *amended to read:*
 5 25503.4. (a) The agency shall adopt a format that allows
 6 persons subject to two or more of the following requirements to
 7 meet those requirements in one document:
 8 (1) The business plan required by this chapter.
 9 (2) The risk management plan required by Section 25534.
 10 (3) The contingency plan required by Division 4.5 (commencing
 11 with Section 66001) of Title 22 of the California Code of
 12 Regulations and by Part 262 (commencing with Section 262.10),
 13 Part 264 (commencing with Section 264.1), or Part 265
 14 (commencing with Section 265.1) of Title 40 of the Code of
 15 Federal Regulations.
 16 (4) The spill prevention control and countermeasure plan
 17 required by Section 25270.4.5 and by Part 112 (commencing with
 18 Section 112.1) or by Part 300 (commencing with Section 300.1)
 19 of Title 40 of the Code of Federal Regulations.
 20 (5) Any accident or spill prevention plan or response plan
 21 required by Chapter 6.7 (commencing with Section 25280) or by
 22 regulations adopted pursuant to that chapter or required by an
 23 underground storage tank ordinance adopted by a city or county.
 24 (6) The interim marine facility oil spill contingency plan
 25 required by Section 8670.29 of the Government Code and the
 26 marine facility oil spill contingency plan required by Section
 27 8670.31 of the Government Code.
 28 (b) The format required by subdivision (a) shall be organized
 29 as follows:
 30 (1) A central element that will enable persons using the format
 31 to report information and data common to all of the requirements
 32 described in subdivision (a).
 33 (2) Appendices that will contain the additional information
 34 unique to each individual requirement described in subdivision
 35 (a).
 36 (c) ~~The agency~~ *office* shall adopt the format required by
 37 subdivision (a) in consultation with administering agencies and
 38 the Information Management Subcommittee of the Chemical
 39 Emergency Planning and Response Commission and in cooperation
 40 with the State Water Resources Control Board, the Department of

1 Fish and Game, and the department. The adoption of the format
2 is not subject to Chapter 3.5 (commencing with Section 11340) of
3 Part 1 of Division 3 of Title 2 of the Government Code and shall
4 be completed by January 1, 1995. To the extent feasible, and within
5 the limits of budgetary constraints, the ~~agency office~~, the State
6 Water Resources Control Board, the Department of Fish and Game,
7 and the department shall convene workshops and other public
8 meetings to obtain public assistance on the development of the
9 format.

10 *SEC. 406. Section 25503.5 of the Health and Safety Code is*
11 *amended to read:*

12 25503.5. (a) (1) A business, except as provided in subdivisions
13 (b), (c), and (d), shall establish and implement a business plan for
14 emergency response to a release or threatened release of a
15 hazardous material in accordance with the standards prescribed in
16 the regulations adopted pursuant to Section 25503, if the business
17 handles a hazardous material or a mixture containing a hazardous
18 material that has a quantity at any one time during the reporting
19 year that is any of the following:

20 (A) Except as provided in subparagraphs (C), (D), or (F), equal
21 to, or greater than, a total weight of 500 pounds or a total volume
22 of 55 gallons.

23 (B) Except as provided in subparagraphs (E) or (F), equal to,
24 or greater than, 200 cubic feet at standard temperature and pressure,
25 if the substance is compressed gas.

26 (C) The threshold planning quantity, under both of the following
27 conditions:

28 (i) The hazardous material is an extremely hazardous substance,
29 as defined in Section 355.61 of Title 40 of the Code of Federal
30 Regulations.

31 (ii) The threshold planning quantity for that extremely hazardous
32 substance listed in Appendices A and B of Part 355 (commencing
33 with Section 355.1) of Subchapter J of Chapter I of Title 40 of the
34 Code of Federal Regulations is less than 500 pounds.

35 (D) A total weight of 5,000 pounds, if the hazardous material
36 is a solid or liquid substance that is classified as a hazard for
37 purposes of Section 5194 of Title 8 of the California Code of
38 Regulations solely as an irritant or sensitizer, unless the
39 administering agency finds, and provides notice to the business
40 handling the product, that the handling of lesser quantities of that

1 hazardous material requires the submission of a business plan, or
2 any portion thereof, in response to public health, safety, or
3 environmental concerns.

4 (E) (i) A total of 1,000 cubic feet, if the hazardous material is
5 a gas at standard temperature and pressure and is classified as a
6 hazard for the purposes of Section 5194 of Title 8 of the California
7 Code of Regulations solely as a compressed gas, unless the
8 administering agency finds, and provides notice to the business
9 handling the product, that the handling of lesser quantities of that
10 hazardous material requires the submission of a business plan, or
11 any portion thereof, in response to public health, safety, or
12 environmental concerns.

13 (ii) The hazardous materials subject to this subparagraph include
14 a gas for which the only health and physical hazards are simple
15 asphyxiation and the release of pressure.

16 (iii) The hazardous materials subject to this subparagraph do
17 not include gases in a cryogenic state.

18 (F) If the substance is a radioactive material, it is handled in
19 quantities for which an emergency plan is required to be adopted
20 pursuant to Part 30 (commencing with Section 30.1), Part 40
21 (commencing with Section 40.1), or Part 70 (commencing with
22 Section 70.1), of Chapter 1 of Title 10 of the Code of Federal
23 Regulations, or pursuant to any regulations adopted by the state
24 in accordance with those regulations.

25 (2) In meeting the requirements of this subdivision, a business
26 may, if it elects to do so, use the format adopted pursuant to Section
27 25503.4.

28 (3) The administering agency shall make the findings required
29 by subparagraphs (D) and (E) of paragraph (1) in consultation with
30 the local fire chief.

31 (b) (1) Oxygen, nitrogen, and nitrous oxide, ordinarily
32 maintained by a physician, dentist, podiatrist, veterinarian, or
33 pharmacist, at his or her office or place of business, stored at each
34 office or place of business in quantities of not more than 1,000
35 cubic feet of each material at any one time, are exempt from this
36 section and from Section 25505. The administering agency may
37 require a one-time inventory of these materials for a fee not to
38 exceed fifty dollars (\$50) to pay for the costs incurred by the
39 agency *office* in processing the inventory forms.

1 (2) (A) Lubricating oil is exempt from this section and Sections
2 25505 and 25509, for a single business facility, if the total volume
3 of each type of lubricating oil handled at that facility does not
4 exceed 55 gallons and the total volume of all types of lubricating
5 oil handled at that facility does not exceed 275 gallons, at any one
6 time.

7 (B) For purposes of this paragraph, “lubricating oil” means any
8 oil intended for use in an internal combustion crankcase, or the
9 transmission, gearbox, differential, or hydraulic system of an
10 automobile, bus, truck, vessel, airplane, heavy equipment, or other
11 machinery powered by an internal combustion or electric powered
12 engine. “Lubricating oil” does not include used oil, as defined in
13 subdivision (a) of Section 25250.1.

14 (3) Oil-filled electrical equipment that is not contiguous to an
15 electric facility is exempt from this section and Sections 25505
16 and 25509 if the aggregate capacity is less than 1,320 gallons.

17 (c) (1) Hazardous material contained solely in a consumer
18 product for direct distribution to, and use by, the general public is
19 exempt from the business plan requirements of this article unless
20 the administering agency has found, and has provided notice to
21 the business handling the product, that the handling of certain
22 quantities of the product requires the submission of a business
23 plan, or any portion thereof, in response to public health, safety,
24 or environmental concerns.

25 (2) In addition to the authority specified in paragraph (4), the
26 administering agency may, in exceptional circumstances, following
27 notice and public hearing, exempt from the inventory provisions
28 of this article any hazardous substance specified in subdivision (q)
29 of Section 25501 if the administering agency finds that the
30 hazardous substance would not pose a present or potential danger
31 to the environment or to human health and safety if the hazardous
32 substance was released into the environment. The administering
33 agency shall specify in writing the basis for granting any exemption
34 under this paragraph. The administering agency shall send a notice
35 to the ~~agency~~ *office* within five days from the effective date of any
36 exemption granted pursuant to this paragraph.

37 (3) The administering agency, upon application by a handler,
38 may exempt the handler, under conditions that the administering
39 agency determines to be proper, from any portion of the business
40 plan, upon a written finding that the exemption would not pose a

1 significant present or potential hazard to human health or safety
2 or to the environment or affect the ability of the administering
3 agency and emergency rescue personnel to effectively respond to
4 the release of a hazardous material, and that there are unusual
5 circumstances justifying the exemption. The administering agency
6 shall specify in writing the basis for any exemption under this
7 paragraph.

8 (4) The administering agency, upon application by a handler,
9 may exempt a hazardous material from the inventory provisions
10 of this article upon proof that the material does not pose a
11 significant present or potential hazard to human health and safety
12 or to the environment if released into the workplace or
13 environment. The administering agency shall specify in writing
14 the basis for any exemption under this paragraph.

15 (5) An administering agency shall exempt a business operating
16 a farm for purposes of cultivating the soil or raising or harvesting
17 any agricultural or horticultural commodity from filing the
18 information in the business plan required by subdivisions (b) and
19 (c) of Section 25504 if all of the following requirements are met:

20 (A) The handler annually provides the inventory of information
21 required by Section 25509 to the county agricultural commissioner
22 before January 1 of each year.

23 (B) Each building in which hazardous materials subject to this
24 article are stored is posted with signs, in accordance with
25 regulations that the ~~agency~~ *office* shall adopt, that provide notice
26 of the storage of any of the following:

27 (i) Pesticides.

28 (ii) Petroleum fuels and oil.

29 (iii) Types of fertilizers.

30 (C) Each county agricultural commissioner forwards the
31 inventory to the administering agency within 30 days from the
32 date of receipt of the inventory.

33 (6) The administering agency shall exempt a business operating
34 an unstaffed remote facility located in an isolated sparsely
35 populated area from the hazardous materials business plan and
36 inventory requirements of this article if the facility is not otherwise
37 subject to the requirements of applicable federal law, and all of
38 the following requirements are met:

39 (A) The types and quantities of materials onsite are limited to
40 one or more of the following:

- 1 (i) Five hundred standard cubic feet of compressed inert gases
2 (asphyxiation and pressure hazards only).
- 3 (ii) Five hundred gallons of combustible liquid used as a fuel
4 source.
- 5 (iii) Two hundred gallons of corrosive liquids used as
6 electrolytes in closed containers.
- 7 (iv) Five hundred gallons of lubricating and hydraulic fluids.
- 8 (v) One thousand two hundred gallons of flammable gas used
9 as a fuel source.
- 10 (vi) Any quantity of mineral oil contained within electrical
11 equipment, such as transformers, bushings, electrical switches,
12 and voltage regulators, if a spill prevention control and
13 countermeasure plan has been prepared for quantities in excess of
14 1,320 gallons.
- 15 (B) The facility is secured and not accessible to the public.
- 16 (C) Warning signs are posted and maintained for hazardous
17 materials pursuant to the California Fire Code.
- 18 (D) A one-time notification and inventory are provided to the
19 administering agency along with a processing fee in lieu of the
20 existing fee. The fee shall not exceed the actual cost of processing
21 the notification and inventory, including a verification inspection,
22 if necessary.
- 23 (E) If the information contained in the initial notification or
24 inventory changes and the time period of the change is longer than
25 30 days, the notification or inventory shall be resubmitted within
26 30 days to the administering agency to reflect the change, along
27 with a processing fee, in lieu of the existing fee, that does not
28 exceed the actual cost of processing the amended notification or
29 inventory, including a verification inspection, if necessary.
- 30 (F) The administering agency shall forward a copy of the
31 notification and inventory to those agencies that share responsibility
32 for emergency response.
- 33 (G) The administering agency may require an unstaffed remote
34 facility to submit a hazardous materials business plan and inventory
35 in accordance with this article if the ~~agency~~ *office* finds that special
36 circumstances exist such that development and maintenance of the
37 business plan and inventory are necessary to protect public health
38 and safety and the environment.
- 39 (d) On-premise use, storage, or both, of propane in an amount
40 not to exceed 500 gallons that is for the sole purpose of cooking,

1 heating the employee work areas, and heating water, within that
2 business, is exempt from this section, unless the administering
3 agency finds, and provides notice to the business handling the
4 propane, that the handling of the on-premise propane requires the
5 submission of a business plan, or any portion thereof, in response
6 to public health, safety, or environmental concerns.

7 (e) The administering agency shall provide all information
8 obtained from completed inventory forms, upon request, to
9 emergency rescue personnel on a 24-hour basis.

10 (f) The administering agency shall adopt procedures to provide
11 for public input when approving any applications submitted
12 pursuant to paragraph (3) or (4) of subdivision (c).

13 *SEC. 407. Section 25503.9 of the Health and Safety Code is*
14 *amended to read:*

15 25503.9. On or before January 1, 1995, the ~~agency office~~ shall,
16 in consultation with the administering agencies and the State Fire
17 Marshal, adopt by regulation a single comprehensive addendum
18 to the hazardous materials reporting form for businesses to submit
19 to administering agencies for purposes of complying with
20 subdivisions (b) and (c) of Section 13143.9 and subdivision (b) of
21 Section 25509. The regulations shall also specify criteria for
22 sharing data electronically. Not later than two years after the
23 effective date of those regulations, and annually thereafter, each
24 administering agency shall require businesses to use that addendum
25 when complying with subdivisions (b) and (c) of Section 13143.9
26 and subdivision (b) of Section 25509. The addendum shall be filed
27 with the administering agency, when required by the local fire
28 chief.

29 *SEC. 408. Section 25505.2 of the Health and Safety Code is*
30 *amended to read:*

31 25505.2. (a) Notwithstanding any other provision of this
32 chapter, any city or county which, on September 1, 1985, had in
33 effect a local ordinance containing business inventory reporting
34 requirements substantially similar to this chapter, as amended by
35 the act enacting this section, is exempt from having to implement
36 any regulations adopted by the ~~agency office~~ concerning business
37 plans upon meeting both of the following requirements:

38 (1) Not later than 90 days after the effective date of the act
39 enacting this section, the city or county enacts an ordinance, or
40 amends its existing ordinance, so that its requirements for business

1 plans are the same as, or more restrictive than, this chapter,
2 including subdivision (a) of Section 25503.5 and Sections 25504
3 and 25509.

4 (2) The ~~agency~~ office certifies that the ordinance's requirements
5 are in compliance with paragraph (1) and that the city or county
6 is implementing the ordinance, based upon evidence submitted by
7 the city or county. Applications for exemption shall be filed with
8 the ~~agency~~ office not later than 120 days from the effective date
9 of the act enacting this section and the ~~agency~~ office shall certify
10 or reject the applications within 60 days after receipt. The city or
11 county may file an appeal of the decision of the ~~agency~~ office with
12 the ~~secretary of the agency~~ Director of Emergency Services, under
13 procedures established by the ~~agency~~ office.

14 (b) This section does not exempt any administering agency from
15 compliance with any other provision of this chapter.

16 (c) Any business located in a city or county which is exempt
17 from the regulations adopted pursuant to this chapter concerning
18 business plans, shall comply with the ordinance adopted by the
19 city or county.

20 *SEC. 409. Section 25507 of the Health and Safety Code is*
21 *amended to read:*

22 25507. (a) Except as provided in subdivision (b), the handler
23 or any employee, authorized representative, agent, or designee of
24 a handler shall, upon discovery, immediately report any release or
25 threatened release of a hazardous material to the administering
26 agency, and to the ~~agency~~ office, in accordance with the regulations
27 adopted pursuant to Section 25503. Each handler and any
28 employee, authorized representative, agent, or designee of a handler
29 shall provide all state, city, or county fire or public health or safety
30 personnel and emergency rescue personnel with access to the
31 handler's facilities.

32 (b) Subdivision (a) does not apply to any person engaged in the
33 transportation of a hazardous material on a highway which is
34 subject to, and in compliance with, the requirements of Sections
35 2453 and 23112.5 of the Vehicle Code.

36 *SEC. 410. Section 25507.1 of the Health and Safety Code is*
37 *amended to read:*

38 25507.1. (a) Any business required to submit a followup
39 emergency notice pursuant to subdivision (c) of Section 11004 of
40 Title 42 of the United States Code, as that section read on January

1 1, 1989, or as it may be subsequently amended, shall submit the
2 notice on a form approved by the ~~agency office~~.

3 (b) The ~~agency office~~ may adopt guidelines for the use of the
4 forms required by subdivision (a).

5 *SEC. 411. Section 25509 of the Health and Safety Code is*
6 *amended to read:*

7 25509. (a) The annual inventory form shall include, but shall
8 not be limited to, information on all of the following which are
9 handled in quantities equal to or greater than the quantities
10 specified in subdivision (a) of Section 25503.5:

11 (1) A listing of the chemical name and common names of every
12 hazardous substance or chemical product handled by the business.

13 (2) The category of waste, including the general chemical and
14 mineral composition of the waste listed by probable maximum
15 and minimum concentrations, of every hazardous waste handled
16 by the business.

17 (3) A listing of the chemical name and common names of every
18 other hazardous material or mixture containing a hazardous
19 material handled by the business that is not otherwise listed
20 pursuant to paragraph (1) or (2).

21 (4) The maximum amount of each hazardous material or mixture
22 containing a hazardous material disclosed in paragraphs (1), (2),
23 and (3) that is handled at any one time by the business over the
24 course of the year.

25 (5) Sufficient information on how and where the hazardous
26 materials disclosed in paragraphs (1), (2), and (3) are handled by
27 the business to allow fire, safety, health, and other appropriate
28 personnel to prepare adequate emergency responses to potential
29 releases of the hazardous materials.

30 (6) The SIC Code number of the business if applicable.

31 (7) The name and telephone number of the person representing
32 the business and able to assist emergency personnel in the event
33 of an emergency involving the business during nonbusiness hours.

34 (b) If the local fire chief requires the business to comply with
35 the requirements of subdivision (c) of Section 2701.5.2 of the
36 California Fire Code, as adopted by the State Fire Marshal pursuant
37 to Section 13143.9, the business shall also file the addendum
38 required by Section 25503.9 with the administering agency.

39 (c) The administering agency may permit the reporting of the
40 amount of hazardous material under this section by ranges, rather

1 than a specific amount, as long as those ranges provide the
2 information necessary to meet the needs of emergency rescue
3 personnel, to determine the potential hazard from a release of the
4 materials, and meets the purposes of this chapter.

5 (d) (1) Except as provided in subdivision (e), the annual
6 inventory form required by this section shall also include all
7 inventory information required by Section 11022 of Title 42 of
8 the United States Code, as that section read on January 1, 1989,
9 or as it may be subsequently amended.

10 (2) The ~~agency office~~ may adopt or amend existing regulations
11 specifying the inventory information required by this subdivision.

12 (e) If, pursuant to federal law or regulation, as it currently exists
13 or as it may be amended, there is a determination that the inventory
14 information required by subdivisions (a) and (c) is substantially
15 equivalent to the inventory information required under the
16 Emergency Planning and Community Right-to-Know Act of 1986
17 (42 U.S.C. Sec. 11001 et seq.), the requirements of subdivision
18 (d) shall not apply.

19 *SEC. 412. Section 25517.5 of the Health and Safety Code is*
20 *amended to read:*

21 25517.5. (a) The ~~agency office~~ may develop materials, such
22 as guidelines and informational pamphlets, to assist businesses to
23 fulfill their obligations under this chapter.

24 (b) The ~~agency office~~ may adopt emergency regulations for the
25 purpose of implementing Sections 25503 and 25509. These
26 emergency regulations shall be adopted by the ~~agency office~~ in
27 accordance with Chapter 3.5 (commencing with Section 11340)
28 of Part 1 of Division 3 of Title 2 of the Government Code, and for
29 purposes of that chapter, the adoption of these regulations is an
30 emergency and shall be considered by the Office of Administrative
31 Law as necessary for the immediate preservation of the public
32 peace, health, and safety, or general welfare.

33 *SEC. 413. Section 25520 of the Health and Safety Code is*
34 *amended to read:*

35 25520. The ~~agency office~~, not later than January 10, 1986, shall
36 adopt emergency regulations for the immediate report of release
37 or threatened release of a hazardous material as required by Section
38 25507 until regulations are adopted pursuant to Section 25503.
39 Regulations adopted pursuant to this section are not subject to
40 review by the Office of Administrative Law.

1 *SEC. 414. Section 25531.2 of the Health and Safety Code is*
2 *amended to read:*

3 25531.2. (a) The Legislature finds and declares that as the
4 state implements the federal accidental release prevention program
5 pursuant to this article, the ~~California Emergency Management~~
6 ~~Agency~~ *Office of Emergency Services* will play a vital and
7 increased role in preventing accidental releases of extremely
8 hazardous substances. The Legislature further finds and declares
9 that as an element of the unified program established pursuant to
10 Chapter 6.11 (commencing with Section 25404), a single fee
11 system surcharge mechanism is established by Section 25404.5 to
12 cover the costs incurred by the ~~agency office~~ pursuant to this article.
13 It is the intent of the Legislature that this existing authority,
14 together with any federal assistance that may become available to
15 implement the accidental release program, be used to fully fund
16 the activities of the ~~agency office~~ necessary to implement this
17 article.

18 (b) The ~~agency office~~ shall use any federal assistance received
19 to implement Chapter 6.11 (commencing with Section 25404) to
20 offset any fees or charges levied to cover the costs incurred by the
21 ~~agency office~~ pursuant to this article.

22 *SEC. 415. Section 25545 of the Health and Safety Code is*
23 *amended to read:*

24 25545. The ~~agency office~~ shall develop informational guidelines
25 for facilities required to comply with Chapter 116 (commencing
26 with Section 11001) of Title 42 of the United States Code and with
27 this chapter, and shall assist the administering agencies in ensuring
28 full distribution of these guidelines to those facilities.

29 *SEC. 416. Section 35805 of the Health and Safety Code is*
30 *amended to read:*

31 35805. As used in this part:

32 (a) “Agency” means the ~~Business, Transportation and Housing~~
33 ~~Business, Consumer Services and Housing Agency~~.

34 (b) “Fair market value” means the most probable price which
35 a property should bring in a competitive and open market under
36 all conditions requisite to a fair sale, the buyer and seller each
37 acting prudently and knowledgeably, and assuming the price is
38 not affected by undue stimulus. The use of this definition of fair
39 market value by a financial institution in an appraisal made at any

1 time on or after July 1, 1986, does not violate the provisions of
2 this part.

3 (c) “Financial institution” includes any bank, savings and loan
4 association, or other institution in this state, including a public
5 agency, that regularly makes, arranges, or purchases loans for the
6 purchase, construction, rehabilitation, improvement, or refinancing
7 of housing accommodations.

8 (d) “Housing accommodation” includes any improved or
9 unimproved real property, or portion thereof, that (1) is used or is
10 intended to be used as a residence, and (2) is or will be occupied
11 by the owner, and (3) contains not more than four dwelling units.
12 “Housing accommodation” shall also include any residential
13 dwelling containing not more than four dwelling units where the
14 owner thereof, whether or not the owner will occupy the property,
15 applies or has applied for a secured home improvement loan from
16 a financial institution, the proceeds of which loan will be used to
17 improve the security property.

18 (e) “Secretary” means the Secretary of ~~the Business,~~
19 ~~Transportation and Housing Agency Business, Consumer Services~~
20 ~~and Housing.~~

21 *SEC. 417. Section 50093 of the Health and Safety Code is*
22 *amended to read:*

23 50093. “Persons and families of low or moderate income”
24 means persons and families whose income does not exceed 120
25 percent of area median income, adjusted for family size by the
26 department in accordance with adjustment factors adopted and
27 amended from time to time by the United States Department of
28 Housing and Urban Development pursuant to Section 8 of the
29 United States Housing Act of 1937. However, the agency and the
30 department jointly, or either acting with the concurrence of the
31 Secretary of ~~the Business and Transportation Agency Business,~~
32 ~~Consumer Services and Housing,~~ may permit the agency to use
33 higher income limitations in designated geographic areas of the
34 state, upon a determination that 120 percent of the median income
35 in the particular geographic area is too low to qualify a substantial
36 number of persons and families of low or moderate income who
37 can afford rental or home purchase of housing financed pursuant
38 to Part 3 (commencing with Section 50900) without subsidy.

39 “Persons and families of low or moderate income” includes very
40 low income households, as defined in Section 50105, extremely

1 low income households, as defined in Section 50106, and lower
2 income households as defined in Section 50079.5, and includes
3 persons and families of extremely low income, persons and families
4 of very low income, persons and families of low income, persons
5 and families of moderate income, and middle-income families. As
6 used in this division:

7 (a) “Persons and families of low income” or “persons of low
8 income” means persons or families who are eligible for financial
9 assistance specifically provided by a governmental agency for the
10 benefit of occupants of housing financed pursuant to this division.

11 (b) “Persons and families of moderate income” or
12 “middle-income families” means persons and families of low or
13 moderate income whose income exceeds the income limit for lower
14 income households.

15 (c) “Persons and families of median income” means persons
16 and families whose income does not exceed the area median
17 income, as adjusted by the department for family size in accordance
18 with adjustment factors adopted and amended from time to time
19 by the United States Department of Housing and Urban
20 Development pursuant to Section 8 of the United States Housing
21 Act of 1937.

22 As used in this section, “area median income” means the median
23 family income of a geographic area of the state, as annually
24 estimated by the United States Department of Housing and Urban
25 Development pursuant to Section 8 of the United States Housing
26 Act of 1937. In the event these federal determinations of area
27 median income are discontinued, the department shall establish
28 and publish as regulations income limits for persons and families
29 of median income for all geographic areas of the state at 100
30 percent of area median income, and for persons and families of
31 low or moderate income for all geographic areas of the state at
32 120 percent of area median income. These income limits shall be
33 adjusted for family size and shall be revised annually.

34 For purposes of this section, the department shall file, with the
35 Office of Administrative Law, any changes in area median income
36 and income limits determined by the United States Department of
37 Housing and Urban Development, together with any consequent
38 changes in other derivative income limits determined by the
39 department pursuant to this section. These filings shall not be
40 subject to Article 5 (commencing with Section 11346) or Article

1 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of
2 Division 3 of Title 2 of the Government Code, but shall be effective
3 upon filing with the Office of Administrative Law and shall be
4 published as soon as possible in the California Regulatory Code
5 Supplement and the California Code of Regulations.

6 The department shall establish and publish a general definition
7 of income, including inclusions, exclusions, and allowances, for
8 qualifying persons under the income limits of this section and
9 Sections 50079.5, 50105, and 50106 to be used where no other
10 federal or state definitions of income apply. This definition need
11 not be established by regulation.

12 Nothing in this division shall prevent the agency or the
13 department from adopting separate family size adjustment factors
14 or programmatic definitions of income to qualify households,
15 persons, and families for programs of the agency or department,
16 as the case may be.

17 *SEC. 418. Section 50150 of the Health and Safety Code is*
18 *amended to read:*

19 50150. This chapter sets forth the general responsibilities and
20 roles of the ~~Business, Transportation, and Housing~~ *Business,*
21 *Consumer Services and Housing* Agency, the Department of
22 Housing and Community Development, and the California Housing
23 Finance Agency in carrying out state housing policies and
24 programs. It is declaratory of existing law as to those roles and
25 responsibilities, and shall not be construed as creating additional
26 responsibilities.

27 *SEC. 419. Section 50151 of the Health and Safety Code is*
28 *amended to read:*

29 50151. The Secretary of the ~~Business, Transportation, and~~
30 ~~Housing Agency~~ *Business, Consumer Services and Housing* shall
31 be responsible for allocating financial aid and contributions made
32 available directly to state government or to the agency by any
33 agency of the United States for the purpose of subsidizing housing
34 for persons and families of low or moderate income.

35 The agency shall have priority among all other units of state
36 government for receipt of federal housing subsidies for use in
37 connection with its lending and insurance programs.

38 *SEC. 420. Section 50153 of the Health and Safety Code is*
39 *amended to read:*

1 50153. To further the goals of this division and to enable the
2 success of a statewide housing program, it is essential, and the
3 Legislature intends, that the agency and the department shall
4 closely coordinate their activities to assure that the goals and
5 purposes of this division are realized. To this end, the Secretary
6 of ~~the Business, Transportation, and Housing Agency~~ *Business,*
7 *Consumer Services and Housing* and the director of the department
8 have been given a role on the board which administers the agency
9 and approves major contractual agreements, and a veto power over
10 agency regulations in certain policy areas as specified in Section
11 50462, and the agency is required to coordinate its activities with
12 the department. Subject to these restrictions, however, and when
13 carrying out its own unique responsibilities, the agency is relatively
14 free of regulation by other agencies of state government.

15 *SEC. 421. Section 50154 of the Health and Safety Code is*
16 *amended to read:*

17 50154. The California Housing Finance Agency, within the
18 ~~Business, Transportation, and Housing~~ *Business, Consumer*
19 *Services and Housing* Agency, is a primary agency in the
20 implementation of state housing policy. The agency's role is to
21 make financing opportunities available for the construction,
22 rehabilitation, and purchase of housing for persons and families
23 of low or moderate income by (a) borrowing in the securities
24 markets and relending to housing sponsors, developers, and
25 homeowners and (b) insuring loans made by the agency or by
26 others for the same purposes. In general, the agency pays for its
27 operations out of the excess of its interest revenue from loan
28 repayments over the cost of the money it borrows or, in the case
29 of insurance, by the excess of fees charged for the provision of
30 insurance over the value of claims paid. The agency shall seek to
31 implement the goals, policies, and objectives of the California
32 Statewide Housing Plan and shall annually report on its progress
33 toward compliance with priorities in the California Statewide
34 Housing Plan.

35 *SEC. 422. Section 50452 of the Health and Safety Code is*
36 *amended to read:*

37 50452. The department shall update and provide a revision of
38 the California Statewide Housing Plan to the Legislature by January
39 1, 2006, by January 1, 2009, and every four years thereafter. The
40 revisions shall contain all of the following segments:

1 (a) A comparison of the housing need for the preceding four
2 years with the amount of building permits issued and mobilehome
3 units sold in those fiscal years.

4 (b) A revision of the determination of the statewide need for
5 housing development specified in subdivision (b) of Section 50451
6 for the current year and projected four additional years ahead.

7 (c) A revision of the housing assistance goals specified in
8 subdivision (c) of Section 50451 for the current year and projected
9 four additional years ahead.

10 (d) A revision of the evaluation required by subdivision (a) of
11 Section 50451 as new census or other survey data become
12 available. The revision shall contain an evaluation and summary
13 of housing conditions throughout the state and may highlight data
14 for multicounty or regional areas, as determined by the department.
15 The revision shall include a discussion of the housing needs of
16 various population groups, including, but not limited to, the elderly
17 persons, disabled persons, large families, families where a female
18 is the head of the household, and farmworker households.

19 (e) An updating of recommendations for actions by federal,
20 state, and local governments and the private sector which will
21 facilitate the attainment of housing goals established for California.

22 The Legislature may review the plan and the updates of the plan
23 and transmit its comments on the plan or updates of the plan to
24 the Governor, the Secretary of ~~the Business, Transportation, and~~
25 ~~Housing Agency~~ *Business, Consumer Services and Housing*, and
26 the Director of Housing and Community Development.

27 *SEC. 423. Section 50462 of the Health and Safety Code is*
28 *amended to read:*

29 50462. The department may initiate, develop, and propose
30 regulations for adoption by the agency and review regulations
31 proposed by the board prior to their taking effect, with respect to
32 the following:

33 (a) Standards for affirmative marketing programs of housing
34 sponsors seeking financial assistance from the agency.

35 (b) Criteria for certifying that the sale or conveyance of real
36 property pursuant to Section 51061 or Section 51251 will primarily
37 benefit persons and families of low or moderate income living in
38 a housing development or a residential structure.

39 (c) Regulations permitting grants to be made by the agency to
40 housing sponsors for the purpose of attaining affordable rents in

1 housing developments financed by the agency. Such grants shall
 2 not be made with moneys derived from the sale of bonds.

3 (d) Regulations governing payments, procedures, and eligibility
 4 for relocation assistance for individuals and families displaced by
 5 actions of the agency or of housing sponsors of housing
 6 developments or neighborhood improvement loans.

7 (e) Criteria for qualification of persons, families, and
 8 households as persons and families of low or moderate income,
 9 lower income households, or very low income households.

10 (f) Regulations establishing the maximum percentage of income
 11 which may be paid by persons and families of low or moderate
 12 income for housing cost within the meaning of the term affordable
 13 housing cost, as defined in Section 50052.5.

14 (g) Regulations designating geographical areas of need
 15 throughout the state for housing construction or rehabilitation, as
 16 identified in the California Statewide Housing Plan, identifying
 17 housing markets in which insufficient financing is available for
 18 purchase or rehabilitation of existing housing, identifying types
 19 of households with particularly severe housing needs, or
 20 establishing priority criteria for the selection of homes and projects
 21 to be financed as housing developments or neighborhood
 22 improvement loans.

23 (h) Criteria for inclusion of nonhousing facilities in housing
 24 developments financed by the agency.

25 Regulations proposed by the agency in such areas of
 26 responsibility shall not take effect without concurrence of the
 27 director, the Secretary of ~~the Business and Transportation Agency~~
 28 *Business, Consumer Services and Housing*, or a representative of
 29 the secretary specifically designated for such review and approval.

30 *SEC. 424. Section 50661.5 of the Health and Safety Code is*
 31 *amended to read:*

32 50661.5. (a) There is hereby created in the State Treasury the
 33 California Disaster Housing Repair Fund, into which shall be paid
 34 all moneys appropriated by the Legislature pursuant to subdivision
 35 (b) or transferred pursuant to subdivision (c) for housing repair
 36 loans pursuant to Sections 50662.7, 50671.5, and 50671.6. All
 37 interest or other increments resulting from the investment of
 38 moneys in the California Disaster Housing Repair Fund shall be
 39 deposited in the fund, notwithstanding Section 16305.7 of the
 40 Government Code. Notwithstanding Section 13340 of the

1 Government Code, all money in that fund is continuously
2 appropriated to the department for the following purposes:

3 (1) For making deferred payment loans and predevelopment
4 loans pursuant to Sections 50662.7, 50671.5, and 50671.6.

5 (2) For related administrative expenses of the department.

6 (3) For related administrative expenses of any entity contracting
7 with the department, pursuant to Sections 50662.7, 50671.5, and
8 50671.6 in an amount, if any, as determined by the department, to
9 enable the entities to implement a program pursuant to those
10 sections.

11 (4) For providing loan guarantees for disaster-related loans made
12 by private institutional lending sources.

13 (b) There shall be paid into the fund the following:

14 (1) Any moneys appropriated and made available by the
15 Legislature for purposes of the fund.

16 (2) Any moneys transferred from the Special Fund for Economic
17 Uncertainties prior to July 1, 1996, pursuant to subdivision (c).

18 (3) Any other moneys which may be made available to the
19 department prior to July 1, 1996, for the purposes of this section
20 from any other source or sources.

21 (4) The director may authorize the sale of the beneficiary interest
22 of loans made pursuant to Section 50662.7. The proceeds from
23 that sale prior to July 1, 1996, shall be deposited into the California
24 Disaster Housing Repair Fund. Proceeds from that sale after July
25 1, 1996, shall be deposited in the General Fund.

26 (c) (1) To the extent that funds are not available, the Department
27 of Housing and Community Development shall submit to the
28 Department of Finance, within 90 days after a disaster, a deficiency
29 request based on a minimum funding level based on a damage
30 survey completed by the ~~California Emergency Management~~
31 *Agency Office of Emergency Services* and the Federal Emergency
32 Management Agency. The request shall distinguish between
33 owner-occupied housing of one to four units and rental housing
34 of five or more units.

35 (2) Upon receipt of the deficiency request from the Department
36 of Housing and Community Development pursuant to paragraph
37 (1), the Department of Finance shall make a funding determination
38 and notify the Legislature of the approval or disapproval of the
39 deficiency amount. Any deficiency amount approved shall

1 distinguish between owner-occupied housing of one to four units
2 and rental housing of five or more units.

3 (3) Any payments made pursuant to this subdivision from funds
4 made available under Section 50671.5 shall be matched by a
5 corresponding and equal payment from funds made available under
6 Section 50671.6, except that, upon the determination of the Director
7 of Finance that one of the two rental repair programs has excess
8 funds, moneys from that fund may be used for either of the other
9 two disaster repair programs.

10 (d) In the event of a natural disaster, as defined in Section 8680.3
11 of the Government Code, the Director of Finance may transfer
12 moneys from the Special Fund for Economic Uncertainties
13 established by Section 16418 of the Government Code to the
14 California Disaster Housing Repair Fund, provided the transfer is
15 not made sooner than 30 days after notification in writing of the
16 necessity therefor is provided to the Joint Legislative Budget
17 Committee.

18 (e) Notwithstanding any other provision of law, on or after July
19 1, 1996, the unencumbered fund balance and reserves shall be
20 transferred to the Housing Rehabilitation Loan Fund and
21 subsequent income and other resources payable pursuant to
22 Sections 50662.7, 50671.5, and 50671.6, shall be deposited to the
23 Housing Rehabilitation Loan Fund, except that payments of
24 principal and interest on loans issued pursuant to Sections 50662.7,
25 50671.5, and 50671.6 shall be deposited in the General Fund.

26 (f) In making funds available to disaster victims pursuant to
27 Sections 50662.7, 50671.5, and 50671.6, the department shall
28 impose a one-year deadline for submission of applications.

29 (g) Any changes made on or after January 1, 1994, to any
30 program funded by the California Disaster Housing Repair Fund
31 shall not apply to applications submitted on or before December
32 31, 1993. The department may administer the program in
33 accordance with guidelines until regulations are adopted.

34 *SEC. 425. Section 50900 of the Health and Safety Code is*
35 *amended to read:*

36 50900. The California Housing Finance Agency is hereby
37 continued in existence in the ~~Business, Transportation and Housing~~
38 ~~Agency~~ *Department of Housing and Community Development.*
39 The agency constitutes a public instrumentality and a political
40 subdivision of the state, and the exercise by the agency of the

1 powers conferred by this division shall be deemed and held to be
2 the performance of an essential public function.

3 *SEC. 426. Section 51005 of the Health and Safety Code is*
4 *amended to read:*

5 51005. (a) The agency shall, by November 1 of each year,
6 submit an annual report of its activities under this division for the
7 preceding year to the Governor, the Secretary of ~~the Business and~~
8 ~~Transportation Agency~~ *Business, Consumer Services and Housing,*
9 the Director of Housing and Community Development, the
10 Treasurer, the Joint Legislative Budget Committee, the Legislative
11 Analyst, and the Legislature. The report shall set forth a complete
12 operating and financial statement of the agency during the
13 concluded fiscal year. The report shall specify the number of units
14 assisted, the distribution of units among the metropolitan,
15 nonmetropolitan, and rural areas of the state, and shall contain a
16 summary of statistical data relative to the incomes of households
17 occupying assisted units, the monthly rentals charged to occupants
18 of rental housing developments, and the sales prices of residential
19 structures purchased during the previous fiscal year by persons or
20 families of low or moderate income. The report shall also include
21 a statement of accomplishment during the previous year with
22 respect to the agency's progress, priorities, and affirmative action
23 efforts. The agency shall specifically include in its report on
24 affirmative action goals, statistical data on the numbers and
25 percentages of minority sponsors, developers, contractors,
26 subcontractors, suppliers, architects, engineers, attorneys, mortgage
27 bankers or other lenders, insurance agents, and managing agents.

28 (b) The report shall also include specific information evaluating
29 the extent to which the programs administered by the agency have
30 attained the statutory objectives of the agency, including, but not
31 limited to, (1) the primary purpose of the agency in meeting the
32 housing needs of persons and families of low or moderate income
33 pursuant to Section 50950, (2) the occupancy requirements for
34 very low income households established pursuant to Sections
35 50951 and 51226, (3) the elderly and orthopedic disability
36 occupancy requirements established pursuant to Section 51230,
37 (4) the use of surplus moneys pursuant to Section 51007, (5) the
38 metropolitan, nonmetropolitan, and rural goals established pursuant
39 to subdivision (h) of Section 50952, (6) the California Statewide
40 Housing Plan, as required by Section 50154, (7) the statistical and

1 other information developed and maintained pursuant to Section
2 51610, (8) the number of manufactured housing units assisted by
3 the agency, (9) information with respect to the proceeds derived
4 from the issuance of bonds or securities and any interest or other
5 increment derived from the investment of bonds or securities, and
6 the uses for which those proceeds or increments are being made
7 as provided for in Section 51365, including the amount by which
8 each fund balance exceeds indenture requirements, (10) any
9 recommendations described in subdivision (d), (11) any
10 recommendations described in Section 51227, (12) the revenue
11 bonding authority plan adopted pursuant to Section 51004.5, (13)
12 the statistical and other information required to be provided
13 pursuant to Section 50156, (14) an analysis of the agency's
14 compliance with the targeting requirements of subsection (d) of
15 Section 142 of the Internal Revenue Code of 1986 (26 U.S.C. Sec.
16 142) with respect to any issue of bonds subject to those
17 requirements under Section 103 of the Internal Revenue Code of
18 1986 (26 U.S.C. Sec. 103), including the numbers of rental units
19 subject to this reporting requirement by categories based on the
20 number of bedrooms per unit, and (15) the statistical and other
21 information relating to congregate housing for the elderly pursuant
22 to Section 51218.

23 The agency may, at its option, include the information required
24 by this section in a single document or may separately report the
25 statistical portion of the information in a supplement appended to
26 its annual report. This statistical supplement shall be distributed
27 with copies of the agency's annual report, but need not be provided
28 to bond rating agencies, underwriters, investors, developers, or
29 financial institutions.

30 (c) The agency shall cause an audit of its books and accounts
31 with respect to its activities under this division to be made at least
32 once during each fiscal year by an independent certified public
33 accountant and the agency shall be subject to audit by the
34 Department of Finance not more often than once each fiscal year.

35 (d) The agency shall assess any obstacles or problems that it
36 has encountered in meeting its mandate to serve nonmetropolitan
37 and rural metropolitan areas, and recommend legislative and
38 administrative solutions to overcome these obstacles or problems.
39 The agency shall separately assess its progress in meeting the
40 rehabilitation needs of rural areas and the new construction needs

1 of rural areas, and separately assess its progress as to single and
2 multifamily units. The agency shall include in its report a
3 quantification and evaluation of its progress in meeting the housing
4 needs of communities of various sizes in rural areas.

5 (e) By December 1 of each fiscal year, the agency shall
6 ascertain that not less than 25 percent of the total units financed
7 by mortgage loans during the preceding 12 months pursuant to
8 this part were made available to very low income households. If
9 the agency finds that these very low income occupancy goals have
10 not been met, the agency shall immediately notify the Governor,
11 the Speaker of the Assembly, and the Senate Committee on Rules,
12 and shall recommend legislation or other action as may be required
13 to make (1) at least 25 percent of the units so available, and (2) at
14 least 25 percent of the units thereafter financed so available. In
15 housing developments for which the agency provides a construction
16 loan but not a mortgage loan, the agency shall report annually on
17 the percentage of units projected to be made available for
18 occupancy and actually occupied by lower income households.

19 *SEC. 427. Section 51614 of the Health and Safety Code is*
20 *amended to read:*

21 51614. (a) The agency is hereby vested with full power,
22 authority, and jurisdiction over the insurance fund. The agency
23 may perform all acts necessary or convenient in the exercise of
24 any power, authority, or jurisdiction over the insurance fund, either
25 in the administration thereof or in connection with the business
26 administered under this part, as fully and completely as the
27 governing body of a private insurance carrier.

28 (b) The agency may create task forces and advisory committees,
29 when appropriate and as the members deem necessary, for the
30 purpose of obtaining advice on issues arising as a result of the
31 agency's activities under this part. Ex officio members of those
32 task forces and advisory committees may include, but are not
33 limited to, the Insurance Commissioner or his or her designee, the
34 Director of Housing and Community Development or his or her
35 designee, the Director of the Seismic Safety Commission or his
36 or her designee, and the ~~Secretary of Emergency Management~~
37 *Director of Emergency Services* or his or her designee.

38 *SEC. 428. Section 51624 of the Health and Safety Code is*
39 *amended to read:*

1 51624. The agency shall prepare a preliminary budget for the
2 agency's activities under this part on or before December 1 of each
3 year for the ensuing fiscal year, to be reviewed by the Secretary
4 of ~~the Business, Transportation and Housing Agency~~ *Business,*
5 *Consumer Services and Housing*, the Director of Finance, and the
6 Joint Legislative Budget Committee.

7 *SEC. 429. Section 53524 of the Health and Safety Code is*
8 *amended to read:*

9 53524. (a) Solely for the purpose of authorizing the issuance
10 and sale, pursuant to the State General Obligation Bond Law, of
11 the bonds authorized by this part, the Housing Finance Committee
12 is hereby created. For purposes of this part, the Housing Finance
13 Committee is "the committee" as that term is used in the State
14 General Obligation Bond Law. The committee consists of the
15 Controller, the Treasurer, the Director of Finance, the Secretary
16 of ~~the Business, Transportation and Housing Agency~~ *Business,*
17 *Consumer Services and Housing*, the Director of Housing and
18 Community Development, and the Executive Director of the
19 California Housing Finance Agency, or their designated
20 representatives. The Treasurer shall serve as the chairperson of
21 the committee. A majority of the committee may act for the
22 committee.

23 (b) For purposes of the State General Obligation Bond Law, the
24 department is designated the "board" for programs administered
25 by the department, and the agency is the "board" for programs
26 administered by the agency.

27 *SEC. 430. Section 101080.2 of the Health and Safety Code is*
28 *amended to read:*

29 101080.2. (a) The local health officer may issue, and first
30 responders may execute, an order authorizing first responders to
31 immediately isolate exposed individuals that may have been
32 exposed to biological, chemical, toxic, or radiological agents that
33 may spread to others. An order issued pursuant to this section shall
34 not be in effect for a period longer than two hours and shall only
35 be issued if the means are both necessary and the least restrictive
36 possible to prevent human exposure.

37 (b) Before any implementation of the authority in subdivision
38 (a), the local health officer shall establish a related memorandum
39 of understanding with first responders in his or her jurisdiction
40 that shall require consultation with the ~~California Emergency~~

1 ~~Management Agency Office of Emergency Services~~ operational
2 area coordinator, consistent with the standardized emergency
3 management system established pursuant to Section 8607 of the
4 Government Code, and shall include where and how exposed
5 subjects will be held pending decontamination in the local
6 jurisdiction. That memorandum of understanding shall be made
7 available to the public.

8 (c) A violation of an order issued by the local health officer and
9 executed by a first responder pursuant to subdivision (a) is a
10 misdemeanor, punishable by a fine of up to one thousand dollars
11 (\$1000), or by imprisonment in the county jail for a period of up
12 to 90 days, or by both.

13 *SEC. 431. Section 105215 of the Health and Safety Code is*
14 *amended to read:*

15 105215. (a) Any public employee, as defined in Section 811.4
16 of the Government Code, whose responsibilities include matters
17 relating to health and safety, protection of the environment, or the
18 use or transportation of any pesticide and who knows, or has
19 reasonable cause to believe, that a pesticide has been spilled or
20 otherwise accidentally released, shall promptly notify the local
21 health officer or the notification point specified in the local
22 hazardous materials response plan, where the plan has been
23 approved by the ~~California Emergency Management Agency Office~~
24 *of Emergency Services* and is in operation. The operator of the
25 notification point shall immediately notify the local health officer
26 of the pesticide spill report.

27 (b) The local health officer shall immediately notify the county
28 agricultural commissioner and, at his or her discretion, shall
29 immediately notify the Director of Environmental Health Hazard
30 Assessment of each report received. Within seven days after receipt
31 of any report, the local health officer shall notify the Director of
32 Pesticide Regulation, the Director of Environmental Health Hazard
33 Assessment, and the Director of Industrial Relations, on a form
34 prescribed by the Director of Environmental Health Hazard
35 Assessment, of each case reported to him or her pursuant to this
36 section.

37 (c) The Office of Environmental Health Hazard Assessment
38 shall designate a telephone number or numbers for use by local
39 health officers in the immediate notification of the office of a
40 pesticide spill report. The office shall from time to time establish

1 criteria for use by the local health officers in determining whether
2 the circumstances of a pesticide spill warrants the immediate
3 notification of the office.

4 *SEC. 432. Section 114650 of the Health and Safety Code is*
5 *amended to read:*

6 114650. (a) As used in this chapter, the following definitions
7 shall apply:

8 (1) “Agency” or “office ” means the ~~California Emergency~~
9 ~~Management Agency~~ *Office of Emergency Services.*

10 (2) “Department” means the State Department of *Public Health*
11 *Services.*

12 (3) “Disburse or disbursement” means a payment in advance
13 from the Nuclear Planning Assessment Special Account, as
14 specified in paragraph (5) of subdivision (b) of Section 8610.5 of
15 the Government Code.

16 (4) “Emergency planning zone” means a zone identified in state
17 and local government emergency plans where immediate decisions
18 for effective public protective action from radiation may be
19 necessary.

20 (5) “Exercise” means an event that tests emergency plans and
21 organizations and that the Federal Emergency Management Agency
22 evaluates pursuant to Part 350 (commencing with Section 350.1)
23 of Subchapter E of Chapter I of Title 44 of the Code of Federal
24 Regulations.

25 (6) “Ingestion pathway phase” means the period beginning after
26 any release of radioactive material from a nuclear powerplant
27 accident when the plume emergency phase has ceased, and reliable
28 environmental measurements are available for making decisions
29 on additional protective actions to protect the food chain. The main
30 concern is to prevent exposure from ingestion of contaminated
31 water or food, such as milk, fresh vegetables, or aquatic foodstuffs.

32 (7) “Ingestion pathway zone” means the 50-mile radius around
33 each of the state’s nuclear powerplants in which protective actions
34 may be required to protect the food chain in the event of an
35 emergency.

36 (8) “Interjurisdictional Planning Committee” means the planning
37 committee, comprised of representatives of the Counties of Orange
38 and San Diego, the Cities of Dana Point, San Clemente, and San
39 Juan Capistrano, the Camp Pendleton Marine Corps Base, the State
40 Department of Parks and Recreation, and the Southern California

1 Edison Company, established as a mechanism for coordinating
2 integrated preparedness and response in the event of an emergency
3 at the San Onofre Nuclear Generating Station.

4 (9) “Local government” means a city or county that provides
5 emergency response for a nuclear powerplant emergency.

6 (10) “Local jurisdiction” means an entity that provides
7 emergency response for a nuclear powerplant emergency in
8 accordance with the plans of a local government.

9 (11) “Plume emergency phase” means the period beginning at
10 the onset of an emergency at a nuclear powerplant when immediate
11 decisions for public protective actions are needed.

12 (12) “Recovery phase” means the period when actions designed
13 to reduce radiation levels in the environment to acceptable levels
14 for unrestricted use are commenced, and ending when all recovery
15 actions have been completed.

16 (13) “Site” means the location of a nuclear powerplant and its
17 surrounding emergency planning zone.

18 *SEC. 433. Section 114655 of the Health and Safety Code is*
19 *amended to read:*

20 114655. (a) The Legislature hereby finds and declares as
21 follows:

22 (1) Existing law requires the development and maintenance of
23 a nuclear powerplant emergency response program by state and
24 local governments based on federal and state criteria.

25 (2) ~~The agency office~~, in consultation with the department and
26 the counties, has investigated the consequences of a serious nuclear
27 powerplant accident and has established plume emergency phase
28 and ingestion pathway phase planning zones for each site. These
29 zones imply mutually supportive emergency planning and
30 preparedness arrangements by all levels of government.

31 (3) An integrated emergency planning program is necessary for
32 the benefit of the citizens within the planning zones.

33 (b) Nothing in this chapter limits the activities of any
34 government in carrying out its general responsibilities pertaining
35 to the public health and the safety aspects of emergency response.

36 *SEC. 434. The heading of Article 2 (commencing with Section*
37 *114660) of Chapter 4 of Part 9 of Division 104 of the Health and*
38 *Safety Code is amended to read:*

1 Article 2. Responsibilities of the ~~California Emergency~~
2 ~~Management Agency Office of Emergency Services~~

3
4 SEC. 435. Section 114660 of the Health and Safety Code is
5 amended to read:

6 114660. (a) The ~~agency office~~ is responsible for the
7 coordination and integration of all emergency planning programs
8 and response plans under this chapter. If there is a nuclear
9 powerplant accident, the ~~agency office~~ shall coordinate information
10 and resources to support local governments in a joint state and
11 local government decisionmaking process.

12 (b) The ~~agency office~~ shall perform all of the following duties
13 and functions:

14 (1) Coordinate the activities of all state agencies relating to
15 preparation and implementation of the State Nuclear Power Plant
16 Emergency Response Plan. The ~~agency office~~ shall be the focal
17 point for coordinating nuclear powerplant emergency preparedness
18 activities with local governments, other state agencies, federal
19 agencies, and other organizations.

20 (2) Exercise explicit ultimate authority for allocating funds from
21 the Nuclear Planning Assessment Special Account to local
22 governments.

23 (3) Coordinate and participate in exercises of the state’s nuclear
24 emergency response plan with each site during its federally
25 evaluated exercise.

26 (4) Ensure that state personnel are adequately trained to respond
27 in the event of an actual emergency. The exercises shall include
28 the department and other relevant state agencies.

29 (5) In consultation with the department, review protective action
30 recommendations developed by the utilities and local government
31 representatives.

32 (6) Coordinate planning guidance to state agencies and local
33 governments.

34 (7) Ensure the development and maintenance of the State
35 Nuclear Power Plant Emergency Response Plan and procedures
36 necessary to carry out those responsibilities and review and approve
37 state agency plans in draft prior to publication.

38 (8) Exercise discretionary authority regarding the formation of
39 interagency agreements with state agencies having local emergency
40 responsibilities, to ensure state agencies have updated emergency

1 plans and trained emergency response personnel to respond during
2 the plume emergency phase.

3 (9) Conduct a study similar to that described in Section 8610.3
4 of the Government Code, for any nuclear powerplant with a
5 generating capacity of 50 megawatts or more that is proposed for
6 licensing in this state.

7 *SEC. 436. Section 114790 of the Health and Safety Code is*
8 *amended to read:*

9 114790. The information transmitted to the radiation monitoring
10 displays in the technical support center or emergency operating
11 facility of a nuclear powerplant shall be simultaneously transmitted
12 to the ~~California Emergency Management Agency Office of~~
13 *Emergency Services* State Warning Center.

14 *SEC. 437. Section 114820 of the Health and Safety Code is*
15 *amended to read:*

16 114820. (a) The department, with the assistance of the
17 ~~California Emergency Management Agency Office of Emergency~~
18 *Services*, the State Energy Resources Conservation and
19 Development Commission, and the Department of the California
20 Highway Patrol shall, with respect to any fissile radioactive
21 material coming within the definition of “fissile class II,” “fissile
22 class III,” “large quantity radioactive materials,” or “low-level
23 radioactive waste” provided by the regulations of the United States
24 Department of Transportation (49 C.F.R. 173.389), do all of the
25 following:

26 (1) Study the adequacy of current packaging requirements for
27 radioactive materials.

28 (2) Study the effectiveness of special routing and timing of
29 radioactive materials shipments for the protection of the public
30 health.

31 (3) Study the advantages of establishing a tracking system for
32 shipments of most hazardous radioactive materials.

33 (b) The department, with the assistance of the ~~California~~
34 ~~Emergency Management Agency Office of Emergency Services~~,
35 the State Energy Resources Conservation and Development
36 Commission, and the Department of the California Highway Patrol,
37 shall extend the nuclear emergency response plan to include
38 radioactive materials in transit and provide training for law
39 enforcement officers in dealing with those threats.

1 (c) Subject to Section 114765, the department, in cooperation
2 with the Department of the California Highway Patrol, shall adopt,
3 in accordance with Chapter 3.5 (commencing with Section 11340)
4 of Part 1 of Division 3 of Title 2 of the Government Code,
5 reasonable regulations that, in the judgment of the department,
6 promote the safe transportation of radioactive materials. The
7 regulations shall (1) prescribe the use of signs designating
8 radioactive material cargo; shall designate, in accordance with the
9 results of the studies done pursuant to subdivision (a), the manner
10 in which the shipper shall give notice of the shipment to appropriate
11 authorities; (2) prescribe the packing, marking, loading, and
12 handling of radioactive materials, and the precautions necessary
13 to determine whether the material when offered is in proper
14 condition to transport, but shall not include the equipment and
15 operation of the carrier vehicle; and (3) be reviewed and amended,
16 as required, pursuant to Section 114765. The regulations shall be
17 compatible with those established by the federal agency or agencies
18 required or permitted by federal law to establish the regulations.

19 (d) Subject to Section 114765, the Department of the California
20 Highway Patrol, after consulting with the department, shall adopt
21 regulations specifying the time at which shipments may occur and
22 the routes that are to be used in the transportation of cargoes of
23 hazardous radioactive materials, as those materials are defined in
24 regulations of the department.

25 *SEC. 438. Section 115280 of the Health and Safety Code is*
26 *amended to read:*

27 115280. (a) Each privately owned and publicly owned public
28 utility operating a nuclear powerplant with a generating capacity
29 of 50 megawatts or more shall install an automated alert system
30 that will activate alarms in the California State Warning Center of
31 the ~~California Emergency Management Agency~~ *Office of*
32 *Emergency Services* in a manner to be determined by the ~~agency~~
33 *office* in consultation with the department and the appropriate
34 county emergency services agency. This automated alert system
35 shall duplicate the following alarms in the control rooms of each
36 nuclear powerplant:

37 (1) Safety injection actuation (operation of the emergency core
38 cooling system).

39 (2) High radiation alarm of the radioactive gas effluent stack
40 monitor.

1 (b) The automated alert system shall be operative within 12
2 months of the effective date of this chapter.

3 (c) In no event shall the capital costs of complying with this
4 section exceed two hundred thousand dollars (\$200,000) per
5 nuclear powerplant. The operator of each nuclear powerplant shall
6 be responsible for any maintenance or recurring charges. The funds
7 expended by privately owned utilities under this section shall be
8 allowed for ratemaking purposes by the Public Utilities
9 Commission. Publicly owned public utilities shall include funds
10 expended under this section in their rates.

11 (d) The automated alert system shall be operational whenever
12 corresponding alarms in the control rooms of each nuclear
13 powerplant are required to be operational under the terms of the
14 operating license issued by the Nuclear Regulatory Commission,
15 except for periods of time required for maintenance, repair,
16 calibration, or testing.

17 (e) Nothing in this section shall require plant modifications or
18 the conduct of operations that may be in conflict with conditions
19 of a license to operate issued by the Nuclear Regulatory
20 Commission or other activities authorized by the Nuclear
21 Regulatory Commission.

22 (f) ~~The California Emergency Management Agency Office of~~
23 *Emergency Services* shall make provision for immediate
24 notification of appropriate local officials upon activation of the
25 automated alert system pursuant to this section.

26 *SEC. 439. Section 115295 of the Health and Safety Code is*
27 *amended to read:*

28 115295. If the Humboldt Bay Nuclear Generating Station is
29 not in operation on the effective date of this section, the local
30 emergency plan for it shall not be required to meet the revised
31 emergency response plan requirements of Section 8610.5 of the
32 Government Code until the Nuclear Regulatory Commission
33 determines that the powerplant meets Nuclear Regulatory
34 Commission seismic safety criteria, or until the Nuclear Regulatory
35 Commission issues an order rescinding the restrictions imposed
36 on the Humboldt Bay Nuclear Generating Station in its order of
37 May 21, 1976.

38 In the event that the Nuclear Regulatory Commission determines
39 that the Humboldt Bay Nuclear Generating Station meets Nuclear
40 Regulatory Commission seismic safety standards, or issues an

1 order rescinding the restrictions in its order of May 21, 1976, a
2 draft county emergency plan meeting the requirements of Section
3 8610.5 of the Government Code shall be submitted to the ~~California~~
4 ~~Emergency Management Agency Office of Emergency Services~~
5 for review within 180 days of the determination or rescission.
6 Within 90 days after submission of the draft county emergency
7 plan, approval of a final plan shall be completed by the ~~California~~
8 ~~Emergency Management Agency Office of Emergency Services~~.

9 *SEC. 440. Section 115340 of the Health and Safety Code is*
10 *amended to read:*

11 115340. (a) The State Department of Health Services shall
12 work with the KI working group, which is coordinated by the
13 ~~California Emergency Management Agency Office of Emergency~~
14 ~~Services~~, to establish and implement a program to oversee the
15 distribution of potassium iodide (KI) tablets to all persons who
16 reside, work, visit, or attend school within the state-designated
17 emergency planning zone of an operational nuclear powerplant,
18 in order to provide protection to members of the public in the event
19 of an accident causing leakage of radioactive iodine, pursuant to
20 the offer of the Nuclear Regulatory Commission to provide the
21 state with a supply of KI tablets.

22 (b) In order to implement the program required by subdivision
23 (a), the department, in consultation with local health departments
24 and local emergency management agencies, shall develop and
25 implement a plan for both of the following:

26 (1) The prompt distribution of the tablets to persons at risk in
27 the event of a nuclear emergency, in a manner to best protect the
28 public health.

29 (2) The dissemination of instructions on the use of the tablets,
30 including the possible need for medical consultation, if indicated.

31 (c) The department shall work with the KI working group
32 described in subdivision (a) to develop and implement a plan and
33 method for the efficient storage of KI tablets.

34 (d) The department, in consultation with the KI working group,
35 shall evaluate areas in the state, other than those described in
36 subdivision (a), in which leakage of radioactive iodine is possible,
37 and evaluate the need to store quantities of KI tablets in those
38 areas.

39 (e) No later than July 1, 2004, the department shall submit a
40 plan to the Governor and the Legislature on the establishment and

1 implementation of the program required pursuant to subdivisions
2 (a) and (b), and on the development and implementation of the
3 plan and method required in subdivision (c). No later than July 1,
4 2004, the department shall also submit to the Governor and the
5 Legislature the evaluation required in subdivision (d).

6 *SEC. 441. Section 124174.2 of the Health and Safety Code is*
7 *amended to read:*

8 124174.2. (a) The department, in cooperation with the State
9 Department of Education, shall establish a Public School Health
10 Center Support Program.

11 (b) The program, in collaboration with the State Department of
12 Education, shall perform the following program functions:

13 (1) Provide technical assistance to school health centers on
14 effective outreach and enrollment strategies to identify children
15 who are eligible for, but not enrolled in, the Medi-Cal program,
16 the Healthy Families Program, or any other applicable program.

17 (2) Serve as a liaison between organizations within the
18 department, including, but not limited to, prevention services,
19 primary care, and family health.

20 (3) Serve as a liaison between other state entities, as appropriate,
21 including, but not limited to, the State Department of Health Care
22 Services, the State Department of Alcohol and Drug Programs,
23 the Department of Managed Health Care, the ~~California Emergency~~
24 ~~Management Agency Office of Emergency Services~~, and the
25 Managed Risk Medical Insurance Board.

26 (4) Provide technical assistance to facilitate and encourage the
27 establishment, retention, or expansion of, school health centers.
28 For purposes of this paragraph, technical assistance may include,
29 but is not limited to, identifying available public and private
30 sources of funding, which may include federal Medicaid funds,
31 funds from third-party reimbursements, and available federal or
32 foundation grant moneys.

33 (c) The department shall consult with interested parties and
34 appropriate stakeholders, including the California School Health
35 Centers Association and representatives of youth and parents, in
36 carrying out its responsibilities under this article.

37 *SEC. 442. Section 130055 of the Health and Safety Code is*
38 *amended to read:*

1 130055. Within 60 days following the office's approval of the
2 report submitted pursuant to subdivision (b) of Section 130050,
3 general acute hospital building owners shall do all of the following:

4 (a) Inform the local office of emergency services or the
5 equivalent agency, the ~~California Emergency Management Agency~~
6 *Office of Emergency Services*, and the office, of each building's
7 expected earthquake performance.

8 (b) Include all pertinent information regarding the building's
9 expected earthquake performance in emergency training, response,
10 and recovery plans.

11 (c) Include all pertinent information regarding the building's
12 expected earthquake performance in capital outlay plans.

13 *SEC. 443. Section 12406.5 of the Insurance Code is amended*
14 *to read:*

15 12406.5. (a) The commissioner shall develop, publish, and
16 disseminate a brochure for consumers who are required to buy title
17 insurance as part of a residential real estate transaction. The
18 brochure shall inform consumers that competing title insurers and
19 underwritten title companies may offer different costs or services
20 for the title insurance required in the transaction. The brochure
21 shall also inform consumers about the potential availability of
22 discounts in cases involving first-time buyers, short-term rates if
23 a home is resold in less than a five-year period, concurrent rates
24 if the company is providing both the homeowners' and the lenders'
25 title insurance policies in the transaction, subdivision bulk rates if
26 the property being purchased is in a new subdivision, refinancing
27 discounts, short-term financing rates, and discounts that may be
28 available in other special cases. The brochure shall encourage
29 consumers to contact more than one title insurer or underwritten
30 title company in order to compare costs and services.

31 (b) The brochure developed pursuant to subdivision (a) shall
32 include the department's toll-free consumer assistance telephone
33 number and shall invite consumers to call the department if they
34 need assistance.

35 (c) The department shall display the brochure developed
36 pursuant to subdivision (a) on its Internet ~~website~~ *Web site*, and
37 the brochure shall include the department's Internet address.

38 (d) The brochure developed pursuant to subdivision (a) shall
39 also educate consumers about laws involving unlawful
40 commissions and rebates associated with the placement or referral

1 of title insurance and shall encourage consumers to report to the
2 department, to the ~~Department of Real Estate~~ *Bureau of Real*
3 *Estate*, and to any other appropriate government agencies any
4 suspected incidents of probable unlawful commissions or rebates
5 subject to Article 6.5 (commencing with Section 12414).

6 (e) One copy of the brochure developed pursuant to this section
7 shall be made available to a member of the public at no cost, and
8 the department may charge its actual cost for providing additional
9 copies. The brochure shall be made available for reproduction at
10 no cost to any vendor who wishes to publish the brochure as
11 written, provided any vendor who wishes to publish the brochure
12 agrees to submit any documents containing the brochure to the
13 department prior to publication.

14 *SEC. 444. Section 12414.31 of the Insurance Code is amended*
15 *to read:*

16 12414.31. (a) (1) Whenever the commissioner takes any
17 formal enforcement or disciplinary action directly against an
18 employee of a title insurer, underwritten title company, or
19 controlled escrow company, for malfeasance or misconduct
20 committed by the employee in his or her performance of escrow
21 related services, upon the action becoming final the commissioner
22 shall notify the Real Estate Commissioner and the Commissioner
23 of Corporations of the action or actions taken. The purpose of this
24 notification is to alert the departments that enforcement or
25 disciplinary action has been taken, if the employee seeks or obtains
26 employment with entities regulated by the departments.

27 (2) The commissioner shall provide the Real Estate
28 Commissioner and the Commissioner of Corporations, in addition
29 to the notification of the action taken, with a copy of the written
30 accusation, statement of issues, or order issued or filed in the matter
31 and, at the request of the Real Estate Commissioner or
32 Commissioner of Corporations, with any underlying factual
33 material relevant to the enforcement or disciplinary action. Any
34 confidential information provided by the commissioner to the
35 Commissioner of Corporations or the Real Estate Commissioner
36 shall not be made public pursuant to this section. Notwithstanding
37 any other provision of law, the disclosure of any underlying factual
38 material to the Commissioner of Corporations or the Real Estate
39 Commissioner shall not operate as a waiver of confidentiality or
40 any privilege that the commissioner may assert.

1 (b) The commissioner shall establish and maintain, on the Web
 2 site maintained by the Department of Insurance, a separate and
 3 readily identifiable database of all persons who have been subject
 4 to any enforcement or disciplinary action that triggers the
 5 notification requirements of this section. The database shall also
 6 contain a direct link to the databases, described in Section 10176.1
 7 of the Business and Professions Code and Section 17423.1 of the
 8 Financial Code and required to be maintained on the Web sites of
 9 the ~~Department of Real Estate~~ *Bureau of Real Estate* and the
 10 Department of Corporations, respectively, of persons who have
 11 been subject to enforcement or disciplinary action for malfeasance
 12 or misconduct related to the escrow industry by the Commissioner
 13 of Corporations and the Real Estate Commissioner.

14 (c) There shall be no liability on the part of, and no cause of
 15 action of any nature shall arise against, the State of California, the
 16 Department of Insurance, the Insurance Commissioner, any other
 17 state agency, or any officer, agent, employee, consultant, or
 18 contractor of the state, for the release of any false or unauthorized
 19 information pursuant to this section, unless the release of that
 20 information was done with knowledge and malice, or for the failure
 21 to release any information pursuant to this section.

22 *SEC. 445. Section 16020 of the Insurance Code is amended to*
 23 *read:*

24 16020. The commissioner, in consultation with the ~~California~~
 25 ~~Emergency Management Agency~~ *Office of Emergency Services*
 26 and other emergency service agencies, shall establish a method
 27 for identification of representatives of insurers.

28 *SEC. 446. Section 16030 of the Insurance Code is amended to*
 29 *read:*

30 16030. (a) The commissioner, in cooperation with insurers,
 31 the ~~California~~ ~~Emergency Management Agency~~ *Office of*
 32 *Emergency Services*, and other emergency service agencies, shall
 33 establish procedures for the coordination of efforts between insurers
 34 and their representatives and those of emergency response agencies.

35 (b) The commissioner shall assign a representative of the
 36 commissioner to work within the state's regional emergency
 37 operations centers. The representative shall complete the
 38 appropriate Standardized Emergency Management Systems
 39 training.

1 (c) All insurance disaster assessment team members shall
2 complete the appropriate Standardized Emergency Management
3 Systems training.

4 *SEC. 447. Section 3211.91 of the Labor Code is amended to*
5 *read:*

6 3211.91. “Accredited disaster council” means a disaster council
7 that is certified by the ~~California Emergency Management Agency~~
8 *Office of Emergency Services* as conforming with the rules and
9 regulations established by the office pursuant to Article 10
10 (commencing with Section 8610) of Chapter 7 of Division 1 of
11 Title 2 of the Government Code. A disaster council remains
12 accredited only while the certification of the ~~California Emergency~~
13 ~~Management Agency~~ *Office of Emergency Services* is in effect
14 and is not revoked.

15 *SEC. 448. Section 4350 of the Labor Code is amended to read:*

16 4350. The ~~California Emergency Management Agency~~ *Office*
17 *of Emergency Services* shall administer this chapter as it relates to
18 volunteer disaster service workers.

19 *SEC. 449. Section 433.5 of the Military and Veterans Code is*
20 *amended to read:*

21 433.5. All state armories may be used for emergency purposes
22 on such terms and conditions as shall be mutually agreeable to the
23 Military Department and the ~~California Emergency Management~~
24 ~~Agency~~ *Office of Emergency Services*.

25 *SEC. 450. Section 273.82 of the Penal Code is amended to*
26 *read:*

27 273.82. Spousal abuser prosecution units receiving funds under
28 this chapter shall concentrate enhanced prosecution efforts and
29 resources upon individuals identified under selection criteria set
30 forth in Section 273.83. Enhanced prosecution efforts and resources
31 shall include, but not be limited to, all of the following:

32 (a) (1) Vertical prosecutorial representation, whereby the
33 prosecutor who, or prosecution unit that, makes all major court
34 appearances on that particular case through its conclusion,
35 including bail evaluation, preliminary hearing, significant law and
36 motion litigation, trial, and sentencing.

37 (2) Vertical counselor representation, whereby a trained
38 domestic violence counselor maintains liaison from initial court
39 appearances through the case’s conclusion, including the sentencing
40 phase.

1 (b) The assignment of highly qualified investigators and
2 prosecutors to spousal abuser cases. “Highly qualified” for the
3 purposes of this chapter means any of the following:

4 (1) Individuals with one year of experience in the investigation
5 and prosecution of felonies.

6 (2) Individuals with at least two years of experience in the
7 investigation and prosecution of misdemeanors.

8 (3) Individuals who have attended a program providing domestic
9 violence training as approved by the ~~California Emergency~~
10 ~~Management Agency Office of Emergency Services~~ or the
11 Department of Justice.

12 (c) A significant reduction of caseloads for investigators and
13 prosecutors assigned to spousal abuser cases.

14 (d) Coordination with local rape victim counseling centers,
15 spousal abuse services programs, and victim-witness assistance
16 programs. That coordination shall include, but not be limited to:
17 referrals of individuals to receive client services; participation in
18 local training programs; membership and participation in local
19 task forces established to improve communication between criminal
20 justice system agencies and community service agencies; and
21 cooperating with individuals serving as liaison representatives of
22 local rape victim counseling centers, spousal abuse victim
23 programs, and victim-witness assistance programs.

24 *SEC. 451. Section 326.3 of the Penal Code is amended to read:*

25 326.3. (a) The Legislature finds and declares all of the
26 following:

27 (1) Nonprofit organizations provide important and essential
28 educational, philanthropic, and social services to the people of the
29 ~~State of California~~ *state*.

30 (2) One of the great strengths of California is a vibrant nonprofit
31 sector.

32 (3) Nonprofit and philanthropic organizations touch the lives
33 of every Californian through service and employment.

34 (4) Many of these services would not be available if nonprofit
35 organizations did not provide them.

36 (5) There is a need to provide methods of fundraising to
37 nonprofit organizations to enable them to provide these essential
38 services.

1 (6) Historically, many nonprofit organizations have used
2 charitable bingo as one of their key fundraising strategies to
3 promote the mission of the charity.

4 (7) Legislation is needed to provide greater revenues for
5 nonprofit organizations to enable them to fulfill their charitable
6 purposes, and especially to meet their increasing social service
7 obligations.

8 (8) Legislation is also needed to clarify that existing law requires
9 that all charitable bingo must be played using a tangible card and
10 that the only permissible electronic devices to be used by charitable
11 bingo players are card-minding devices.

12 (b) Neither the prohibition on gambling in this chapter nor in
13 Chapter 10 (commencing with Section 330) applies to any remote
14 caller bingo game that is played or conducted in a city, county, or
15 city and county pursuant to an ordinance enacted under Section
16 19 of Article IV of the California Constitution, if the ordinance
17 allows a remote caller bingo game to be played or conducted only
18 in accordance with this section, including the following
19 requirements:

20 (1) The game may be conducted only by the following
21 organizations:

22 (A) An organization that is exempted from the payment of the
23 taxes imposed under the Corporation Tax Law by Section 23701a,
24 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or
25 23701w of the Revenue and Taxation Code.

26 (B) A mobilehome park association.

27 (C) A senior citizens organization.

28 (D) Charitable organizations affiliated with a school district.

29 (2) The organization conducting the game shall have been
30 incorporated or in existence for three years or more.

31 (3) The organization conducting the game shall be licensed
32 pursuant to subdivision (l) of Section 326.5.

33 (4) The receipts of the game shall be used only for charitable
34 purposes. The organization conducting the game shall determine
35 the disbursement of the net receipts of the game.

36 (5) The operation of bingo may not be the primary purpose for
37 which the organization is organized.

38 (c) (1) A city, county, or city and county may adopt an
39 ordinance in substantially the following form to authorize remote

1 caller bingo in accordance with the requirements of subdivision
2 (b):

3
4 Sec. .01. Legislative Authorization.

5 This chapter is adopted pursuant to Section 19 of Article IV of
6 the California Constitution, as implemented by Sections 326.3 and
7 326.4 of the Penal Code.

8 Sec. .02. Remote Caller Bingo Authorized.

9 Remote Caller Bingo may be lawfully played in the [City,
10 County, or City and County] pursuant to the provisions of Sections
11 326.3 and 326.4 of the Penal Code, and this chapter, and not
12 otherwise.

13 Sec. .03. Qualified Applicants: Applicants for Licensure.

14 (a) The following organizations are qualified to apply to the
15 License Official for a license to operate a bingo game if the receipts
16 of those games are used only for charitable purposes:

17 (1) An organization exempt from the payment of the taxes
18 imposed under the Corporation Tax Law by Section 23701a,
19 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or
20 23701w of the Revenue and Taxation Code.

21 (2) A mobile home park association of a mobile home park that
22 is situated in the [City, County, or City and County].

23 (3) Senior citizen organizations.

24 (4) Charitable organizations affiliated with a school district.

25 (b) The application shall be in a form prescribed by the License
26 Official and shall be accompanied by a nonrefundable filing fee
27 in an amount determined by resolution of the [Governing Body of
28 the City, County, or City and County] from time to time. The
29 following documentation shall be attached to the application, as
30 applicable:

31 (1) A certificate issued by the Franchise Tax Board certifying
32 that the applicant is exempt from the payment of the taxes imposed
33 under the Corporation Tax Law pursuant to Section 23701a,
34 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or
35 23701w of the Revenue and Taxation Code. In lieu of a certificate
36 issued by the Franchise Tax Board, the License Official may refer
37 to the Franchise Tax Board’s Internet Web site to verify that the
38 applicant is exempt from the payment of the taxes imposed under
39 the Corporation Tax Law.

1 (2) Other evidence as the License Official determines is
2 necessary to verify that the applicant is a duly organized mobile
3 home park association of a mobile home park situated in the [City,
4 County, or City and County].

5 Sec. .04. License Application: Verification.

6 The license shall not be issued until the License Official has
7 verified the facts stated in the application and determined that the
8 applicant is qualified.

9 Sec. .05. Annual Licenses.

10 A license issued pursuant to this chapter shall be valid until the
11 end of the calendar year, at which time the license shall expire. A
12 new license shall only be obtained upon filing a new application
13 and payment of the license fee. The fact that a license has been
14 issued to an applicant creates no vested right on the part of the
15 licensee to continue to offer bingo for play. The [Governing Body
16 of the City, County, or City and County] expressly reserves the
17 right to amend or repeal this chapter at any time by resolution. If
18 this chapter is repealed, all licenses issued pursuant to this chapter
19 shall cease to be effective for any purpose on the effective date of
20 the repealing resolution.

21 Sec. .06. Conditions of Licensure.

22 (a) Any license issued pursuant to this chapter shall be subject
23 to the conditions contained in Sections 326.3 and 326.4 of the
24 Penal Code, and each licensee shall comply with the requirements
25 of those provisions.

26 (b) Each license issued pursuant to this chapter shall be subject
27 to the following additional conditions:

28 (1) Bingo games shall not be conducted by any licensee on more
29 than two days during any week, except that a licensee may hold
30 one additional game, at its election, in each calendar quarter.

31 (2) The licensed organization is responsible for ensuring that
32 the conditions of this chapter and Sections 326.3 and 326.4 of the
33 Penal Code are complied with by the organization and its officers
34 and members. A violation of any one or more of those conditions
35 or provisions shall constitute cause for the revocation of the
36 organization's license. At the request of the organization, the
37 [Governing Body of the City, County, or City and County] shall
38 hold a public hearing before revoking any license issued pursuant
39 to this chapter.

40

1 (2) Nothing in this section shall require a city, county, or city
2 and county to use this model ordinance in order to authorize remote
3 caller bingo.

4 (d) It is a misdemeanor for any person to receive or pay a profit,
5 wage, or salary from any remote caller bingo game, provided that
6 administrative, managerial, technical, financial, and security
7 personnel employed by the organization conducting the bingo
8 game may be paid reasonable fees for services rendered from the
9 revenues of bingo games, as provided in subdivision (m), except
10 that fees paid under those agreements shall not be determined as
11 a percentage of receipts or other revenues from, or be dependant
12 on the outcome of, the game.

13 (e) A violation of subdivision (d) shall be punishable by a fine
14 not to exceed ten thousand dollars (\$10,000), which fine shall be
15 deposited in the general fund of the city, county, or city and county
16 that enacted the ordinance authorizing the remote caller bingo
17 game. A violation of any provision of this section, other than
18 subdivision (d), is a misdemeanor.

19 (f) The city, county, or city and county that enacted the
20 ordinance authorizing the remote caller bingo game, or the Attorney
21 General, may bring an action to enjoin a violation of this section.

22 (g) No minors shall be allowed to participate in any remote
23 caller bingo game.

24 (h) A remote caller bingo game shall not include any site that
25 is not located within this state.

26 (i) An organization authorized to conduct a remote caller bingo
27 game pursuant to subdivision (b) shall conduct the game only on
28 property that is owned or leased by the organization, or the use of
29 which is donated to the organization. Nothing in this subdivision
30 shall be construed to require that the property that is owned or
31 leased by, or the use of which is donated to, the organization be
32 used or leased exclusively by, or donated exclusively to, that
33 organization.

34 (j) (1) All remote caller bingo games shall be open to the public,
35 not just to the members of the authorized organization.

36 (2) No more than 750 players may participate in a remote caller
37 bingo game in a single location.

38 (3) If the Governor of California or the President of the United
39 States declares a state of emergency in response to a natural disaster
40 or other public catastrophe occurring in California, an organization

1 authorized to conduct remote caller bingo games may, while that
2 declaration is in effect, conduct a remote caller bingo game
3 pursuant to this section with more than 750 participants in a single
4 venue if the net proceeds of the game, after deduction of prizes
5 and overhead expenses, are donated to or expended exclusively
6 for the relief of the victims of the disaster or catastrophe, and the
7 organization gives the California Gambling Control Commission
8 at least 10 days' written notice of the intent to conduct that game.

9 (4) An organization authorized to conduct remote caller bingo
10 games shall provide the commission with at least 30 days' advance
11 written notice of its intent to conduct a remote caller bingo game.
12 That notice shall include all of the following:

13 (A) The legal name of the organization and the address of record
14 of the agent upon whom legal notice may be served.

15 (B) The locations of the caller and remote players, whether the
16 property is owned by the organization or donated, and if donated,
17 by whom.

18 (C) The name of the licensed caller and site manager.

19 (D) The names of administrative, managerial, technical,
20 financial, and security personnel employed.

21 (E) The name of the vendor and any person or entity maintaining
22 the equipment used to operate and transmit the game.

23 (F) The name of the person designated as having a fiduciary
24 responsibility for the game pursuant to paragraph (2) of subdivision
25 (k).

26 (G) The license numbers of all persons specified in
27 subparagraphs (A) to (F), inclusive, who are required to be licensed.

28 (H) A copy of the local ordinance for any city, county, or city
29 and county in which the game will be played. The commission
30 shall post the ordinance on its Internet Web site.

31 (k) (1) A remote caller bingo game shall be operated and staffed
32 only by members of the authorized organization that organized it.
33 Those members shall not receive a profit, wage, or salary from
34 any remote caller bingo game. Only the organization authorized
35 to conduct a remote caller bingo game shall operate that game, or
36 participate in the promotion, supervision, or any other phase of a
37 remote caller bingo game. Subject to the provisions of subdivision
38 (m), this subdivision shall not preclude the employment of
39 administrative, managerial, technical, financial, or security
40 personnel who are not members of the authorized organization at

1 a location participating in the remote caller bingo game by the
2 organization conducting the game. Notwithstanding any other
3 provision of law, exclusive or other agreements between the
4 authorized organization and other entities or persons to provide
5 services in the administration, management, or conduct of the game
6 shall not be considered a violation of the prohibition against
7 holding a legally cognizable financial interest in the conduct of
8 the remote caller bingo game by persons or entities other than the
9 charitable organization, or other entity authorized to conduct the
10 remote caller bingo games, provided that those persons or entities
11 obtain the gambling licenses, the key employee licenses, or the
12 work permits required by, and otherwise comply with, Chapter 5
13 (commencing with Section 19800) of Division 8 of the Business
14 and Professions Code. Fees to be paid under any such agreements
15 shall be reasonable and shall not be determined as a percentage of
16 receipts or other revenues from, or be dependent on the outcome
17 of, the game.

18 (2) An organization that conducts a remote caller bingo game
19 shall designate a person as having fiduciary responsibility for the
20 game.

21 (l) No individual, corporation, partnership, or other legal entity,
22 except the organization authorized to conduct or participate in a
23 remote caller bingo game, shall hold a legally cognizable financial
24 interest in the conduct of such a game.

25 (m) An organization authorized to conduct a remote caller bingo
26 game pursuant to this section shall not have overhead costs
27 exceeding 20 percent of gross sales, except that the limitations of
28 this section shall not apply to one-time, nonrecurring capital
29 acquisitions. For purposes of this subdivision, “overhead costs”
30 includes, but is not limited to, amounts paid for rent and equipment
31 leasing and the reasonable fees authorized to be paid to
32 administrative, managerial, technical, financial, and security
33 personnel employed by the organization pursuant to subdivision
34 (d). For the purpose of keeping its overhead costs below 20 percent
35 of gross sales, an authorized organization may elect to deduct all
36 or a portion of the fees paid to financial institutions for the use and
37 processing of credit card sales from the amount of gross revenues
38 awarded for prizes. In that case, the redirected fees for the use and
39 processing of credit card sales shall not be included in “overhead
40 costs” as defined in the California Remote Caller Bingo Act.

1 Additionally, fees paid to financial institutions for the use and
2 processing of credit card sales shall not be deducted from the
3 proceeds retained by the charitable organization.

4 (n) No person shall be allowed to participate in a remote caller
5 bingo game unless the person is physically present at the time and
6 place where the remote caller bingo game is being conducted. A
7 person shall be deemed to be physically present at the place where
8 the remote caller bingo game is being conducted if he or she is
9 present at any of the locations participating in the remote caller
10 bingo game in accordance with this section.

11 (o) (1) An organization shall not cosponsor a remote caller
12 bingo game with one or more other organizations unless one of
13 the following is true:

14 (A) All of the cosponsors are affiliated under the master charter
15 or articles and bylaws of a single organization.

16 (B) All of the cosponsors are affiliated through an organization
17 described in paragraph (1) of subdivision (b), and have the same
18 Internal Revenue Service activity code.

19 (2) Notwithstanding paragraph (1), a maximum of 10
20 unaffiliated organizations described in paragraph (1) of subdivision
21 (b) may enter into an agreement to cosponsor a remote caller game,
22 provided that the game shall have not more than 10 locations.

23 (3) An organization shall not conduct remote caller bingo more
24 than two days per week.

25 (4) Before sponsoring or operating any game authorized under
26 paragraph (1) or (2), each of the cosponsoring organizations shall
27 have entered into a written agreement, a copy of which shall be
28 provided to the commission, setting forth how the expenses and
29 proceeds of the game are to be allocated among the participating
30 organizations, the bank accounts into which all receipts are to be
31 deposited and from which all prizes are to be paid, and how game
32 records are to be maintained and subjected to annual audit.

33 (p) The value of prizes awarded during the conduct of any
34 remote caller bingo game shall not exceed 37 percent of the gross
35 receipts for that game. When an authorized organization elects to
36 deduct fees paid for the use and processing of credit card sales
37 from the amount of gross revenues for that game awarded for
38 prizes, the maximum amount of gross revenues that may be
39 awarded for prizes shall not exceed 37 percent of the gross receipts
40 for that game, less the amount of redirected fees paid for the use

1 and processing of credit card sales. Every remote caller bingo game
2 shall be played until a winner is declared. Progressive prizes are
3 prohibited. The declared winner of a remote caller bingo game
4 shall provide his or her identifying information and a mailing
5 address to the onsite manager of the remote caller bingo game.
6 Prizes shall be paid only by check; no cash prizes shall be paid.
7 The organization conducting the remote caller bingo game may
8 issue a check to the winner at the time of the game, or may send
9 a check to the declared winner by United States Postal Service
10 certified mail, return receipt requested. All prize money exceeding
11 state and federal exemption limits on prize money shall be subject
12 to income tax reporting and withholding requirements under
13 applicable state and federal laws and regulations and those reports
14 and withholding shall be forwarded, within 10 business days, to
15 the appropriate state or federal agency on behalf of the winner. A
16 report shall accompany the amount withheld identifying the person
17 on whose behalf the money is being sent. Any game interrupted
18 by a transmission failure, electrical outage, or act of God shall be
19 considered void in the location that was affected. A refund for a
20 canceled game or games shall be provided to the purchasers.

21 (q) (1) The California Gambling Control Commission shall
22 regulate remote caller bingo, including, but not limited to, licensure
23 and operation. The commission shall establish reasonable criteria
24 regulating, and shall require the licensure of, the following:

25 (A) Any person who conducts a remote caller bingo game
26 pursuant to this section, including, but not limited to, an employee,
27 a person having fiduciary responsibility for a remote caller bingo
28 game, a site manager, and a bingo caller.

29 (B) Any person who directly or indirectly manufactures,
30 distributes, supplies, vends, leases, or otherwise provides supplies,
31 devices, services, or other equipment designed for use in the
32 playing of a remote caller bingo game by any nonprofit
33 organization.

34 (C) Beginning January 31, 2009, or a later date as may be
35 established by the commission, all persons described in
36 subparagraph (A) or (B) may submit to the commission a letter of
37 intent to submit an application for licensure. The letter shall clearly
38 identify the principal applicant, all categories under which the
39 application will be filed, and the names of all those particular
40 individuals who are applying. Each charitable organization shall

1 provide an estimate of the frequency with which it plans to conduct
2 remote caller bingo operations, including the number of locations.
3 The letter of intent may be withdrawn or updated at any time.

4 (2) (A) The Department of Justice shall conduct background
5 investigations and conduct field enforcement as it relates to remote
6 caller bingo consistent with the Gambling Control Act (Chapter 5
7 (commencing with Section 19800) of Division 8 of the Business
8 and Professions Code) and as specified in regulations promulgated
9 by the commission.

10 (B) Fees to cover background investigation costs shall be paid
11 and accounted for in accordance with Section 19867 of the
12 Business and Professions Code.

13 (3) (A) Every application for a license or approval shall be
14 *submitted to the department and* accompanied by a nonrefundable
15 fee, the amount of which shall be adopted by the commission by
16 regulation.

17 (B) Fees and revenue collected pursuant to this paragraph shall
18 be deposited in the California Bingo Fund, which is hereby created
19 in the State Treasury. The funds deposited in the California Bingo
20 Fund shall be available, upon appropriation by the Legislature, for
21 expenditure by the commission and the department exclusively
22 for the support of the commission and department in carrying out
23 their duties and responsibilities under this section and Section
24 326.5.

25 (C) A loan is hereby authorized from the Gambling Control
26 Fund to the California Bingo Fund on or after January 1, 2009, in
27 an amount of up to five hundred thousand dollars (\$500,000) to
28 fund operating, personnel, and other startup costs incurred by the
29 commission *and the department* relating to this ~~act~~ *section*. Funds
30 from the California Bingo Fund shall be available to the
31 commission *and the department* upon appropriation by the
32 Legislature in the annual Budget Act. The loan shall be subject to
33 all of the following conditions:

34 (i) The loan shall be repaid to the Gambling Control Fund as
35 soon as there is sufficient money in the California Bingo Fund to
36 repay the amount loaned, but no later than five years after the date
37 of the loan.

38 (ii) Interest on the loan shall be paid from the California Bingo
39 Fund at the rate accruing to moneys in the Pooled Money
40 Investment Account.

1 (iii) The terms and conditions of the loan are approved, prior
2 to the transfer of funds, by the Department of Finance pursuant to
3 appropriate fiscal standards.

4 The commission may assess and *the department may* collect
5 reasonable fees and deposits as necessary to defray the costs of
6 regulation and oversight.

7 (r) The administrative, managerial, technical, financial, and
8 security personnel employed by an organization that conducts
9 remote caller bingo games shall apply for, obtain, and thereafter
10 maintain valid work permits, as defined in Section 19805 of the
11 Business and Professions Code.

12 (s) An organization that conducts remote caller bingo games
13 shall retain records in connection with the remote caller bingo
14 game for five years.

15 (t) (1) All equipment used for remote caller bingo shall be
16 approved in advance by the California Gambling Control
17 Commission pursuant to regulations adopted pursuant to
18 subdivision (r) of Section 19841 of the Business and Professions
19 Code.

20 (2) The California Gambling Control Commission shall monitor
21 operation of the transmission and other equipment used for remote
22 caller bingo, and monitor the game.

23 (u) (1) As used in this section, “remote caller bingo game”
24 means a game of bingo, as defined in subdivision (o) of Section
25 326.5, in which the numbers or symbols on randomly drawn plastic
26 balls are announced by a natural person present at the site at which
27 the live game is conducted, and the organization conducting the
28 bingo game uses audio and video technology to link any of its
29 in-state facilities for the purpose of transmitting the remote calling
30 of a live bingo game from a single location to multiple locations
31 owned, leased, or rented by that organization, or as described in
32 subdivision (o) of this section. The audio or video technology used
33 to link the facilities may include cable, Internet, satellite,
34 broadband, or telephone technology, or any other means of
35 electronic transmission that ensures the secure, accurate, and
36 simultaneous transmission of the announcement of numbers or
37 symbols in the game from the location at which the game is called
38 by a natural person to the remote location or locations at which
39 players may participate in the game. The drawing of each ball
40 bearing a number or symbol by the natural person calling the game

1 shall be visible to all players as the ball is drawn, including through
2 a simultaneous live video feed at remote locations at which players
3 may participate in the game.

4 (2) The caller in the live game must be licensed by the California
5 Gambling Control Commission. A game may be called by a
6 nonlicensed caller if the drawing of balls and calling of numbers
7 or symbols by that person is observed and personally supervised
8 by a licensed caller.

9 (3) Remote caller bingo games shall be played using traditional
10 paper or other tangible bingo cards and daubers, and shall not be
11 played by using electronic devices, except card-minding devices,
12 as described in paragraph (1) of subdivision (p) of Section 326.5.

13 (4) Prior to conducting a remote caller bingo game, the
14 organization that conducts remote caller bingo shall submit to the
15 commission the controls, methodology, and standards of game
16 play, which shall include, but not be limited to, the equipment used
17 to select bingo numbers and create or originate cards, control or
18 maintenance, distribution to participating locations, and distribution
19 to players. Those controls, methodologies, and standards shall be
20 subject to prior approval by the ~~commission~~ *department*, provided
21 that the controls shall be deemed approved by the ~~commission~~
22 *department* after 90 days from the date of submission unless
23 disapproved.

24 (v) A location shall not be eligible to participate in a remote
25 caller bingo game if bingo games are conducted at that location
26 in violation of Section 326.5 or any regulation adopted by the
27 commission pursuant to Section 19841 of the Business and
28 Professions Code, including, but not limited to, a location at which
29 unlawful electronic devices are used.

30 (w) (1) The vendor of the equipment used in a remote caller
31 bingo game shall have its books and records audited at least
32 annually by an independent California certified public accountant
33 and shall submit the results of that audit to the ~~California Gambling~~
34 ~~Control Commission~~ *department* within 120 days after the close
35 of the vendor's fiscal year. In addition, the ~~California Gambling~~
36 ~~Control Commission~~ *department* may audit the books and records
37 of the vendor at any time.

38 (2) An authorized organization that conducts remote caller bingo
39 games shall provide copies of the records pertaining to those games
40 to the ~~California Gambling Control Commission~~ *Department of*

1 *Justice* within 30 days after the end of each calendar quarter. In
2 addition, those records shall be audited by an independent
3 California certified public accountant at least annually and copies
4 of the audit reports shall be provided to the ~~California Gambling~~
5 ~~Control Commission~~ *department* within 120 days after the close
6 of the organization's fiscal year. The audit report shall account for
7 the annual amount of fees paid to financial institutions for the use
8 and processing of credit card sales by the authorized organization
9 and the amount of fees for the use and processing of credit card
10 sales redirected from "overhead costs" and deducted from the
11 amount of gross revenues awarded for prizes.

12 (3) The costs of the licensing and audits required by this section
13 shall be borne by the person or entity required to be licensed or
14 audited. The audit shall enumerate the receipts for remote caller
15 bingo, the prizes disbursed, the overhead costs, and the amount
16 retained by the nonprofit organization. The ~~commission~~ *department*
17 may audit the books and records of an organization that conducts
18 remote caller bingo games at any time.

19 (4) If, during an audit, the ~~commission~~ *department* identifies
20 practices in violation of this section, the license for the audited
21 entity may be suspended pending review and hearing before the
22 commission for a final determination.

23 (5) No audit required to be conducted by the ~~commission~~
24 *department* shall commence before January 1, 2010.

25 (x) (1) The provisions of this section are severable. If any
26 provision of this section or its application is held invalid, that
27 invalidity shall not affect other provisions or applications that can
28 be given effect without the invalid provision or application.

29 (2) Notwithstanding paragraph (1), if paragraph (1) or (3) of
30 subdivision (u), or the application of either of those provisions, is
31 held invalid, this entire section shall be invalid.

32 (y) The commission shall submit a report to the Legislature, on
33 or before January 1, 2012, on the fundraising effectiveness and
34 regulation of remote caller bingo, and other matters that are relevant
35 to the public interest regarding remote caller bingo.

36 (z) The following definitions apply for purposes of this section:

37 (1) "Commission" means the California Gambling Control
38 Commission.

39 (2) "*Department*" means the *Department of Justice*.

40 (2)

1 (3) “Person” includes a natural person, corporation, limited
2 liability company, partnership, trust, joint venture, association, or
3 any other business organization.

4 *SEC. 452. Section 326.5 of the Penal Code is amended to read:*

5 326.5. (a) Neither the prohibition on gambling in this chapter
6 nor in Chapter 10 (commencing with Section 330) applies to any
7 bingo game that is conducted in a city, county, or city and county
8 pursuant to an ordinance enacted under Section 19 of Article IV
9 of the ~~State~~ California Constitution, if the ordinance allows games
10 to be conducted only in accordance with this section and only by
11 organizations exempted from the payment of the bank and
12 corporation tax by Sections 23701a, 23701b, 23701d, 23701e,
13 23701f, 23701g, 23701k, 23701w, and 23701l of the Revenue and
14 Taxation Code and by mobilehome park associations, senior
15 citizens organizations, and charitable organizations affiliated with
16 a school district; and if the receipts of those games are used only
17 for charitable purposes.

18 (b) It is a misdemeanor for any person to receive or pay a profit,
19 wage, or salary from any bingo game authorized by Section 19 of
20 Article IV of the State Constitution. Security personnel employed
21 by the organization conducting the bingo game may be paid from
22 the revenues of bingo games, as provided in subdivisions (j) and
23 (k).

24 (c) A violation of subdivision (b) shall be punishable by a fine
25 not to exceed ten thousand dollars (\$10,000), which fine is
26 deposited in the general fund of the city, county, or city and county
27 that enacted the ordinance authorizing the bingo game. A violation
28 of any provision of this section, other than subdivision (b), is a
29 misdemeanor.

30 (d) The city, county, or city and county that enacted the
31 ordinance authorizing the bingo game may bring an action to enjoin
32 a violation of this section.

33 (e) No minors shall be allowed to participate in any bingo game.

34 (f) An organization authorized to conduct bingo games pursuant
35 to subdivision (a) shall conduct a bingo game only on property
36 owned or leased by it, or property whose use is donated to the
37 organization, and which property is used by that organization for
38 an office or for performance of the purposes for which the
39 organization is organized. Nothing in this subdivision shall be
40 construed to require that the property owned or leased by, or whose

1 use is donated to, the organization be used or leased exclusively
 2 by, or donated exclusively to, that organization.

3 (g) All bingo games shall be open to the public, not just to the
 4 members of the authorized organization.

5 (h) A bingo game shall be operated and staffed only by members
 6 of the authorized organization that organized it. Those members
 7 shall not receive a profit, wage, or salary from any bingo game.
 8 Only the organization authorized to conduct a bingo game shall
 9 operate such a game, or participate in the promotion, supervision,
 10 or any other phase of a bingo game. This subdivision does not
 11 preclude the employment of security personnel who are not
 12 members of the authorized organization at a bingo game by the
 13 organization conducting the game.

14 (i) No individual, corporation, partnership, or other legal entity,
 15 except the organization authorized to conduct a bingo game, shall
 16 hold a financial interest in the conduct of a bingo game.

17 (j) With respect to organizations exempt from payment of the
 18 bank and corporation tax by Section 23701d of the Revenue and
 19 Taxation Code, all profits derived from a bingo game shall be kept
 20 in a special fund or account and shall not be commingled with any
 21 other fund or account. Those profits shall be used only for
 22 charitable purposes.

23 (k) With respect to other organizations authorized to conduct
 24 bingo games pursuant to this section, all proceeds derived from a
 25 bingo game shall be kept in a special fund or account and shall not
 26 be commingled with any other fund or account. Proceeds are the
 27 receipts of bingo games conducted by organizations not within
 28 subdivision (j). Those proceeds shall be used only for charitable
 29 purposes, except as follows:

30 (1) The proceeds may be used for prizes.

31 (2) (A) Except as provided in subparagraph (B), a portion of
 32 the proceeds, not to exceed 20 percent of the proceeds before the
 33 deduction for prizes, or two thousand dollars (\$2,000) per month,
 34 whichever is less, may be used for the rental of property and for
 35 overhead, including the purchase of bingo equipment,
 36 administrative expenses, security equipment, and security
 37 personnel.

38 (B) For the purposes of bingo games conducted by the Lake
 39 Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20
 40 percent of the proceeds before the deduction for prizes, or three

1 thousand dollars (\$3,000) per month, whichever is less, may be
2 used for the rental of property and for overhead, including the
3 purchase of bingo equipment, administrative expenses, security
4 equipment, and security personnel. Any amount of the proceeds
5 that is additional to that permitted under subparagraph (A), up to
6 one thousand dollars (\$1,000), shall be used for the purpose of
7 financing the rebuilding of the facility and the replacement of
8 equipment that was destroyed by fire in 2007. The exception to
9 subparagraph (A) that is provided by this subparagraph shall remain
10 in effect only until the cost of rebuilding the facility is repaid, or
11 January 1, 2019, whichever occurs first.

12 (3) The proceeds may be used to pay license fees.

13 (4) A city, county, or city and county that enacts an ordinance
14 permitting bingo games may specify in the ordinance that if the
15 monthly gross receipts from bingo games of an organization within
16 this subdivision exceed five thousand dollars (\$5,000), a minimum
17 percentage of the proceeds shall be used only for charitable
18 purposes not relating to the conducting of bingo games and that
19 the balance shall be used for prizes, rental of property, overhead,
20 administrative expenses, and payment of license fees. The amount
21 of proceeds used for rental of property, overhead, and
22 administrative expenses is subject to the limitations specified in
23 paragraph (2).

24 (l) (1) A city, county, or city and county may impose a license
25 fee on each organization that it authorizes to conduct bingo games.
26 The fee, whether for the initial license or renewal, shall not exceed
27 fifty dollars (\$50) annually, except as provided in paragraph (2).
28 If an application for a license is denied, one-half of any license
29 fee paid shall be refunded to the organization.

30 (2) In lieu of the license fee permitted under paragraph (1), a
31 city, county, or city and county may impose a license fee of fifty
32 dollars (\$50) paid upon application. If an application for a license
33 is denied, one-half of the application fee shall be refunded to the
34 organization. An additional fee for law enforcement and public
35 safety costs incurred by the city, county, or city and county that
36 are directly related to bingo activities may be imposed and shall
37 be collected monthly by the city, county, or city and county issuing
38 the license; however, the fee shall not exceed the actual costs
39 incurred in providing the service.

1 (m) No person shall be allowed to participate in a bingo game,
2 unless the person is physically present at the time and place where
3 the bingo game is being conducted.

4 (n) The total value of prizes available to be awarded during the
5 conduct of any bingo games shall not exceed five hundred dollars
6 (\$500) in cash or kind, or both, for each separate game which is
7 held.

8 (o) As used in this section, “bingo” means a game of chance in
9 which prizes are awarded on the basis of designated numbers or
10 symbols that are marked or covered by the player on a tangible
11 card in the player’s possession and that conform to numbers or
12 symbols, selected at random and announced by a live caller.
13 Notwithstanding Section 330c, as used in this section, the game
14 of bingo includes tangible cards having numbers or symbols that
15 are concealed and preprinted in a manner providing for distribution
16 of prizes. Electronics or video displays shall not be used in
17 connection with the game of bingo, except in connection with the
18 caller’s drawing of numbers or symbols and the public display of
19 that drawing, and except as provided in subdivision (p). The
20 winning cards shall not be known prior to the game by any person
21 participating in the playing or operation of the bingo game. All
22 preprinted cards shall bear the legend, “for sale or use only in a
23 bingo game authorized under California law and pursuant to local
24 ordinance.” Only a covered or marked tangible card possessed by
25 a player and presented to an attendant may be used to claim a prize.
26 It is the intention of the Legislature that bingo as defined in this
27 subdivision applies exclusively to this section and shall not be
28 applied in the construction or enforcement of any other provision
29 of law.

30 (p) (1) Players who are physically present at a bingo game may
31 use hand-held, portable card-minding devices, as described in this
32 subdivision, to assist in monitoring the numbers or symbols
33 announced by a live caller as those numbers or symbols are called
34 in a live game. Card-minding devices may not be used in
35 connection with any game where a bingo card may be sold or
36 distributed after the start of the ball draw for that game. A
37 card-minding device shall do all of the following:

38 (A) Be capable of storing in the memory of the device bingo
39 faces of tangible cards purchased by a player.

1 (B) Provide a means for bingo players to input manually each
2 individual number or symbol announced by a live caller.

3 (C) Compare the numbers or symbols entered by the player to
4 the bingo faces previously stored in the memory of the device.

5 (D) Identify winning bingo patterns that exist on the stored
6 bingo faces.

7 (2) A card-minding device shall perform no functions involving
8 the play of the game other than those described in paragraph (1).
9 Card-minding devices shall not do any of the following:

10 (A) Be capable of accepting or dispensing any coins, currency,
11 or other representative of value or on which value has been
12 encoded.

13 (B) Be capable of monitoring any bingo card face other than
14 the faces of the tangible bingo card or cards purchased by the
15 player for that game.

16 (C) Display or represent the game result through any means,
17 including, but not limited to, video or mechanical reels or other
18 slot machine or casino game themes, other than highlighting the
19 winning numbers or symbols marked or covered on the tangible
20 bingo cards or giving an audio alert that the player's card has a
21 prize-winning pattern.

22 (D) Determine the outcome of any game or be physically or
23 electronically connected to any component that determines the
24 outcome of a game or to any other bingo equipment, including,
25 but not limited to, the ball call station, or to any other card-minding
26 device. No other player-operated or player-activated electronic or
27 electromechanical device or equipment is permitted to be used in
28 connection with a bingo game.

29 (3) (A) A card-minding device shall be approved in advance
30 by the ~~commission~~ *department* as meeting the requirements of this
31 section and any additional requirements stated in regulations
32 adopted by the commission. Any proposed material change to the
33 device, including any change to the software used by the device,
34 shall be submitted to the ~~commission~~ *department* and approved
35 by the ~~commission~~ *department* prior to implementation.

36 (B) In accordance with Chapter 5 (commencing with Section
37 19800) of Division 8 of the Business and Professions Code, the
38 commission shall establish reasonable criteria for, and require the
39 licensure of, any person that directly or indirectly manufactures,
40 distributes, supplies, vends, leases, or otherwise provides

1 card-minding devices or other supplies, equipment, or services
2 related to card-minding devices designed for use in the playing of
3 bingo games by any nonprofit organization.

4 (C) A person or entity that supplies or services any card-minding
5 device shall meet all licensing requirements established by the
6 commission in regulations.

7 (4) The costs of any testing, certification, license, or
8 determination required by this subdivision shall be borne by the
9 person or entity seeking it.

10 (5) On and after January 1, 2010, ~~the commission and the~~
11 Department of Justice may inspect all card-minding devices at any
12 time without notice, and may immediately prohibit the use of any
13 device that does not comply with the requirements of subdivision
14 (r) of Section 19841 of the Business and Professions Code. The
15 Department of Justice may at any time, without notice, impound
16 any device the use of which has been prohibited by the commission.

17 (6) The California Gambling Control Commission shall issue
18 regulations to implement the requirements of this subdivision and
19 may issue regulations regarding the means by which the operator
20 of a bingo game, as required by applicable law, may offer
21 assistance to a player with disabilities in order to enable that player
22 to participate in a bingo game, provided that the means of providing
23 that assistance shall not be through any electronic,
24 electromechanical, or other device or equipment that accepts the
25 insertion of any coin, currency, token, credit card, or other means
26 of transmitting value, and does not constitute or is not a part of a
27 system that constitutes a video lottery terminal, slot machine, or
28 device prohibited by Chapter 10 (commencing with Section 330).

29 (7) The following definitions apply for purposes of this
30 subdivision:

31 (A) "Commission" means the California Gambling Control
32 Commission.

33 (B) "*Department*" means the *Department of Justice*.

34 ~~(B)~~

35 (C) "Person" includes a natural person, corporation, limited
36 liability company, partnership, trust, joint venture, association, or
37 any other business organization.

38 *SEC. 453. Section 830.3 of the Penal Code is amended to read:*

39 830.3. The following persons are peace officers whose authority
40 extends to any place in the state for the purpose of performing

1 their primary duty or when making an arrest pursuant to Section
2 836 as to any public offense with respect to which there is
3 immediate danger to person or property, or of the escape of the
4 perpetrator of that offense, or pursuant to Section 8597 or 8598 of
5 the Government Code. These peace officers may carry firearms
6 only if authorized and under those terms and conditions as specified
7 by their employing agencies:

8 (a) Persons employed by the Division of Investigation of the
9 Department of Consumer Affairs and investigators of the Medical
10 Board of California and the Board of Dental Examiners, who are
11 designated by the Director of Consumer Affairs, provided that the
12 primary duty of these peace officers shall be the enforcement of
13 the law as that duty is set forth in Section 160 of the Business and
14 Professions Code.

15 (b) Voluntary fire wardens designated by the Director of
16 Forestry and Fire Protection pursuant to Section 4156 of the Public
17 Resources Code, provided that the primary duty of these peace
18 officers shall be the enforcement of the law as that duty is set forth
19 in Section 4156 of that code.

20 (c) Employees of the Department of Motor Vehicles designated
21 in Section 1655 of the Vehicle Code, provided that the primary
22 duty of these peace officers shall be the enforcement of the law as
23 that duty is set forth in Section 1655 of that code.

24 (d) Investigators of the California Horse Racing Board
25 designated by the board, provided that the primary duty of these
26 peace officers shall be the enforcement of Chapter 4 (commencing
27 with Section 19400) of Division 8 of the Business and Professions
28 Code and Chapter 10 (commencing with Section 330) of Title 9
29 of Part 1 of this code.

30 (e) The State Fire Marshal and assistant or deputy state fire
31 marshals appointed pursuant to Section 13103 of the Health and
32 Safety Code, provided that the primary duty of these peace officers
33 shall be the enforcement of the law as that duty is set forth in
34 Section 13104 of that code.

35 (f) Inspectors of the food and drug section designated by the
36 chief pursuant to subdivision (a) of Section 106500 of the Health
37 and Safety Code, provided that the primary duty of these peace
38 officers shall be the enforcement of the law as that duty is set forth
39 in Section 106500 of that code.

1 (g) All investigators of the Division of Labor Standards
 2 Enforcement designated by the Labor Commissioner, provided
 3 that the primary duty of these peace officers shall be the
 4 enforcement of the law as prescribed in Section 95 of the Labor
 5 Code.

6 (h) All investigators of the State Departments of Health Care
 7 Services, Public Health, Social Services, Mental Health, and
 8 Alcohol and Drug Programs, the Department of Toxic Substances
 9 Control, the Office of Statewide Health Planning and Development,
 10 and the Public Employees’ Retirement System, provided that the
 11 primary duty of these peace officers shall be the enforcement of
 12 the law relating to the duties of his or her department or office.
 13 Notwithstanding any other provision of law, investigators of the
 14 Public Employees’ Retirement System shall not carry firearms.

15 (i) The Chief of the Bureau of Fraudulent Claims of the
 16 Department of Insurance and those investigators designated by the
 17 chief, provided that the primary duty of those investigators shall
 18 be the enforcement of Section 550.

19 (j) Employees of the Department of Housing and Community
 20 Development designated under Section 18023 of the Health and
 21 Safety Code, provided that the primary duty of these peace officers
 22 shall be the enforcement of the law as that duty is set forth in
 23 Section 18023 of that code.

24 (k) Investigators of the office of the Controller, provided that
 25 the primary duty of these investigators shall be the enforcement
 26 of the law relating to the duties of that office. Notwithstanding any
 27 other law, except as authorized by the Controller, the peace officers
 28 designated pursuant to this subdivision shall not carry firearms.

29 (l) Investigators of the Department of ~~Corporations~~ *Business*
 30 *Oversight* designated by the Commissioner of ~~Corporations~~
 31 *Business Oversight*, provided that the primary duty of these
 32 investigators shall be the enforcement of the provisions of law
 33 administered by the Department of ~~Corporations~~ *Business*
 34 *Oversight*. Notwithstanding any other provision of law, the peace
 35 officers designated pursuant to this subdivision shall not carry
 36 firearms.

37 (m) Persons employed by the Contractors State License Board
 38 designated by the Director of Consumer Affairs pursuant to Section
 39 7011.5 of the Business and Professions Code, provided that the
 40 primary duty of these persons shall be the enforcement of the law

1 as that duty is set forth in Section 7011.5, and in Chapter 9
2 (commencing with Section 7000) of Division 3, of that code. The
3 Director of Consumer Affairs may designate as peace officers not
4 more than 12 persons who shall at the time of their designation be
5 assigned to the special investigations unit of the board.
6 Notwithstanding any other provision of law, the persons designated
7 pursuant to this subdivision shall not carry firearms.

8 (n) The Chief and coordinators of the Law Enforcement Branch
9 of the ~~California Emergency Management Agency~~ *Office of*
10 *Emergency Services*.

11 (o) Investigators of the office of the Secretary of State designated
12 by the Secretary of State, provided that the primary duty of these
13 peace officers shall be the enforcement of the law as prescribed
14 in Chapter 3 (commencing with Section 8200) of Division 1 of
15 Title 2 of, and Section 12172.5 of, the Government Code.
16 Notwithstanding any other provision of law, the peace officers
17 designated pursuant to this subdivision shall not carry firearms.

18 (p) The Deputy Director for Security designated by Section
19 8880.38 of the Government Code, and all lottery security personnel
20 assigned to the California State Lottery and designated by the
21 director, provided that the primary duty of any of those peace
22 officers shall be the enforcement of the laws related to assuring
23 the integrity, honesty, and fairness of the operation and
24 administration of the California State Lottery.

25 (q) Investigators employed by the Investigation Division of the
26 Employment Development Department designated by the director
27 of the department, provided that the primary duty of those peace
28 officers shall be the enforcement of the law as that duty is set forth
29 in Section 317 of the Unemployment Insurance Code.

30 Notwithstanding any other provision of law, the peace officers
31 designated pursuant to this subdivision shall not carry firearms.

32 (r) The chief and assistant chief of museum security and safety
33 of the California Science Center, as designated by the executive
34 director pursuant to Section 4108 of the Food and Agricultural
35 Code, provided that the primary duty of those peace officers shall
36 be the enforcement of the law as that duty is set forth in Section
37 4108 of the Food and Agricultural Code.

38 (s) Employees of the Franchise Tax Board designated by the
39 board, provided that the primary duty of these peace officers shall
40 be the enforcement of the law as set forth in Chapter 9

1 (commencing with Section 19701) of Part 10.2 of Division 2 of
 2 the Revenue and Taxation Code.

3 (t) Notwithstanding any other provision of this section, a peace
 4 officer authorized by this section shall not be authorized to carry
 5 firearms by his or her employing agency until that agency has
 6 adopted a policy on the use of deadly force by those peace officers,
 7 and until those peace officers have been instructed in the employing
 8 agency’s policy on the use of deadly force.

9 Every peace officer authorized pursuant to this section to carry
 10 firearms by his or her employing agency shall qualify in the use
 11 of the firearms at least every six months.

12 (u) Investigators of the Department of Managed Health Care
 13 designated by the Director of the Department of Managed Health
 14 Care, provided that the primary duty of these investigators shall
 15 be the enforcement of the provisions of laws administered by the
 16 Director of the Department of Managed Health Care.
 17 Notwithstanding any other provision of law, the peace officers
 18 designated pursuant to this subdivision shall not carry firearms.

19 (v) The Chief, Deputy Chief, supervising investigators, and
 20 investigators of the Office of Protective Services of the State
 21 Department of Developmental Services, provided that the primary
 22 duty of each of those persons shall be the enforcement of the law
 23 relating to the duties of his or her department or office.

24 *SEC. 454. Section 830.11 of the Penal Code is amended to*
 25 *read:*

26 830.11. (a) The following persons are not peace officers but
 27 may exercise the powers of arrest of a peace officer as specified
 28 in Section 836 and the power to serve warrants as specified in
 29 Sections 1523 and 1530 during the course and within the scope of
 30 their employment, if they receive a course in the exercise of those
 31 powers pursuant to Section 832. The authority and powers of the
 32 persons designated under this section shall extend to any place in
 33 the state:

34 (1) Persons employed by the Department of ~~Financial~~
 35 ~~Institutions Business Oversight~~ designated by the Commissioner
 36 of ~~Financial Institutions Business Oversight~~, provided that the
 37 primary duty of these persons shall be the enforcement of, and
 38 investigations relating to, the provisions of law administered by
 39 the Commissioner of ~~Financial Institutions Business Oversight~~.

1 (2) Persons employed by the ~~Department of Real Estate Bureau~~
2 *of Real Estate* designated by the Real Estate Commissioner,
3 provided that the primary duty of these persons shall be the
4 enforcement of the laws set forth in Part 1 (commencing with
5 Section 10000) and Part 2 (commencing with Section 11000) of
6 Division 4 of the Business and Professions Code. The Real Estate
7 Commissioner may designate persons under this section, who at
8 the time of their designation, are assigned to the Special
9 Investigations Unit, internally known as the Crisis Response Team.

10 (3) Persons employed by the State Lands Commission
11 designated by the executive officer, provided that the primary duty
12 of these persons shall be the enforcement of the law relating to the
13 duties of the State Lands Commission.

14 (4) Persons employed as investigators of the Investigations
15 Bureau of the Department of Insurance, who are designated by the
16 Chief of the Investigations Bureau, provided that the primary duty
17 of these persons shall be the enforcement of the Insurance Code
18 and other laws relating to persons and businesses, licensed and
19 unlicensed by the Department of Insurance, who are engaged in
20 the business of insurance.

21 (5) Persons employed as investigators and investigator
22 supervisors of the Consumer Services Division or the Rail Safety
23 and Carrier Division of the Public Utilities Commission who are
24 designated by the commission's executive director and approved
25 by the commission, provided that the primary duty of these persons
26 shall be the enforcement of the law as that duty is set forth in
27 Section 308.5 of the Public Utilities Code.

28 (6) (A) Persons employed by the State Board of Equalization,
29 Investigations Division, who are designated by the board's
30 executive director, provided that the primary duty of these persons
31 shall be the enforcement of laws administered by the State Board
32 of Equalization.

33 (B) Persons designated pursuant to this paragraph are not entitled
34 to peace officer retirement benefits.

35 (7) Persons employed by the Department of Food and
36 Agriculture and designated by the Secretary of Food and
37 Agriculture as investigators, investigator supervisors, and
38 investigator managers, provided that the primary duty of these
39 persons shall be enforcement of, and investigations relating to, the

1 Food and Agricultural Code or Division 5 (commencing with
2 Section 12001) of the Business and Professions Code.

3 (8) The Inspector General and those employees of the Office
4 of the Inspector General as designated by the Inspector General,
5 provided that the primary duty of those persons shall be the
6 enforcement of the law relating to the duties of the Office of the
7 Inspector General.

8 (b) Notwithstanding any other provision of law, persons
9 designated pursuant to this section may not carry firearms.

10 (c) Persons designated pursuant to this section shall be included
11 as “peace officers of the state” under paragraph (2) of subdivision
12 (c) of Section 11105 for the purpose of receiving state summary
13 criminal history information and shall be furnished that information
14 on the same basis as peace officers of the state designated in
15 paragraph (2) of subdivision (c) of Section 11105.

16 *SEC. 455. Section 999c of the Penal Code is amended to read:*

17 999c. (a) There is hereby established in the ~~California~~
18 ~~Emergency Management Agency~~ *Office of Emergency Services* a
19 program of financial and technical assistance for district attorneys’
20 offices, designated the California Career Criminal Prosecution
21 Program. All funds appropriated to the ~~agency office~~ for the
22 purposes of this chapter shall be administered and disbursed by
23 the ~~secretary of that agency~~ *Director of Emergency Services*, and
24 shall to the greatest extent feasible be coordinated or consolidated
25 with federal funds that may be made available for these purposes.

26 (b) The ~~Secretary of Emergency Management~~ *Director of*
27 *Emergency Services* is authorized to allocate and award funds to
28 counties in which career criminal prosecution units are established
29 in substantial compliance with the policies and criteria set forth
30 below in Sections 999d, 999e, 999f, and 999g.

31 (c) The allocation and award of funds shall be made upon
32 application executed by the county’s district attorney and approved
33 by its board of supervisors. Funds disbursed under this chapter
34 shall not supplant local funds that would, in the absence of the
35 California Career Criminal Prosecution Program, be made available
36 to support the prosecution of felony cases. Funds available under
37 this program shall not be subject to review as specified in Section
38 14780 of the Government Code.

39 *SEC. 456. Section 999j of the Penal Code is amended to read:*

1 999j. (a) There is hereby established in the ~~California~~
2 ~~Emergency Management Agency Office of Emergency Services~~ a
3 program of financial and technical assistance for district attorneys'
4 offices, designated the Repeat Sexual Offender Prosecution
5 Program. All funds appropriated to the ~~agency office~~ for the
6 purposes of this chapter shall be administered and disbursed by
7 the ~~secretary of the agency~~ *Director of Emergency Services*, and
8 shall to the greatest extent feasible, be coordinated or consolidated
9 with any federal or local funds that may be made available for
10 these purposes.

11 The ~~California Emergency Management Agency Office of~~
12 ~~Emergency Services~~ shall establish guidelines for the provision of
13 grant awards to proposed and existing programs prior to the
14 allocation of funds under this chapter. These guidelines shall
15 contain the criteria for the selection of agencies to receive funding,
16 as developed in consultation with an advisory group to be known
17 as the Repeat Sexual Offender Prosecution Program Steering
18 Committee. The membership of the steering committee shall be
19 designated by the secretary of the ~~agency office~~.

20 A draft of the guidelines shall be developed and submitted to
21 the Chairpersons of the Assembly Criminal Law and Public Safety
22 Committee and the Senate Judiciary Committee within 60 days of
23 the effective date of this chapter and issued within 90 days of the
24 same effective date. These guidelines shall set forth the terms and
25 conditions upon which the ~~California Emergency Management~~
26 ~~Agency Office of Emergency Services~~ is prepared to offer grants
27 pursuant to statutory authority. The guidelines shall not constitute
28 rules, regulations, orders, or standards of general application.

29 (b) The ~~Secretary of Emergency Management~~ *Director of*
30 *Emergency Services* is authorized to allocate and award funds to
31 counties in which repeat sexual offender prosecution units are
32 established or are proposed to be established in substantial
33 compliance with the policies and criteria set forth below in Sections
34 999k, 999l, and 999m.

35 (c) The allocation and award of funds shall be made upon
36 application executed by the county's district attorney and approved
37 by its board of supervisors. Funds disbursed under this chapter
38 shall not supplant local funds that would, in the absence of the
39 California Repeat Sexual Offender Prosecution Program, be made
40 available to support the prosecution of repeat sexual offender

1 felony cases. Local grant awards made under this program shall
2 not be subject to review as specified in Section 14780 of the
3 Government Code.

4 *SEC. 457. Section 999k of the Penal Code is amended to read:*

5 999k. Repeat sexual offender prosecution units receiving funds
6 under this chapter shall concentrate enhanced prosecution efforts
7 and resources upon individuals identified under selection criteria
8 set forth in Section 999l. Enhanced prosecution efforts and
9 resources shall include, but not be limited to:

10 (a) Vertical prosecutorial representation, whereby the prosecutor
11 who makes the initial filing or appearance in a repeat sexual
12 offender case will perform all subsequent court appearances on
13 that particular case through its conclusion, including the sentencing
14 phase.

15 (b) The assignment of highly qualified investigators and
16 prosecutors to repeat sexual offender cases. “Highly qualified” for
17 the purposes of this chapter shall be defined as: (1) individuals
18 with one year of experience in the investigation and prosecution
19 of felonies or specifically the felonies listed in subdivision (a) of
20 Section 999l; or (2) individuals whom the district attorney has
21 selected to receive training as set forth in Section 13836; or (3)
22 individuals who have attended a program providing equivalent
23 training as approved by the ~~California Emergency Management~~
24 ~~Agency Office of Emergency Services.~~

25 (c) A significant reduction of caseloads for investigators and
26 prosecutors assigned to repeat sexual offender cases.

27 (d) Coordination with local rape victim counseling centers, child
28 abuse services programs, and victim witness assistance programs.
29 Coordination shall include, but not be limited to: referrals of
30 individuals to receive client services; participation in local training
31 programs; membership and participation in local task forces
32 established to improve communication between criminal justice
33 system agencies and community service agencies; and cooperating
34 with individuals serving as liaison representatives of local rape
35 victim counseling centers and victim witness assistance programs.

36 *SEC. 458. Section 999n of the Penal Code is amended to read:*

37 999n. (a) The selection criteria set forth in Section 999l shall
38 be adhered to for each repeat sexual offender case unless, in the
39 reasonable exercise of prosecutor’s discretion, extraordinary

1 circumstances require departure from those policies in order to
2 promote the general purposes and intent of this chapter.

3 (b) Each district attorney’s office establishing a repeat sexual
4 offender prosecution unit and receiving state support under this
5 chapter shall submit the following information, on a quarterly
6 basis, to the ~~California Emergency Management Agency Office~~
7 *of Emergency Services*:

8 (1) The number of sexual assault cases referred to the district
9 attorney’s office for possible filing.

10 (2) The number of sexual assault cases filed for felony
11 prosecution.

12 (3) The number of sexual assault cases taken to trial.

13 (4) The percentage of sexual assault cases tried which resulted
14 in conviction.

15 *SEC. 459. Section 999p of the Penal Code is amended to read:*

16 999p. The ~~California Emergency Management Agency Office~~
17 *of Emergency Services* is encouraged to utilize any federal funds
18 which may become available in order to implement the provisions
19 of this chapter.

20 *SEC. 460. Section 999r of the Penal Code is amended to read:*

21 999r. (a) There is hereby established in the ~~California~~
22 ~~Emergency Management Agency Office of Emergency Services~~ a
23 program of financial and technical assistance for district attorneys’
24 offices, designated the Child Abuser Prosecution Program. All
25 funds appropriated to the agency for the purposes of this chapter
26 shall be administered and disbursed by the executive director of
27 that agency or agencies, and shall to the greatest extent feasible,
28 be coordinated or consolidated with any federal or local funds that
29 may be made available for these purposes.

30 The ~~California Emergency Management Agency Office of~~
31 ~~Emergency Services~~ shall establish guidelines for the provision of
32 grant awards to proposed and existing programs prior to the
33 allocation of funds under this chapter. These guidelines shall
34 contain the criteria for the selection of agencies to receive funding
35 and the terms and conditions upon which the agency is prepared
36 to offer grants pursuant to statutory authority. The guidelines shall
37 not constitute rules, regulations, orders, or standards of general
38 application. The guidelines shall be submitted to the appropriate
39 policy committees of the Legislature prior to their adoption.

1 (b) ~~The Secretary of Emergency Management~~ *Director of*
2 *Emergency Services* is authorized to allocate and award funds to
3 counties in which child abuser offender prosecution units are
4 established or are proposed to be established in substantial
5 compliance with the policies and criteria set forth below in Sections
6 999s, 999t, and 999u.

7 (c) The allocation and award of funds shall be made upon
8 application executed by the county's district attorney and approved
9 by its board of supervisors. Funds disbursed under this chapter
10 shall not supplant local funds that would, in the absence of the
11 California Child Abuser Prosecution Program, be made available
12 to support the prosecution of child abuser felony cases. Local grant
13 awards made under this program shall not be subject to review as
14 specified in Section 14780 of the Government Code.

15 *SEC. 461. Section 999s of the Penal Code is amended to read:*

16 999s. Child abuser prosecution units receiving funds under this
17 chapter shall concentrate enhanced prosecution efforts and
18 resources upon individuals identified under selection criteria set
19 forth in Section 999t. Enhanced prosecution efforts and resources
20 shall include, but not be limited to:

21 (a) Vertical prosecutorial representation, whereby the prosecutor
22 who, or prosecution unit which, makes the initial filing or
23 appearance in a case performs all subsequent court appearances
24 on that particular case through its conclusion, including the
25 sentencing phase.

26 (b) The assignment of highly qualified investigators and
27 prosecutors to child abuser cases. "Highly qualified" for the
28 purposes of this chapter means: (1) individuals with one year of
29 experience in the investigation and prosecution of felonies or
30 specifically the felonies listed in subdivision (a) of Section 999/
31 or 999t; or (2) individuals whom the district attorney has selected
32 to receive training as set forth in Section 13836; or (3) individuals
33 who have attended a program providing equivalent training as
34 approved by the ~~California Emergency Management Agency Office~~
35 *of Emergency Services*.

36 (c) A significant reduction of caseloads for investigators and
37 prosecutors assigned to child abuser cases.

38 (d) Coordination with local rape victim counseling centers, child
39 abuse services programs, and victim witness assistance programs.
40 That coordination shall include, but not be limited to: referrals of

1 individuals to receive client services; participation in local training
2 programs; membership and participation in local task forces
3 established to improve communication between criminal justice
4 system agencies and community service agencies; and cooperating
5 with individuals serving as liaison representatives of child abuse
6 and child sexual abuse programs, local rape victim counseling
7 centers and victim witness assistance programs.

8 *SEC. 462. Section 999v of the Penal Code is amended to read:*

9 999v. (a) The selection criteria set forth in Section 999t shall
10 be adhered to for each child abuser case unless, in the reasonable
11 exercise of prosecutor's discretion, extraordinary circumstances
12 require departure from those policies in order to promote the
13 general purposes and intent of this chapter.

14 (b) Each district attorney's office establishing a child abuser
15 prosecution unit and receiving state support under this chapter
16 shall submit the following information, on a quarterly basis, to the
17 ~~California Emergency Management Agency~~ *Office of Emergency*
18 *Services*:

19 (1) The number of child abuser cases referred to the district
20 attorney's office for possible filing.

21 (2) The number of child abuser cases filed for felony
22 prosecution.

23 (3) The number of sexual assault cases taken to trial.

24 (4) The number of child abuser cases tried which resulted in
25 conviction.

26 *SEC. 463. Section 999x of the Penal Code is amended to read:*

27 999x. ~~The California Emergency Management Agency~~ *Office*
28 *of Emergency Services* is encouraged to utilize any federal funds
29 which may become available in order to implement the provisions
30 of this chapter.

31 *SEC. 464. Section 999y of the Penal Code is amended to read:*

32 999y. ~~The California Emergency Management Agency~~ *Office*
33 *of Emergency Services* shall report annually to the Legislature
34 concerning the program established by this chapter. ~~The agency~~
35 *office* shall prepare and submit to the Legislature on or before
36 December 15, 2002, and within six months of the completion of
37 subsequent funding cycles for this program, an evaluation of the
38 Child Abuser Prosecution Program. This evaluation shall identify
39 outcome measures to determine the effectiveness of the programs

1 established under this chapter, which shall include, but not be
 2 limited to, both of the following, to the extent that data is available:

3 (a) Child abuse conviction rates of Child Abuser Prosecution
 4 Program units compared to those of nonfunded counties.

5 (b) Quantification of the annual per capita costs of the Child
 6 Abuser Prosecution Program compared to the costs of prosecuting
 7 child abuse crimes in nonfunded counties.

8 *SEC. 465. Section 1174.2 of the Penal Code is amended to*
 9 *read:*

10 1174.2. (a) Notwithstanding any other law, the unencumbered
 11 balance of Item 5240-311-751 of Section 2 of the Budget Act of
 12 1990 shall revert to the unappropriated surplus of the 1990 Prison
 13 Construction Fund. The sum of fifteen million dollars
 14 (\$15,000,000) is hereby appropriated to the Department of
 15 Corrections from the 1990 Prison Construction Fund for site
 16 acquisition, site studies, environmental studies, master planning,
 17 architectural programming, schematics, preliminary plans, working
 18 drawings, construction, and long lead and equipment items for the
 19 purpose of constructing facilities for pregnant and parenting
 20 women’s alternative sentencing programs. These funds shall not
 21 be expended for any operating costs, including those costs
 22 reimbursed by the department pursuant to subdivision (c) of Section
 23 1174.3. Funds not expended pursuant to this chapter shall be used
 24 for planning, construction, renovation, or remodeling by, or under
 25 the supervision of, the Department of Corrections and
 26 Rehabilitation, of community-based facilities for programs
 27 designed to reduce drug use and recidivism, including, but not
 28 limited to, restitution centers, facilities for the incarceration and
 29 rehabilitation of drug offenders, multipurpose correctional centers,
 30 and centers for intensive programs for parolees. These funds shall
 31 not be expended until legislation authorizing the establishment of
 32 these programs is enacted. If the Legislature finds that the
 33 Department of Corrections and Rehabilitation has made a good
 34 faith effort to site community-based facilities, but funds designated
 35 for these community-based facilities are unexpended as of January
 36 1, 1998, the Legislature may appropriate these funds for other
 37 Level I housing.

38 (b) The Department of Corrections and Rehabilitation shall
 39 purchase, design, construct, and renovate facilities in counties or
 40 multicounty areas with a population of more than 450,000 people

1 pursuant to this chapter. The department shall target for selection,
2 among other counties, Los Angeles County, San Diego County,
3 and a bay area, central valley, and an inland empire county as
4 determined by the Secretary of the Department of Corrections and
5 Rehabilitation. The department, in consultation with the State
6 Department of Alcohol and Drug Programs, shall design core
7 alcohol and drug treatment programs, with specific requirements
8 and standards. Residential facilities shall be licensed by the State
9 Department of Alcohol and Drug Programs in accordance with
10 provisions of the Health and Safety Code governing licensure of
11 alcoholism or drug abuse recovery or treatment facilities.
12 Residential and nonresidential programs shall be certified by the
13 State Department of Alcohol and Drug Programs as meeting its
14 standards for perinatal services. Funds shall be awarded to selected
15 agency service providers based upon all of the following criteria
16 and procedures:

17 (1) A demonstrated ability to provide comprehensive services
18 to pregnant women or women with children who are substance
19 abusers consistent with this chapter. Criteria shall include, but not
20 be limited to, each of the following:

21 (A) The success records of the types of programs proposed
22 based upon standards for successful programs.

23 (B) Expertise and actual experience of persons who will be in
24 charge of the proposed program.

25 (C) Cost-effectiveness, including the costs per client served.

26 (D) A demonstrated ability to implement a program as
27 expeditiously as possible.

28 (E) An ability to accept referrals and participate in a process
29 with the probation department determining eligible candidates for
30 the program.

31 (F) A demonstrated ability to seek and obtain supplemental
32 funding as required in support of the overall administration of this
33 facility from any county, state, or federal source that may serve to
34 support this program, including the State Department of Alcohol
35 and Drug Programs, the ~~California Emergency Management~~
36 *Agency Office of Emergency Services*, the State Department of
37 Social Services, the State Department of State Hospitals, or any
38 county public health department. In addition, the agency shall also
39 attempt to secure other available funding from all county, state,
40 or federal sources for program implementation.

1 (G) An ability to provide intensive supervision of the program
2 participants to ensure complete daily programming.

3 (2) Staff from the department shall be available to selected
4 agencies for consultation and technical services in preparation and
5 implementation of the selected proposals.

6 (3) The department shall consult with existing program operators
7 that are then currently delivering similar program services, the
8 State Department of Alcohol and Drug Programs, and others it
9 may identify in the development of the program.

10 (4) Funds shall be made available by the department to the
11 agencies selected to administer the operation of this program.

12 (5) Agencies shall demonstrate an ability to provide offenders
13 a continuing supportive network of outpatient drug treatment and
14 other services upon the women’s completion of the program and
15 reintegration into the community.

16 (6) The department may propose any variation of types and
17 sizes of facilities to carry out the purposes of this chapter.

18 (7) The department shall secure all other available funding for
19 its eligible population from all county, state, or federal sources.

20 (8) Each program proposal shall include a plan for the required
21 12-month residential program, plus a 12-month outpatient
22 transitional services program to be completed by participating
23 women and children.

24 *SEC. 466. Section 1191.21 of the Penal Code is amended to*
25 *read:*

26 1191.21. (a) (1) ~~The California Emergency Management~~
27 ~~Agency Office of Emergency Services~~ shall develop and make
28 available a “notification of eligibility” card for victims and
29 derivative victims of crimes as defined in subdivision (c) of Section
30 13960 of the Government Code that includes, but is not limited
31 to, the following information:

32 “If you have been the victim of a crime that meets the required
33 definition, you or others may be eligible to receive payment from
34 the California State Restitution Fund for losses directly resulting
35 from the crime. To learn about eligibility and receive an application
36 to receive payments, call the Victims of Crime Program at (800)
37 777-9229 or call your local county Victim Witness Assistance
38 Center.”

39 (2) At a minimum, ~~the California Emergency Management~~
40 ~~Agency Office of Emergency Services~~ shall develop a template

1 available for downloading on its Internet Web site the information
2 requested in subdivision (b).

3 (b) In a case involving a crime as defined in subdivision (c) of
4 Section 13960 of the Government Code, the law enforcement
5 officer with primary responsibility for investigating the crime
6 committed against the victim and the district attorney may provide
7 the “notification of eligibility” card to the victim and derivative
8 victim of a crime.

9 (c) The terms “victim” and “derivative victim” shall be given
10 the same meaning given those terms in Section 13960 of the
11 Government Code.

12 *SEC. 467. Section 6241 of the Penal Code is amended to read:*

13 6241. (a) The Substance Abuse Community Correctional
14 Detention Centers Fund is hereby created within the State Treasury.
15 The Board of Corrections is authorized to provide funds, as
16 appropriated by the Legislature, for the purpose of establishing
17 substance abuse community correctional detention centers. These
18 facilities shall be operated locally in order to manage parole
19 violators, those select individuals sentenced to state prison for
20 short periods of time, and other sentenced local offenders with a
21 known history of substance abuse, and as further defined by this
22 chapter.

23 (b) The facilities constructed with funds disbursed pursuant to
24 this chapter in a county shall contain no less than 50 percent of
25 total beds for use by the Department of Corrections and
26 Rehabilitation.

27 (1) Upon agreement, the county and the department may
28 negotiate any other mix of state and local bed space, providing the
29 state’s proportionate share shall not be less than 50 percent in the
30 portion of the facilities financed through state funding.

31 (2) Nothing in this chapter shall prohibit the county from using
32 county funds or nonrestricted jail bond funds to build and operate
33 additional facilities in conjunction with the centers provided for
34 in this chapter.

35 (c) Thirty million dollars (\$30,000,000) in funds shall be
36 provided from the 1990 Prison Construction Fund and the 1990–B
37 Prison Construction Fund, with fifteen million dollars
38 (\$15,000,000) each from the June 1990 bond issue and the
39 November 1990 bond issue, for construction purposes set forth in
40 this chapter, provided that funding is appropriated in the state

1 budget from the June and November 1990, prison bond issues for
2 purposes of this chapter.

3 (d) Funds shall be awarded to counties based upon the following
4 policies and criteria:

5 (1) Priority shall be given to urban counties with populations
6 of 450,000 or more, as determined by Department of Finance
7 figures. The board may allocate up to 10 percent of the funding to
8 smaller counties or combinations of counties as pilot projects, if
9 it concludes that proposals meet the requirements of this chapter,
10 commensurate with the facilities and programming that a smaller
11 county can provide.

12 (2) Upon application and submission of proposals by eligible
13 counties, representatives of the board shall evaluate proposals and
14 select recipients.

15 To help ensure that state-of-the-art drug rehabilitation and related
16 programs are designed, implemented, and updated under this
17 chapter, the board shall consult with not less than three authorities
18 recognized nationwide with experience or expertise in the design
19 or operation of successful programs in order to assist the board in
20 all of the following:

21 (A) Drawing up criteria on which requests for proposals will
22 be sought.

23 (B) Selecting proposals to be funded.

24 (C) Assisting the board in evaluation and operational problems
25 of the programs, if those services are approved by the board.

26 Funding also shall be sought by the board from the federal
27 government and private foundation sources in order to defray the
28 costs of the board's responsibilities under this chapter.

29 (3) Preference shall be given to counties that can demonstrate
30 a financial ability and commitment to operate the programs it is
31 proposing for a period of at least three years and to make
32 improvements as proposed by the department and the board.

33 (4) Applicants receiving awards under this chapter shall be
34 selected from among those deemed appropriate for funding
35 according to the criteria, policies, and procedures established by
36 the board. Criteria shall include success records of the types of
37 programs proposed based on nationwide standards for successful
38 programs, if available, expertise and hands-on experience of
39 persons who will be in charge of proposed programs,
40 cost-effectiveness, including cost per bed, speed of construction,

1 a demonstrated ability to construct the maximum number of beds
2 which shall result in an overall net increase in the number of beds
3 in the county for state and local offenders, comprehensiveness of
4 services, location, participation by private or community-based
5 organizations, and demonstrated ability to seek and obtain
6 supplemental funding as required in support of the overall
7 administration of this facility from sources such as the Department
8 of Alcohol and Drug Programs, the ~~California Emergency~~
9 ~~Management Agency~~ *Office of Emergency Services*, the National
10 Institute of Corrections, the Department of Justice, and other state
11 and federal sources.

12 (5) Funds disbursed under subdivision (c) shall be used for
13 construction of substance abuse community correctional centers,
14 with a level of security in each facility commensurate with public
15 safety for the types of offenders being housed in or utilizing the
16 facilities.

17 (6) Funds disbursed under this chapter shall not be used for the
18 purchase of the site. Sites shall be provided by the county.
19 However, a participating county may negotiate with the state for
20 use of state land at nearby corrections facilities or other state
21 facilities, provided that the locations fit in with the aims of the
22 programs established by this chapter.

23 The county shall be responsible for ensuring the siting,
24 acquisition, design, and construction of the center consistent with
25 the California Environmental Quality Act pursuant to Division 13
26 (commencing with Section 21000) of the Public Resources Code.

27 (7) Staff of the department and the board, as well as persons
28 selected by the board, shall be available to counties for consultation
29 and technical services in preparation and implementation of
30 proposals accepted by the board.

31 (8) The board also shall seek advice from the Department of
32 Alcohol and Drug Programs in exercising its responsibilities under
33 this chapter.

34 (9) Funds shall be made available to the county and county
35 agency which is selected to administer the program by the board
36 of supervisors of that county.

37 (10) Area of greatest need can be a factor considered in awarding
38 contracts to counties.

39 (11) Particular consideration shall be given to counties that can
40 demonstrate an ability to provide continuing counseling and

1 programming for offenders in programs established under this
2 chapter, once the offenders have completed the programs and have
3 returned to the community.

4 (12) A county may propose a variety of types and sizes of
5 facilities to meet the needs of its plan and to provide the services
6 for varying types of offenders to be served under this chapter.
7 Funds granted to a county may be utilized for construction of more
8 than one facility.

9 Any county wishing to use existing county-owned sites or
10 facilities may negotiate those arrangements with the Department
11 of Corrections and the Board of Corrections to meet the needs of
12 its plan.

13 *SEC. 468. Section 11160 of the Penal Code is amended to*
14 *read:*

15 11160. (a) Any health practitioner employed in a health
16 facility, clinic, physician's office, local or state public health
17 department, or a clinic or other type of facility operated by a local
18 or state public health department who, in his or her professional
19 capacity or within the scope of his or her employment, provides
20 medical services for a physical condition to a patient whom he or
21 she knows or reasonably suspects is a person described as follows,
22 shall immediately make a report in accordance with subdivision

23 (b):

24 (1) Any person suffering from any wound or other physical
25 injury inflicted by his or her own act or inflicted by another where
26 the injury is by means of a firearm.

27 (2) Any person suffering from any wound or other physical
28 injury inflicted upon the person where the injury is the result of
29 assaultive or abusive conduct.

30 (b) Any health practitioner employed in a health facility, clinic,
31 physician's office, local or state public health department, or a
32 clinic or other type of facility operated by a local or state public
33 health department shall make a report regarding persons described
34 in subdivision (a) to a local law enforcement agency as follows:

35 (1) A report by telephone shall be made immediately or as soon
36 as practically possible.

37 (2) A written report shall be prepared on the standard form
38 developed in compliance with paragraph (4) of this subdivision,
39 and Section 11160.2, and adopted by the ~~California Emergency~~
40 ~~Management Agency~~ *Office of Emergency Services*, or on a form

1 developed and adopted by another state agency that otherwise
2 fulfills the requirements of the standard form. The completed form
3 shall be sent to a local law enforcement agency within two working
4 days of receiving the information regarding the person.

5 (3) A local law enforcement agency shall be notified and a
6 written report shall be prepared and sent pursuant to paragraphs
7 (1) and (2) even if the person who suffered the wound, other injury,
8 or assaultive or abusive conduct has expired, regardless of whether
9 or not the wound, other injury, or assaultive or abusive conduct
10 was a factor contributing to the death, and even if the evidence of
11 the conduct of the perpetrator of the wound, other injury, or
12 assaultive or abusive conduct was discovered during an autopsy.

13 (4) The report shall include, but shall not be limited to, the
14 following:

15 (A) The name of the injured person, if known.

16 (B) The injured person's whereabouts.

17 (C) The character and extent of the person's injuries.

18 (D) The identity of any person the injured person alleges
19 inflicted the wound, other injury, or assaultive or abusive conduct
20 upon the injured person.

21 (c) For the purposes of this section, "injury" shall not include
22 any psychological or physical condition brought about solely
23 through the voluntary administration of a narcotic or restricted
24 dangerous drug.

25 (d) For the purposes of this section, "assaultive or abusive
26 conduct" shall include any of the following offenses:

27 (1) Murder, in violation of Section 187.

28 (2) Manslaughter, in violation of Section 192 or 192.5.

29 (3) Mayhem, in violation of Section 203.

30 (4) Aggravated mayhem, in violation of Section 205.

31 (5) Torture, in violation of Section 206.

32 (6) Assault with intent to commit mayhem, rape, sodomy, or
33 oral copulation, in violation of Section 220.

34 (7) Administering controlled substances or anesthetic to aid in
35 commission of a felony, in violation of Section 222.

36 (8) Battery, in violation of Section 242.

37 (9) Sexual battery, in violation of Section 243.4.

38 (10) Incest, in violation of Section 285.

39 (11) Throwing any vitriol, corrosive acid, or caustic chemical
40 with intent to injure or disfigure, in violation of Section 244.

- 1 (12) Assault with a stun gun or taser, in violation of Section
- 2 244.5.
- 3 (13) Assault with a deadly weapon, firearm, assault weapon, or
- 4 machinegun, or by means likely to produce great bodily injury, in
- 5 violation of Section 245.
- 6 (14) Rape, in violation of Section 261.
- 7 (15) Spousal rape, in violation of Section 262.
- 8 (16) Procuring any female to have sex with another man, in
- 9 violation of Section 266, 266a, 266b, or 266c.
- 10 (17) Child abuse or endangerment, in violation of Section 273a
- 11 or 273d.
- 12 (18) Abuse of spouse or cohabitant, in violation of Section
- 13 273.5.
- 14 (19) Sodomy, in violation of Section 286.
- 15 (20) Lewd and lascivious acts with a child, in violation of
- 16 Section 288.
- 17 (21) Oral copulation, in violation of Section 288a.
- 18 (22) Sexual penetration, in violation of Section 289.
- 19 (23) Elder abuse, in violation of Section 368.
- 20 (24) An attempt to commit any crime specified in paragraphs
- 21 (1) to (23), inclusive.
- 22 (e) When two or more persons who are required to report are
- 23 present and jointly have knowledge of a known or suspected
- 24 instance of violence that is required to be reported pursuant to this
- 25 section, and when there is an agreement among these persons to
- 26 report as a team, the team may select by mutual agreement a
- 27 member of the team to make a report by telephone and a single
- 28 written report, as required by subdivision (b). The written report
- 29 shall be signed by the selected member of the reporting team. Any
- 30 member who has knowledge that the member designated to report
- 31 has failed to do so shall thereafter make the report.
- 32 (f) The reporting duties under this section are individual, except
- 33 as provided in subdivision (e).
- 34 (g) No supervisor or administrator shall impede or inhibit the
- 35 reporting duties required under this section and no person making
- 36 a report pursuant to this section shall be subject to any sanction
- 37 for making the report. However, internal procedures to facilitate
- 38 reporting and apprise supervisors and administrators of reports
- 39 may be established, except that these procedures shall not be
- 40 inconsistent with this article. The internal procedures shall not

1 require any employee required to make a report under this article
2 to disclose his or her identity to the employer.

3 (h) For the purposes of this section, it is the Legislature's intent
4 to avoid duplication of information.

5 *SEC. 469. Section 11160.1 of the Penal Code is amended to*
6 *read:*

7 11160.1. (a) Any health practitioner employed in any health
8 facility, clinic, physician's office, local or state public health
9 department, or a clinic or other type of facility operated by a local
10 or state public health department who, in his or her professional
11 capacity or within the scope of his or her employment, performs
12 a forensic medical examination on any person in the custody of
13 law enforcement from whom evidence is sought in connection
14 with the commission or investigation of a crime of sexual assault,
15 as described in subdivision (d) of Section 11160, shall prepare a
16 written report. The report shall be on a standard form developed
17 by, or at the direction of, the ~~California Emergency Management~~
18 ~~Agency Office of Emergency Services~~, and shall be immediately
19 provided to the law enforcement agency who has custody of the
20 individual examined.

21 (b) The examination and report is subject to the confidentiality
22 requirements of the Confidentiality of Medical Information Act
23 (Chapter 1 (commencing with Section 56) of Part 2.6 of Division
24 1 of the Civil Code), the physician-patient privilege pursuant to
25 Article 6 (commencing with Section 990) of Chapter 4 of Division
26 8 of the Evidence Code, and the privilege of official information
27 pursuant to Article 9 (commencing with Section 1040) of Chapter
28 4 of Division 8 of the Evidence Code.

29 (c) The report shall be released upon request, oral or written, to
30 any person or agency involved in any related investigation or
31 prosecution of a criminal case, including, but not limited to, a law
32 enforcement officer, district attorney, city attorney, crime
33 laboratory, county licensing agency, or coroner. The report may
34 be released to defense counsel or another third party only through
35 discovery of documents in the possession of a prosecuting agency
36 or following the issuance of a lawful court order authorizing the
37 release of the report.

38 (d) A health practitioner who makes a report in accordance with
39 this section shall not incur civil or criminal liability. No person,
40 agency, or their designee required or authorized to report pursuant

1 to this section who takes photographs of a person suspected of
2 being a person subject to a forensic medical examination as
3 described in this section shall incur any civil or criminal liability
4 for taking the photographs, causing the photographs to be taken,
5 or disseminating the photographs to a law enforcement officer,
6 district attorney, city attorney, crime laboratory, county licensing
7 agency, or coroner with the reports required in accordance with
8 this section. However, this subdivision shall not be deemed to
9 grant immunity from civil or criminal liability with respect to any
10 other use of the photographs.

11 (e) Section 11162 does not apply to this section.

12 (f) With the exception of any health practitioner who has entered
13 into a contractual agreement to perform forensic medical
14 examinations, no health practitioner shall be required to perform
15 a forensic medical examination as part of his or her duties as a
16 health practitioner.

17 *SEC. 470. Section 11161.2 of the Penal Code is amended to*
18 *read:*

19 11161.2. (a) The Legislature finds and declares that adequate
20 protection of victims of domestic violence and elder and dependent
21 adult abuse has been hampered by lack of consistent and
22 comprehensive medical examinations. Enhancing examination
23 procedures, documentation, and evidence collection will improve
24 investigation and prosecution efforts.

25 (b) ~~The California Emergency Management Agency Office of~~
26 ~~Emergency Services~~ shall, in cooperation with the State Department
27 of ~~Public Health Services~~, the Department of Aging and the
28 ombudsman program, the State Department of Social Services,
29 law enforcement agencies, the Department of Justice, the California
30 Association of Crime Lab Directors, the California District
31 Attorneys Association, the California State Sheriffs' Association,
32 the California Medical Association, the California Police Chiefs'
33 Association, domestic violence advocates, the California Medical
34 Training Center, adult protective services, and other appropriate
35 experts:

36 (1) Establish medical forensic forms, instructions, and
37 examination protocol for victims of domestic violence and elder
38 and dependent adult abuse and neglect using as a model the form
39 and guidelines developed pursuant to Section 13823.5. The form

1 should include, but not be limited to, a place for a notation
2 concerning each of the following:

3 (A) Notification of injuries and a report of suspected domestic
4 violence or elder or dependent adult abuse and neglect to law
5 enforcement authorities, Adult Protective Services, or the State
6 Long-Term Care Ombudsmen, in accordance with existing
7 reporting procedures.

8 (B) Obtaining consent for the examination, treatment of injuries,
9 collection of evidence, and photographing of injuries. Consent to
10 treatment shall be obtained in accordance with the usual hospital
11 policy. A victim shall be informed that he or she may refuse to
12 consent to an examination for evidence of domestic violence and
13 elder and dependent adult abuse and neglect, including the
14 collection of physical evidence, but that refusal is not a ground for
15 denial of treatment of injuries and disease, if the person wishes to
16 obtain treatment and consents thereto.

17 (C) Taking a patient history of domestic violence or elder or
18 dependent adult abuse and neglect and other relevant medical
19 history.

20 (D) Performance of the physical examination for evidence of
21 domestic violence or elder or dependent adult abuse and neglect.

22 (E) Collection of physical evidence of domestic violence or
23 elder or dependent adult abuse.

24 (F) Collection of other medical and forensic specimens, as
25 indicated.

26 (G) Procedures for the preservation and disposition of evidence.

27 (H) Complete documentation of medical forensic exam findings.

28 (2) Determine whether it is appropriate and forensically sound
29 to develop separate or joint forms for documentation of medical
30 forensic findings for victims of domestic violence and elder and
31 dependent adult abuse and neglect.

32 (3) The forms shall become part of the patient's medical record
33 pursuant to guidelines established by the agency or agencies
34 designated by the ~~California Emergency Management Agency~~
35 *Office of Emergency Services* advisory committee and subject to
36 the confidentiality laws pertaining to release of medical forensic
37 examination records.

38 (c) The forms shall be made accessible for use on the Internet.

39 *SEC. 471. Section 11171 of the Penal Code is amended to*
40 *read:*

1 11171. (a) (1) The Legislature hereby finds and declares that
2 adequate protection of victims of child physical abuse or neglect
3 has been hampered by the lack of consistent and comprehensive
4 medical examinations.

5 (2) Enhancing examination procedures, documentation, and
6 evidence collection relating to child abuse or neglect will improve
7 the investigation and prosecution of child abuse or neglect as well
8 as other child protection efforts.

9 ~~(b) The California Emergency Management Agency Office of~~
10 *Emergency Services* shall, in cooperation with the State Department
11 of Social Services, the Department of Justice, the California
12 Association of Crime Lab Directors, the California District
13 Attorneys Association, the California State Sheriffs' Association,
14 the California Peace Officers Association, the California Medical
15 Association, the California Police Chiefs' Association, child
16 advocates, the California Medical Training Center, child protective
17 services, and other appropriate experts, establish medical forensic
18 forms, instructions, and examination protocols for victims of child
19 physical abuse or neglect using as a model the form and guidelines
20 developed pursuant to Section 13823.5.

21 (c) The forms shall include, but not be limited to, a place for
22 notation concerning each of the following:

23 (1) Any notification of injuries or any report of suspected child
24 physical abuse or neglect to law enforcement authorities or
25 children's protective services, in accordance with existing reporting
26 procedures.

27 (2) Addressing relevant consent issues, if indicated.

28 (3) The taking of a patient history of child physical abuse or
29 neglect that includes other relevant medical history.

30 (4) The performance of a physical examination for evidence of
31 child physical abuse or neglect.

32 (5) The collection or documentation of any physical evidence
33 of child physical abuse or neglect, including any recommended
34 photographic procedures.

35 (6) The collection of other medical or forensic specimens,
36 including drug ingestion or toxication, as indicated.

37 (7) Procedures for the preservation and disposition of evidence.

38 (8) Complete documentation of medical forensic exam findings
39 with recommendations for diagnostic studies, including blood tests
40 and X-rays.

1 (9) An assessment as to whether there are findings that indicate
2 physical abuse or neglect.

3 (d) The forms shall become part of the patient's medical record
4 pursuant to guidelines established by the advisory committee of
5 the ~~California Emergency Management Agency Office of~~
6 *Emergency Services* and subject to the confidentiality laws
7 pertaining to the release of medical forensic examination records.

8 (e) The forms shall be made accessible for use on the Internet.

9 *SEC. 472. Section 11174.34 of the Penal Code is amended to*
10 *read:*

11 11174.34. (a) (1) The purpose of this section shall be to
12 coordinate and integrate state and local efforts to address fatal
13 child abuse or neglect, and to create a body of information to
14 prevent child deaths.

15 (2) It is the intent of the Legislature that the California State
16 Child Death Review Council, the Department of Justice, the State
17 Department of Social Services, the State Department of Health
18 Services, and state and local child death review teams shall share
19 data and other information necessary from the Department of
20 Justice Child Abuse Central Index and Supplemental Homicide
21 File, the State Department of Health Services Vital Statistics and
22 the Department of Social Services Child Welfare Services/Case
23 Management System files to establish accurate information on the
24 nature and extent of child abuse- or neglect-related fatalities in
25 California as those documents relate to child fatality cases. Further,
26 it is the intent of the Legislature to ensure that records of child
27 abuse- or neglect-related fatalities are entered into the State
28 Department of Social Services, Child Welfare Services/Case
29 Management System. It is also the intent that training and technical
30 assistance be provided to child death review teams and
31 professionals in the child protection system regarding multiagency
32 case review.

33 (b) (1) It shall be the duty of the California State Child Death
34 Review Council to oversee the statewide coordination and
35 integration of state and local efforts to address fatal child abuse or
36 neglect and to create a body of information to prevent child deaths.
37 The Department of Justice, the State Department of Social Services,
38 the State Department of Health Services, the California Coroner's
39 Association, the County Welfare Directors Association, Prevent
40 Child Abuse California, the California Homicide Investigators

1 Association, the ~~California Emergency Management Agency Office~~
2 ~~of Emergency Services~~, the Inter-Agency Council on Child Abuse
3 and Neglect/National Center on Child Fatality Review, the
4 California Conference of Local Health Officers, the California
5 Conference of Local Directors of Maternal, Child, and Adolescent
6 Health, the California Conference of Local Health Department
7 Nursing Directors, the California District Attorneys Association,
8 and at least three regional representatives, chosen by the other
9 members of the council, working collaboratively for the purposes
10 of this section, shall be known as the California State Child Death
11 Review Council. The council shall select a chairperson or
12 cochairpersons from the members.

13 (2) The Department of Justice is hereby authorized to carry out
14 the purposes of this section by coordinating council activities and
15 working collaboratively with the agencies and organizations in
16 paragraph (1), and may consult with other representatives of other
17 agencies and private organizations, to help accomplish the purpose
18 of this section.

19 (c) Meetings of the agencies and organizations involved shall
20 be convened by a representative of the Department of Justice. All
21 meetings convened between the Department of Justice and any
22 organizations required to carry out the purpose of this section shall
23 take place in this state. There shall be a minimum of four meetings
24 per calendar year.

25 (d) To accomplish the purpose of this section, the Department
26 of Justice and agencies and organizations involved shall engage
27 in the following activities:

28 (1) Analyze and interpret state and local data on child death in
29 an annual report to be submitted to local child death review teams
30 with copies to the Governor and the Legislature, no later than July
31 1 each year. Copies of the report shall also be distributed to public
32 officials in the state who deal with child abuse issues and to those
33 agencies responsible for child death investigation in each county.
34 The report shall contain, but not be limited to, information provided
35 by state agencies and the county child death review teams for the
36 preceding year.

37 The state data shall include the Department of Justice Child
38 Abuse Central Index and Supplemental Homicide File, the State
39 Department of Health Services Vital Statistics, and the State

1 Department of Social Services Child Welfare Services/Case
2 Management System.

3 (2) In conjunction with the ~~California Emergency Management~~
4 ~~Agency Office of Emergency Services~~, coordinate statewide and
5 local training for county death review teams and the members of
6 the teams, including, but not limited to, training in the application
7 of the interagency child death investigation protocols and
8 procedures established under Sections 11166.7 and 11166.8 to
9 identify child deaths associated with abuse or neglect.

10 (e) The State Department of *Public Health* ~~Services~~, in
11 collaboration with the California State Child Death Review
12 Council, shall design, test and implement a statewide child abuse
13 or neglect fatality tracking system incorporating information
14 collected by local child death review teams. The department shall:

15 (1) Establish a minimum case selection criteria and review
16 protocols of local child death review teams.

17 (2) Develop a standard child death review form with a minimum
18 core set of data elements to be used by local child death review
19 teams, and collect and analyze that data.

20 (3) Establish procedural safeguards in order to maintain
21 appropriate confidentiality and integrity of the data.

22 (4) Conduct annual reviews to reconcile data reported to the
23 State Department of Health Services Vital Statistics, Department
24 of Justice Homicide Files and Child Abuse Central Index, and the
25 State Department of Social Services Child Welfare Services/Case
26 Management System data systems, with data provided from local
27 child death review teams.

28 (5) Provide technical assistance to local child death review teams
29 in implementing and maintaining the tracking system.

30 (6) This subdivision shall become operative on July 1, 2000,
31 and shall be implemented only to the extent that funds are
32 appropriated for its purposes in the Budget Act.

33 (f) Local child death review teams shall participate in a statewide
34 child abuse or neglect fatalities monitoring system by:

35 (1) Meeting the minimum standard protocols set forth by the
36 State Department of *Public Health* ~~Services~~ in collaboration with
37 the California State Child Death Review Council.

38 (2) Using the standard data form to submit information on child
39 abuse or neglect fatalities in a timely manner established by the
40 State Department of *Public Health* ~~Services~~.

1 (g) The California State Child Death Review Council shall
2 monitor the implementation of the monitoring system and
3 incorporate the results and findings of the system and review into
4 an annual report.

5 (h) The Department of Justice shall direct the creation,
6 maintenance, updating, and distribution electronically and by paper,
7 of a statewide child death review team directory, which shall
8 contain the names of the members of the agencies and private
9 organizations participating under this section, and the members of
10 local child death review teams and local liaisons to those teams.
11 The department shall work in collaboration with members of the
12 California State Child Death Review Council to develop a directory
13 of professional experts, resources, and information from relevant
14 agencies and organizations and local child death review teams,
15 and to facilitate regional working relationships among teams. The
16 Department of Justice shall maintain and update these directories
17 annually.

18 (i) The agencies or private organizations participating under
19 this section shall participate without reimbursement from the state.
20 Costs incurred by participants for travel or per diem shall be borne
21 by the participant agency or organization. The participants shall
22 be responsible for collecting and compiling information to be
23 included in the annual report. The Department of Justice shall be
24 responsible for printing and distributing the annual report using
25 available funds and existing resources.

26 (j) ~~The California Emergency Management Agency Office of~~
27 *Emergency Services*, in coordination with the State Department
28 of Social Services, the Department of Justice, and the California
29 State Child Death Review Council shall contract with state or
30 nationally recognized organizations in the area of child death
31 review to conduct statewide training and technical assistance for
32 local child death review teams and relevant organizations, develop
33 standardized definitions for fatal child abuse or neglect, develop
34 protocols for the investigation of fatal child abuse or neglect, and
35 address relevant issues such as grief and mourning, data collection,
36 training for medical personnel in the identification of child abuse
37 or neglect fatalities, domestic violence fatality review, and other
38 related topics and programs. The provisions of this subdivision
39 shall only be implemented to the extent that the agency can absorb
40 the costs of implementation within its current funding, or to the

1 extent that funds are appropriated for its purposes in the Budget
2 Act.

3 (k) Law enforcement and child welfare agencies shall
4 cross-report all cases of child death suspected to be related to child
5 abuse or neglect whether or not the deceased child has any known
6 surviving siblings.

7 (l) County child welfare agencies shall create a record in the
8 Child Welfare Services/Case Management System (CWS/CMS)
9 on all cases of child death suspected to be related to child abuse
10 or neglect, whether or not the deceased child has any known
11 surviving siblings. Upon notification that the death was determined
12 not to be related to child abuse or neglect, the child welfare agency
13 shall enter that information into the Child Welfare Services/Case
14 Management System.

15 *SEC. 473. Section 11501 of the Penal Code is amended to*
16 *read:*

17 11501. (a) There is hereby established in the ~~California~~
18 ~~Emergency Management Agency~~ *Office of Emergency Services*,
19 a program of financial assistance to provide for statewide programs
20 of education, training, and research for local public prosecutors
21 and public defenders. All funds made available to the ~~agency office~~
22 for the purposes of this chapter shall be administered and
23 distributed by the ~~secretary of the agency~~ *Director of Emergency*
24 *Services*.

25 (b) The ~~Secretary of Emergency Management~~ *Director of*
26 *Emergency Services* is authorized to allocate and award funds to
27 public agencies or private nonprofit organizations for purposes of
28 establishing statewide programs of education, training, and research
29 for public prosecutors and public defenders, which programs meet
30 criteria established pursuant to Section 11502.

31 *SEC. 474. Section 11502 of the Penal Code is amended to*
32 *read:*

33 11502. (a) Criteria for selection of education, training, and
34 research programs for local public prosecutors and public defenders
35 shall be developed by the ~~California Emergency Management~~
36 ~~Agency~~ *Office of Emergency Services* in consultation with an
37 advisory group entitled the Prosecutors and Public Defenders
38 Education and Training Advisory Committee.

39 (b) The Prosecutors and Public Defenders Education and
40 Training Advisory Committee shall be composed of six local public

1 prosecutors and six local public defender representatives, all of
2 whom are appointed by the ~~Secretary of Emergency Management~~
3 *Director of Emergency Services*, who shall provide staff services
4 to the advisory committee. In appointing the members of the
5 committee, the ~~secretary~~ *director* shall invite the Attorney General,
6 the State Public Defender, the Speaker of the Assembly, and the
7 Senate President pro Tempore to participate as ex officio members
8 of the committee.

9 (c) ~~The California Emergency Management Agency Office of~~
10 *Emergency Services*, in consultation with the advisory committee,
11 shall develop specific guidelines including criteria for selection
12 of organizations to provide education, training, and research
13 services.

14 (d) In determining the equitable allocation of funds between
15 prosecution and defense functions, the ~~California Emergency~~
16 ~~Management Agency Office of Emergency Services~~ and the
17 advisory committee shall give consideration to the amount of local
18 government expenditures on a statewide basis for the support of
19 those functions.

20 (e) The administration of the overall program shall be performed
21 by the ~~California Emergency Management Agency Office of~~
22 *Emergency Services*. The ~~agency office~~ may, out of any
23 appropriation for this program, expend an amount not to exceed
24 7.5 percent for any fiscal year for those purposes.

25 (f) No funds appropriated pursuant to this title shall be used to
26 support a legislative advocate.

27 (g) To the extent necessary to meet the requirements of the State
28 Bar of California relating to certification of training for legal
29 specialists, the executive director shall ensure that, where
30 appropriate, all programs funded under this title are open to all
31 members of the State Bar of California. The program guidelines
32 established pursuant to subdivision (c) shall provide for the
33 reimbursement of costs for all participants deemed eligible by the
34 ~~California Emergency Management Agency Office of Emergency~~
35 *Services*, in conjunction with the Legal Training Advisory
36 Committee, by means of course attendance.

37 *SEC. 475. Section 11504 of the Penal Code is amended to*
38 *read:*

39 11504. To the extent funds are appropriated from the
40 Assessment Fund to the Local Public Prosecutors and Public

1 Defenders Training Fund established pursuant to Section 11503,
2 the ~~California Emergency Management Agency Office of~~
3 ~~Emergency Services~~ shall allocate financial resources for statewide
4 programs of education, training, and research for local public
5 prosecutors and public defenders.

6 *SEC. 476. Section 13100.1 of the Penal Code is amended to*
7 *read:*

8 13100.1. (a) The Attorney General shall appoint an advisory
9 committee to the California-Criminal Index and Identification
10 (Cal-CII) system to assist in the ongoing management of the system
11 with respect to operating policies, criminal records content, and
12 records retention. The committee shall serve at the pleasure of the
13 Attorney General, without compensation, except for reimbursement
14 of necessary expenses.

15 (b) The committee shall consist of the following representatives:

16 (1) One representative from the California Police Chiefs'
17 Association.

18 (2) One representative from the California Peace Officers'
19 Association.

20 (3) Three representatives from the California State Sheriffs'
21 Association.

22 (4) One trial judge appointed by the Judicial Council.

23 (5) One representative from the California District Attorneys
24 Association.

25 (6) One representative from the California Court Clerks'
26 Association.

27 (7) One representative from the ~~California Emergency~~
28 ~~Management Agency Office of Emergency Services~~.

29 (8) One representative from the Chief Probation Officers'
30 Association.

31 (9) One representative from the Department of Corrections and
32 Rehabilitation.

33 (10) One representative from the Department of the California
34 Highway Patrol.

35 (11) One member of the public, appointed by the Senate
36 Committee on Rules, who is knowledgeable and experienced in
37 the process of utilizing background clearances.

38 (12) One member of the public, appointed by the Speaker of
39 the Assembly, who is knowledgeable and experienced in the
40 process of utilizing background clearances.

1 *SEC. 477. Section 13800 of the Penal Code is amended to*
2 *read:*

3 13800. Unless otherwise required by context, as used in this
4 title, ~~on and after July 1, 2012:~~

5 (a) “Agency” means the ~~California Emergency Management~~
6 ~~Agency Office of Emergency Services.~~

7 (b) “Board” means the Board of State and Community
8 Corrections.

9 (c) “Federal acts” means Subchapter V of Chapter 46 of the
10 federal Omnibus Crime Control and Safe Streets Act of 1968 (42
11 U.S.C. Sec. 3750 et seq.), the federal Juvenile Justice and
12 Delinquency Prevention Act of 1974 (42 U.S.C. Sec. 5601 et seq.),
13 and any act or acts amendatory or supplemental thereto.

14 (d) “Local boards” means local criminal justice planning boards.

15 (e) “Executive director” means the Executive Director of the
16 Board of State and Community Corrections.

17 (f) This section shall become operative on July 1, 2012.

18 *SEC. 478. Section 13820 of the Penal Code is amended to*
19 *read:*

20 13820. (a) The Office of Criminal Justice Planning is hereby
21 abolished. The duties and obligations of that office, and all powers
22 and authority formerly exercised by that office, shall be transferred
23 to and assumed by the ~~California Emergency Management Agency~~
24 ~~Office of Emergency Services~~, with the exception of the duties
25 described in Section 6024, which shall be assumed by the Board
26 of State and Community Corrections.

27 (b) Except for this section, the phrase “Office of Criminal Justice
28 Planning” or any reference to that phrase in this code shall be
29 construed to mean or refer to the ~~agency Office of Emergency~~
30 ~~Services~~. Any reference to the executive director of the Office of
31 Criminal Justice Planning in this code shall be construed to mean
32 the ~~secretary Director of Emergency Services~~.

33 *SEC. 479. Section 13821 of the Penal Code is amended to*
34 *read:*

35 13821. (a) For the 2011–12 fiscal year, the Controller shall
36 allocate 9 percent of the amount deposited in the Local Law
37 Enforcement Services Account in the Local Revenue Fund 2011
38 to the ~~California Emergency Management Agency Office of~~
39 ~~Emergency Services~~. The Controller shall allocate these funds on
40 a quarterly basis beginning on October 1. These funds shall be

1 allocated by the Controller pursuant to a schedule provided by the
2 ~~California Emergency Management Agency Office of Emergency~~
3 ~~Services~~ which shall be developed according to the ~~agency's~~
4 ~~office's~~ existing programmatic guidelines and the following
5 percentages:

6 (1) The California Multi-Jurisdictional Methamphetamine
7 Enforcement Teams shall receive 47.52 percent in the 2011–12
8 fiscal year.

9 (2) The Multi-Agency Gang Enforcement Consortium shall
10 receive 0.2 percent in the 2011–12 fiscal year.

11 (3) The Sexual Assault Felony Enforcement Teams, authorized
12 by Section 13887, shall receive 12.48 percent in the 2011–12 fiscal
13 year.

14 (4) The High Technology Theft Apprehension and Prosecution
15 Program, authorized by Section 13848.2, shall receive 26.83
16 percent in the 2011–12 fiscal year.

17 (5) The Gang Violence Suppression Program authorized by
18 Section 13826.1, shall receive 3.91 percent in the 2011–12 fiscal
19 year.

20 (6) The Central Valley and Central Coast Rural Crime
21 Prevention Programs, authorized by Sections 14170 and 14180,
22 shall receive 9.06 percent in the 2011–12 fiscal year.

23 (b) For the 2011–12 fiscal year, the ~~California Emergency~~
24 ~~Management Agency Office of Emergency Services~~ may be
25 reimbursed up to five hundred eleven thousand dollars (\$511,000)
26 from the funds allocated in subdivision (a) for program
27 administrative costs.

28 (c) Commencing with the 2012–13 fiscal year, the Controller
29 shall allocate 8.35 percent of the amount deposited in the
30 Enhancing Law Enforcement Activities Subaccount in the Local
31 Revenue Fund 2011 and shall distribute the moneys as follows:

32 (1) Commencing with the 2012–13 fiscal year, the California
33 Multi-Jurisdictional Methamphetamine Enforcement Teams shall
34 receive 47.52 percent and shall be allocated by the Controller
35 according to the following schedule:

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Alameda County	1.7109%
Alpine County	0.6327%
Amador County	0.6327%

1	Butte County	1.6666%
2	Calaveras County	0.8435%
3	Colusa County	0.1623%
4	Contra Costa County	1.3163%
5	Del Norte County	0.2167%
6	El Dorado County	1.3716%
7	Fresno County	5.3775%
8	Glenn County	0.2130%
9	Humboldt County	1.0198%
10	Imperial County	2.5510%
11	Inyo County	0.6327%
12	Kern County	5.6938%
13	Kings County	0.9701%
14	Lake County	0.6604%
15	Lassen County	0.2643%
16	Los Angeles County	5.3239%
17	Madera County	0.9701%
18	Marin County	0.6292%
19	Mariposa County	0.6327%
20	Mendocino County	0.6846%
21	Merced County	1.8136%
22	Modoc County	0.0734%
23	Mono County	0.6327%
24	Monterey County	0.9018%
25	Napa County	0.6803%
26	Nevada County	0.7482%
27	Orange County	1.5661%
28	Placer County	2.6395%
29	Plumas County	0.1516%
30	Riverside County	5.6395%
31	Sacramento County	10.0169%
32	San Benito County	0.8404%
33	San Bernardino County	8.9364%
34	San Diego County	2.5510%
35	San Francisco County	1.0034%
36	San Joaquin County	4.6394%
37	San Luis Obispo County	1.3483%
38	San Mateo County	1.1224%
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Santa Barbara County	1.3483%
Santa Clara County	2.0612%
Santa Cruz County	0.8333%
Shasta County	1.3426%
Sierra County	0.0245%
Siskiyou County	0.3401%
Solano County	1.8979%
Sonoma County	1.1610%
Stanislaus County	3.6272%
Sutter County	0.7177%
Tehama County	0.4808%
Trinity County	0.1044%
Tulare County	2.5306%
Tuolumne County	0.6327%
Ventura County	1.3483%
Yolo County	1.5215%
Yuba County	0.5466%

(2) Commencing with the 2012–13 fiscal year, the Multi-Agency Gang Enforcement Consortium shall receive 0.2 percent and shall be allocated by the Controller to Fresno County.

(3) Commencing with the 2012–13 fiscal year, the Sexual Assault Felony Enforcement Teams, authorized by Section 13887, shall receive 12.48 percent and shall be allocated by the Controller according to the following schedule:

Los Angeles County	21.0294%
Riverside County	12.8778%
Sacramento County	14.0198%
San Luis Obispo County	12.0168%
Santa Clara County	17.0238%
Shasta County	12.0168%
Tulare County	11.0156%

(4) Commencing with the 2012–13 fiscal year, the High Technology Theft Apprehension and Prosecution Program, authorized by Section 13848.2, shall receive 26.83 percent and shall be allocated by the Controller according to the following schedule:

1	Los Angeles County	18.25%
2	Marin County	18.25%
3	Marin County, for use by the Department of Justice in	7.00%
4	implementing subdivision (b) of Section 13848.4	
5	Marin County, for use by the California District	1.75%
6	Attorneys Association in implementing subdivision	
7	(b) of Section 13848.4	
8	Sacramento County	18.25%
9	San Diego County	18.25%
10	Santa Clara County	18.25%

11
 12 (5) Commencing with the 2012–13 fiscal year, the Gang
 13 Violence Suppression Program, authorized by Section 13826.1,
 14 shall receive 3.91 percent and shall be allocated by the Controller
 15 according to the following schedule:

16	Alameda County	9.6775%
17	Los Angeles County	22.5808%
18	Monterey County	9.6775%
19	Napa County	17.7417%
20	City of Oxnard	17.7417%
21	City of Sacramento	22.5808%

22
 23
 24 (6) Commencing with the 2012–13 fiscal year, the Central
 25 Valley and Central Coast Rural Crime Prevention Programs,
 26 authorized by Sections 14170 and 14180, shall receive 9.06 percent
 27 and shall be allocated by the Controller according to the following
 28 schedule:

29	Fresno County	18.5588%
30	Kern County	13.7173%
31	Kings County	6.8587%
32	Madera County	4.4380%
33	Merced County	6.8587%
34	Monterey County	7.2411%
35	San Benito County	4.8273%
36	San Joaquin County	6.8587%
37	San Luis Obispo County	2.1723%
38	Santa Barbara County	3.6206%

Santa Cruz County	1.4482%
Stanislaus County	6.8587%
Tulare County	16.5415%

(d) For any of the programs described in this section, funding will be distributed by local agencies as would otherwise have occurred pursuant to Section 1 of Chapter 13 of the Statutes of 2011, First Extraordinary Session.

SEC. 480. Section 13823.2 of the Penal Code is amended to read:

13823.2. (a) The Legislature hereby finds and declares all of the following:

(1) That violent and serious crimes are being committed against the elderly on an alarmingly regular basis.

(2) That in 1985, the United States Department of Justice reported that approximately 1 in every 10 elderly households in the nation would be touched by crime.

(3) That the California Department of Justice, based upon limited data received from local law enforcement agencies, reported that approximately 10,000 violent crimes were committed against elderly victims in 1985.

(4) That while the elderly may not be the most frequent targets of crime, when they are victimized the impact of each vicious attack has long-lasting effects. Injuries involving, for example, a broken hip may never heal properly and often leave the victim physically impaired. The loss of money used for food and other daily living expenses for these costs may be life-threatening for the older citizen on a fixed income. In addition, stolen or damaged property often cannot be replaced.

(5) Although the State of California currently funds programs to provide assistance to victims of crime and to provide general crime prevention information, there are limited specialized efforts to respond directly to the needs of elderly victims or to provide prevention services tailored for the senior population.

(b) It is the intent of the Legislature that victim services, crime prevention, and criminal justice training programs funded by the *agency Office of Emergency Services* shall include, consistent with available resources, specialized components that respond to the diverse needs of elderly citizens residing in the state.

1 SEC. 481. Section 13823.3 of the Penal Code is amended to
 2 read:

3 13823.3. The ~~agency~~ *Office of Emergency Services* may expend
 4 funds for local domestic violence programs, subject to the
 5 availability of funds therefor.

6 SEC. 482. Section 13823.4 of the Penal Code is amended to
 7 read:

8 13823.4. (a) The Legislature finds the problem of family
 9 violence to be of serious and increasing magnitude. The Legislature
 10 also finds that acts of family violence often result in other crimes
 11 and social problems.

12 (b) There is in the ~~agency~~ *Office of Emergency Services*, a
 13 Family Violence Prevention Program. This program shall provide
 14 financial and technical assistance to local domestic and family
 15 violence centers in implementing family violence prevention
 16 programs.

17 The goals and functions of the program shall include all of the
 18 following:

19 (1) Promotion of community involvement through public
 20 education geared specifically toward reaching and educating the
 21 friends and neighbors of members of violent families.

22 (2) Development and dissemination of model protocols for the
 23 training of criminal justice system personnel in domestic violence
 24 intervention and prevention.

25 (3) Increasing citizen involvement in family violence prevention.

26 (4) Identification and testing of family violence prevention
 27 models.

28 (5) Replication of successful models, as appropriate, through
 29 the state.

30 (6) Identification and testing of domestic violence model
 31 protocols and intervention systems in major service delivery
 32 institutions.

33 (7) Development of informational materials and seminars to
 34 enable emulation or adaptation of the models by other communities.

35 (8) Provision of domestic violence prevention education and
 36 skills to students in schools.

37 (c) The ~~secretary~~ *Director of Emergency Services* shall allocate
 38 funds to local centers meeting the criteria for funding that shall be
 39 established by the ~~agency~~ *Office of Emergency Services* in
 40 consultation with practitioners and experts in the field of family

1 violence prevention. All centers receiving funds pursuant to this
2 section shall have had an ongoing recognized program, supported
3 by either public or private funds, dealing with an aspect of family
4 violence, for at least two years prior to the date specified for
5 submission of applications for funding pursuant to this section.
6 All centers funded pursuant to this section shall utilize volunteers
7 to the greatest extent possible.

8 The centers may seek, receive, and make use of any funds which
9 may be available from all public and private sources to augment
10 any state funds received pursuant to this section. Sixty percent of
11 the state funds received pursuant to this section shall be used to
12 develop and implement model program protocols and materials.
13 Forty percent of the state funds received pursuant to this section
14 shall be allocated to programs to disseminate model program
15 protocols and materials. Dissemination shall include training for
16 domestic violence agencies in California. Each of the programs
17 funded under this section shall focus on no more than two targeted
18 areas. These targeted model areas shall be determined by the
19 ~~agency~~ *Office of Emergency Services* in consultation with
20 practitioners and experts in the field of domestic violence, using
21 the domestic violence model priorities survey of the California
22 Alliance Against Domestic Violence.

23 Centers receiving funding shall provide matching funds of at
24 least 10 percent of the funds received pursuant to this section.

25 (d) The ~~agency~~ *Office of Emergency Services* shall develop and
26 disseminate throughout the state information and materials
27 concerning family violence prevention, including, but not limited
28 to, a procedures manual on prevention models. The ~~agency~~ *Office*
29 *of Emergency Services* shall also establish a resource center for
30 the collection, retention, and distribution of educational materials
31 related to family violence and its prevention.

32 *SEC. 483. Section 13823.5 of the Penal Code is amended to*
33 *read:*

34 13823.5. (a) The ~~agency~~ *Office of Emergency Services*, with
35 the assistance of the advisory committee established pursuant to
36 Section 13836, shall establish a protocol for the examination and
37 treatment of victims of sexual assault and attempted sexual assault,
38 including child molestation, and the collection and preservation
39 of evidence therefrom. The protocol shall contain recommended
40 methods for meeting the standards specified in Section 13823.11.

1 (b) In addition to the protocol, the ~~agency~~ *Office of Emergency*
2 *Services* shall develop informational guidelines, containing general
3 reference information on evidence collection and examination of
4 victims of, and psychological and medical treatment for victims
5 of, sexual assault and attempted sexual assault, including child
6 molestation.

7 In developing the protocol and the informational guidelines, the
8 ~~agency~~ *Office of Emergency Services* and the advisory committee
9 shall seek the assistance and guidance of organizations assisting
10 victims of sexual assault; qualified health care professionals,
11 criminalists, and administrators who are familiar with emergency
12 room procedures; victims of sexual assault; and law enforcement
13 officials.

14 (c) The ~~agency~~ *Office of Emergency Services*, in cooperation
15 with the State Department of *Public Health* ~~Services~~ and the
16 Department of Justice, shall adopt a standard and a complete form
17 or forms for the recording of medical and physical evidence data
18 disclosed by a victim of sexual assault or attempted sexual assault,
19 including child molestation.

20 Each qualified health care professional who conducts an
21 examination for evidence of a sexual assault or an attempted sexual
22 assault, including child molestation, shall use the standard form
23 or forms adopted pursuant to this section, and shall make those
24 observations and perform those tests as may be required for
25 recording of the data required by the form. The forms shall be
26 subject to the same principles of confidentiality applicable to other
27 medical records.

28 The ~~agency~~ *Office of Emergency Services* shall make copies of
29 the standard form or forms available to every public or private
30 general acute care hospital, as requested.

31 The standard form shall be used to satisfy the reporting
32 requirements specified in Sections 11160 and 11161 in cases of
33 sexual assault, and may be used in lieu of the form specified in
34 Section 11168 for reports of child abuse.

35 (d) The ~~agency~~ *Office of Emergency Services* shall distribute
36 copies of the protocol and the informational guidelines to every
37 general acute care hospital, law enforcement agency, and
38 prosecutor's office in the state.

39 (e) As used in this chapter, "qualified health care professional"
40 means a physician and surgeon currently licensed pursuant to

1 Chapter 5 (commencing with Section 2000) of Division 2 of the
2 Business and Professions Code, or a nurse currently licensed
3 pursuant to Chapter 6 (commencing with Section 2700) of Division
4 2 of the Business and Professions Code and working in consultation
5 with a physician and surgeon who conducts examinations or
6 provides treatment as described in Section 13823.9 in a general
7 acute care hospital or in a physician and surgeon's office.

8 *SEC. 484. Section 13823.6 of the Penal Code is amended to*
9 *read:*

10 13823.6. The ~~agency~~ *Office of Emergency Services* may secure
11 grants, donations, or other funding for the purpose of funding any
12 statewide task force on sexual assault of children that may be
13 established and administered by the Department of Justice.

14 *SEC. 485. Section 13823.9 of the Penal Code is amended to*
15 *read:*

16 13823.9. (a) Every public or private general acute care hospital
17 that examines a victim of sexual assault or attempted sexual assault,
18 including child molestation, shall comply with the standards
19 specified in Section 13823.11 and the protocol and guidelines
20 adopted pursuant to Section 13823.5.

21 (b) Each county with a population of more than 100,000 shall
22 arrange that professional personnel trained in the examination of
23 victims of sexual assault, including child molestation, shall be
24 present or on call either in the county hospital which provides
25 emergency medical services or in any general acute care hospital
26 which has contracted with the county to provide emergency
27 medical services. In counties with a population of 1,000,000 or
28 more, the presence of these professional personnel shall be arranged
29 in at least one general acute care hospital for each 1,000,000
30 persons in the county.

31 (c) Each county shall designate at least one general acute care
32 hospital to perform examinations on victims of sexual assault,
33 including child molestation.

34 (d) (1) The protocol published by the ~~agency~~ *Office of*
35 *Emergency Services* shall be used as a guide for the procedures to
36 be used by every public or private general acute care hospital in
37 the state for the examination and treatment of victims of sexual
38 assault and attempted sexual assault, including child molestation,
39 and the collection and preservation of evidence therefrom.

1 (2) The informational guide developed by the ~~agency~~ *Office of*
2 *Emergency Services* shall be consulted where indicated in the
3 protocol, as well as to gain knowledge about all aspects of
4 examination and treatment of victims of sexual assault and child
5 molestation.

6 *SEC. 486. Section 13823.12 of the Penal Code is amended to*
7 *read:*

8 13823.12. Failure to comply fully with Section 13823.11 or
9 with the protocol or guidelines, or to utilize the form established
10 by the ~~agency~~ *Office of Emergency Services*, shall not constitute
11 grounds to exclude evidence, nor shall the court instruct or
12 comment to the trier of fact in any case that less weight may be
13 given to the evidence based on the failure to comply.

14 *SEC. 487. Section 13823.13 of the Penal Code is amended to*
15 *read:*

16 13823.13. (a) The ~~agency~~ *Office of Emergency Services* shall
17 develop a course of training for qualified health care professionals
18 relating to the examination and treatment of victims of sexual
19 assault. In developing the curriculum for the course, the ~~agency~~
20 *Office of Emergency Services* shall consult with health care
21 professionals and appropriate law enforcement agencies. The
22 ~~agency~~ *Office of Emergency Services* shall also obtain
23 recommendations from the same health care professionals and
24 appropriate law enforcement agencies on the best means to
25 disseminate the course of training on a statewide basis. The ~~agency~~
26 *Office of Emergency Services* is encouraged to designate a course
27 of training for qualified health care professionals, as described in
28 this section, and shall partner with other allied professionals
29 training courses, such as sexual assault investigator training
30 administered by the Peace Officer Standards and Training (POST),
31 sexual assault prosecutor training as administered by the California
32 District Attorneys Association (CDAA), or sexual assault advocate
33 training as administered by the California Coalition Against Sexual
34 Assault (CalCASA).

35 (b) The training course developed pursuant to subdivision (a)
36 shall be designed to train qualified health care professionals to do
37 all of the following:

38 (1) Perform a health assessment of victims of sexual assault in
39 accordance with any applicable minimum standards set forth in
40 Section 13823.11.

1 (2) Collect and document physical and laboratory evidence in
2 accordance with any applicable minimum standards set forth in
3 Section 13823.11.

4 (3) Provide information and referrals to victims of sexual assault
5 to enhance the continuity of care of victims.

6 (4) Present testimony in court.

7 (c) As used in this section, “qualified health care professional”
8 means a physician and surgeon currently licensed pursuant to
9 Chapter 5 (commencing with Section 2000) of Division 2 of the
10 Business and Professions Code, or a nurse currently licensed
11 pursuant to Chapter 6 (commencing with Section 2700) of Division
12 2 of the Business and Professions Code who works in consultation
13 with a physician and surgeon or who conducts examinations
14 described in Section 13823.9 in a general acute care hospital or in
15 the office of a physician and surgeon, a nurse practitioner currently
16 licensed pursuant to Chapter 6 (commencing with Section 2834)
17 of Division 2 of the Business and Professions Code, or a physician
18 assistant licensed pursuant to Chapter 7.7 (commencing with
19 Section 3500) of Division 2 of the Business and Professions Code.

20 (d) As used in this section, “appropriate law enforcement
21 agencies” may include, but shall not be limited to, the Attorney
22 General of the State of California, any district attorney, and any
23 agency of the State of California expressly authorized by statute
24 to investigate or prosecute law violators.

25 *SEC. 488. Section 13823.15 of the Penal Code is amended to*
26 *read:*

27 13823.15. (a) The Legislature finds the problem of domestic
28 violence to be of serious and increasing magnitude. The Legislature
29 also finds that existing domestic violence services are underfunded
30 and that some areas of the state are unserved or underserved.
31 Therefore, it is the intent of the Legislature that a goal or purpose
32 of the ~~California Emergency Management Agency (Cal EMA)~~
33 *Office of Emergency Services* shall be to ensure that all victims of
34 domestic violence served by the ~~Cal EMA~~ *Office of Emergency*
35 *Services* Comprehensive Statewide Domestic Violence Program
36 receive comprehensive, quality services.

37 (b) There is in the ~~Cal EMA~~ *Office of Emergency Services* a
38 Comprehensive Statewide Domestic Violence Program. The goals
39 of the program shall be to provide local assistance to existing
40 service providers, to maintain and expand services based on a

1 demonstrated need, and to establish a targeted or directed program
2 for the development and establishment of domestic violence
3 services in currently unserved and underserved areas. The ~~Cal~~
4 ~~EMA~~ *Office of Emergency Services* shall provide financial and
5 technical assistance to local domestic violence centers in
6 implementing all of the following services:

- 7 (1) Twenty-four-hour crisis hotlines.
- 8 (2) Counseling.
- 9 (3) Business centers.
- 10 (4) Emergency “safe” homes or shelters for victims and families.
- 11 (5) Emergency food and clothing.
- 12 (6) Emergency response to calls from law enforcement.
- 13 (7) Hospital emergency room protocol and assistance.
- 14 (8) Emergency transportation.
- 15 (9) Supportive peer counseling.
- 16 (10) Counseling for children.
- 17 (11) Court and social service advocacy.
- 18 (12) Legal assistance with temporary restraining orders, devices,
19 and custody disputes.
- 20 (13) Community resource and referral.
- 21 (14) Household establishment assistance.

22 Priority for financial and technical assistance shall be given to
23 emergency shelter programs and “safe” homes for victims of
24 domestic violence and their children.

25 (c) Except as provided in subdivision (f), the ~~Cal~~ ~~EMA~~ *Office*
26 *of Emergency Services* and the advisory committee established
27 pursuant to Section 13823.16 shall collaboratively administer the
28 Comprehensive Statewide Domestic Violence Program, and shall
29 allocate funds to local centers meeting the criteria for funding. All
30 organizations funded pursuant to this section shall utilize volunteers
31 to the greatest extent possible.

32 The centers may seek, receive, and make use of any funds which
33 may be available from all public and private sources to augment
34 state funds received pursuant to this section.

35 Centers receiving funding shall provide cash or an in-kind match
36 of at least 10 percent of the funds received pursuant to this section.

37 (d) The ~~Cal~~ ~~EMA~~ *Office of Emergency Services* shall conduct
38 statewide training workshops on domestic violence for local
39 centers, law enforcement, and other service providers designed to
40 enhance service programs. The workshops shall be planned in

1 conjunction with practitioners and experts in the field of domestic
2 violence prevention. The workshops shall include a curriculum
3 component on lesbian, gay, bisexual, and transgender specific
4 domestic abuse.

5 (e) ~~The Cal EMA Office of Emergency Services~~ shall develop
6 and disseminate throughout the state information and materials
7 concerning domestic violence. ~~The Cal EMA Office of Emergency~~
8 ~~Services~~ shall also establish a resource center for the collection,
9 retention, and distribution of educational materials related to
10 domestic violence. ~~The Cal EMA Office of Emergency Services~~
11 may utilize and contract with existing domestic violence technical
12 assistance centers in this state in complying with the requirements
13 of this subdivision.

14 (f) The funding process for distributing grant awards to domestic
15 violence shelter service providers (DVSSPs) shall be administered
16 by the ~~Cal EMA Office of Emergency Services~~ as follows:

17 (1) ~~The Cal EMA Office of Emergency Services~~ shall establish
18 each of the following:

19 (A) The process and standards for determining whether to grant,
20 renew, or deny funding to any DVSSP applying or reapplying for
21 funding under the terms of the program.

22 (B) For DVSSPs applying for grants under the request for
23 proposal process described in paragraph (2), a system for grading
24 grant applications in relation to the standards established pursuant
25 to subparagraph (A), and an appeal process for applications that
26 are denied. A description of this grading system and appeal process
27 shall be provided to all DVSSPs as part of the application required
28 under the RFP process.

29 (C) For DVSSPs reapplying for funding under the request for
30 application process described in paragraph (4), a system for grading
31 the performance of DVSSPs in relation to the standards established
32 pursuant to subparagraph (A), and an appeal process for decisions
33 to deny or reduce funding. A description of this grading system
34 and appeal process shall be provided to all DVSSPs receiving
35 grants under this program.

36 (2) Grants for shelters that were not funded in the previous cycle
37 shall be awarded as a result of a competitive request for proposal
38 (RFP) process. The RFP process shall comply with all applicable
39 state and federal statutes for domestic violence shelter funding

1 and, to the extent possible, the response to the RFP shall not exceed
2 25 narrative pages, excluding attachments.

3 (3) Grants shall be awarded to DVSSPs that propose to maintain
4 shelters or services previously granted funding pursuant to this
5 section, to expand existing services or create new services, or to
6 establish new domestic violence shelters in underserved or
7 unserved areas. Each grant shall be awarded for a three-year term.

8 (4) DVSSPs reapplying for grants shall not be subject to a
9 competitive grant process, but shall be subject to a request for
10 application (RFA) process. The RFA process shall consist in part
11 of an assessment of the past performance history of the DVSSP
12 in relation to the standards established pursuant to paragraph (1).
13 The RFA process shall comply with all applicable state and federal
14 statutes for domestic violence center funding and, to the extent
15 possible, the response to the RFA shall not exceed 10 narrative
16 pages, excluding attachments.

17 (5) A DVSSP funded through this program in the previous grant
18 cycle, including a DVSSP funded by Chapter 707 of the Statutes
19 of 2001, shall be funded upon reapplication, unless, pursuant to
20 the assessment required under the RFA process, its past
21 performance history fails to meet the standards established by the
22 ~~Cal-EMA~~ *Office of Emergency Services* pursuant to paragraph (1).

23 (6) The ~~Cal-EMA~~ *Office of Emergency Services* shall conduct
24 a minimum of one site visit every three years for each DVSSP
25 funded pursuant to this subdivision. The purpose of the site visit
26 shall be to conduct a performance assessment of, and provide
27 subsequent technical assistance for, each shelter visited. The
28 performance assessment shall include, but need not be limited to,
29 a review of all of the following:

- 30 (A) Progress in meeting program goals and objectives.
- 31 (B) Agency organization and facilities.
- 32 (C) Personnel policies, files, and training.
- 33 (D) Recordkeeping, budgeting, and expenditures.
- 34 (E) Documentation, data collection, and client confidentiality.

35 (7) After each site visit conducted pursuant to paragraph (6),
36 the ~~Cal-EMA~~ *Office of Emergency Services* shall provide a written
37 report to the DVSSP summarizing the performance of the DVSSP,
38 deficiencies noted, corrective action needed, and a deadline for
39 corrective action to be completed. The ~~Cal-EMA~~ *Office of*
40 *Emergency Services* shall also develop a corrective action plan for

1 verifying the completion of corrective action required. The ~~Cal~~
2 ~~EMA Office of Emergency Services~~ shall submit its written report
3 to the DVSSP no more than 60 days after the site visit. No grant
4 under the RFA process shall be denied if the DVSSP has not
5 received a site visit during the previous three years, unless the ~~Cal~~
6 ~~EMA Office of Emergency Services~~ is aware of criminal violations
7 relative to the administration of grant funding.

8 (8) If an agency receives funding from both the Comprehensive
9 Statewide Domestic Violence Program in the ~~California Emergency~~
10 ~~Management Agency Office of Emergency Services~~ and the
11 Maternal, Child, and Adolescent Health Division of the State
12 Department of Public Health during any grant cycle, the
13 Comprehensive Statewide Domestic Violence Program and the
14 Maternal, Child, and Adolescent Health Division shall, to the extent
15 feasible, coordinate agency site visits and share performance
16 assessment data with the goal of improving efficiency, eliminating
17 duplication, and reducing administrative costs.

18 (9) DVSSPs receiving written reports of deficiencies or orders
19 for corrective action after a site visit shall be given no less than
20 six months' time to take corrective action before the deficiencies
21 or failure to correct may be considered in the next RFA process.
22 However, the ~~Cal~~ ~~EMA Office of Emergency Services~~ shall have
23 the discretion to reduce the time to take corrective action in cases
24 where the deficiencies present a significant health or safety risk
25 or when other severe circumstances are found to exist. If corrective
26 action is deemed necessary, and a DVSSP fails to comply, or if
27 other deficiencies exist that, in the judgment of the ~~Cal~~ ~~EMA Office~~
28 ~~of Emergency Services~~, cannot be corrected, the ~~Cal~~ ~~EMA Office~~
29 ~~of Emergency Services~~ shall determine, using its grading system,
30 whether continued funding for the DVSSP should be reduced or
31 denied altogether. If a DVSSP has been determined to be deficient,
32 the ~~Cal~~ ~~EMA Office of Emergency Services~~ may, at any point
33 during the DVSSP's funding cycle following the expiration of the
34 period for corrective action, deny or reduce further funding.

35 (10) If a DVSSP applies or reapplies for funding pursuant to
36 this section and that funding is denied or reduced, the decision to
37 deny or reduce funding shall be provided in writing to the DVSSP,
38 along with a written explanation of the reasons for the reduction
39 or denial made in accordance with the grading system for the RFP
40 or RFA process. Except as otherwise provided, an appeal of the

1 decision to deny or reduce funding shall be made in accordance
2 with the appeal process established by the ~~Cal~~ EMA *Office of*
3 *Emergency Services*. The appeal process shall allow a DVSSP a
4 minimum of 30 days to appeal after a decision to deny or reduce
5 funding. All pending appeals shall be resolved before final funding
6 decisions are reached.

7 (11) It is the intent of the Legislature that priority for additional
8 funds that become available shall be given to currently funded,
9 new, or previously unfunded DVSSPs for expansion of services.
10 However, the ~~Cal~~ EMA *Office of Emergency Services* may
11 determine when expansion is needed to accommodate underserved
12 or unserved areas. If supplemental funding is unavailable, the ~~Cal~~
13 EMA *Office of Emergency Services* shall have the authority to
14 lower the base level of grants to all currently funded DVSSPs in
15 order to provide funding for currently funded, new, or previously
16 unfunded DVSSPs that will provide services in underserved or
17 unserved areas. However, to the extent reasonable, funding
18 reductions shall be reduced proportionately among all currently
19 funded DVSSPs. After the amount of funding reductions has been
20 determined, DVSSPs that are currently funded and those applying
21 for funding shall be notified of changes in the available level of
22 funding prior to the next application process. Funding reductions
23 made under this paragraph shall not be subject to appeal.

24 (12) Notwithstanding any other provision of this section, ~~Cal~~
25 EMA *Office of Emergency Services* may reduce funding to a
26 DVSSP funded pursuant to this section if federal funding support
27 is reduced. Funding reductions as a result of a reduction in federal
28 funding shall not be subject to appeal.

29 (13) Nothing in this section shall be construed to supersede any
30 function or duty required by federal acts, rules, regulations, or
31 guidelines for the distribution of federal grants.

32 (14) As a condition of receiving funding pursuant to this section,
33 DVSSPs shall do all of the following:

34 (A) Provide matching funds or in-kind contributions equivalent
35 to not less than 10 percent of the grant they would receive. The
36 matching funds or in-kind contributions may come from other
37 governmental or private sources.

38 (B) Ensure that appropriate staff and volunteers having client
39 contact meet the definition of “domestic violence counselor” as
40 specified in subdivision (a) of Section 1037.1 of the Evidence

1 Code. The minimum training specified in paragraph (2) of
2 subdivision (a) of Section 1037.1 of the Evidence Code shall be
3 provided to those staff and volunteers who do not meet the
4 requirements of paragraph (1) of subdivision (a) of Section 1037.1
5 of the Evidence Code.

6 (15) The following definitions shall apply for purposes of this
7 subdivision:

8 (A) “Domestic violence” means the infliction or threat of
9 physical harm against past or present adult or adolescent intimate
10 partners, including physical, sexual, and psychological abuse
11 against the partner, and is a part of a pattern of assaultive, coercive,
12 and controlling behaviors directed at achieving compliance from
13 or control over that person.

14 (B) “Domestic violence shelter service provider” or “DVSSP”
15 means a victim services provider that operates an established
16 system of services providing safe and confidential emergency
17 housing on a 24-hour basis for victims of domestic violence and
18 their children, including, but not limited to, hotel or motel
19 arrangements, haven, and safe houses.

20 (C) “Emergency shelter” means a confidential or safe location
21 that provides emergency housing on a 24-hour basis for victims
22 of domestic violence and their children.

23 (g) ~~The Cal-EMA Office of Emergency Services~~ may hire the
24 support staff and utilize all resources necessary to carry out the
25 purposes of this section. ~~The Cal-EMA Office of Emergency~~
26 ~~Services~~ shall not utilize more than 10 percent of funds
27 appropriated for the purpose of the program established by this
28 section for the administration of that program.

29 *SEC. 489. Section 13823.16 of the Penal Code is amended to*
30 *read:*

31 13823.16. (a) The Comprehensive Statewide Domestic
32 Violence Program established pursuant to Section 13823.15 shall
33 be collaboratively administered by the ~~California Emergency~~
34 ~~Management Agency (Cal-EMA) Office of Emergency Services~~
35 and an advisory council. The membership of the ~~(Cal-EMA) Office~~
36 ~~of Emergency Services~~ Domestic Violence Advisory Council shall
37 consist of experts in the provision of either direct or intervention
38 services to victims of domestic violence and their children, within
39 the scope and intention of the Comprehensive Statewide Domestic
40 Violence Assistance Program.

1 (b) The membership of the council shall consist of domestic
2 violence victims' advocates, battered women service providers, at
3 least one representative of service providers serving the lesbian,
4 gay, bisexual, and transgender community in connection with
5 domestic violence, and representatives of women's organizations,
6 law enforcement, and other groups involved with domestic
7 violence. At least one-half of the council membership shall consist
8 of domestic violence victims' advocates or battered women service
9 providers. It is the intent of the Legislature that the council
10 membership reflect the ethnic, racial, cultural, and geographic
11 diversity of the state, including people with disabilities. The council
12 shall be composed of no more than 13 voting members and two
13 nonvoting ex officio members who shall be appointed, as follows:

14 (1) Seven voting members shall be appointed by the Governor,
15 including at least one person recommended by the federally
16 recognized state domestic violence coalition.

17 (2) Three voting members shall be appointed by the Speaker of
18 the Assembly.

19 (3) Three voting members shall be appointed by the Senate
20 Committee on Rules.

21 (4) Two nonvoting ex officio members shall be Members of the
22 Legislature, one appointed by the Speaker of the Assembly and
23 one appointed by the Senate Committee on Rules. Any Member
24 of the Legislature appointed to the council shall meet with the
25 council and participate in its activities to the extent that
26 participation is not incompatible with his or her position as a
27 Member of the Legislature.

28 (c) ~~The CalEMA~~ *Office of Emergency Services* shall collaborate
29 closely with the council in developing funding priorities, framing
30 the request for proposals, and soliciting proposals.

31 (d) This section shall remain in effect only until January 1, 2015,
32 and as of that date is repealed, unless a later enacted statute, that
33 is enacted before January 1, 2015, deletes or extends that date.

34 *SEC. 490. Section 13823.17 of the Penal Code is amended to*
35 *read:*

36 13823.17. (a) The Legislature finds the problem of domestic
37 violence in the gay, lesbian, bisexual, and transgender community
38 to be of serious and increasing magnitude. The Legislature also
39 finds that existing domestic violence services for this population
40 are underfunded and that members of this population are unserved

1 or underserved in the state. Therefore, it is the intent of the
2 Legislature that a goal of the ~~California Emergency Management~~
3 ~~Agency (Cal-EMA) Office of Emergency Services~~ shall be to
4 increase access to domestic violence education, prevention, and
5 services specifically for the gay, lesbian, bisexual, and transgender
6 community.

7 (b) The goal of this section is to establish a targeted or directed
8 grant program for the development and support of domestic
9 violence programs and services for the gay, lesbian, bisexual, and
10 transgender community. The ~~Cal-EMA Office of Emergency~~
11 ~~Services~~ shall use funds from the Equality in Prevention and
12 Services for Domestic Abuse Fund to award grants annually to
13 qualifying organizations, with at least one in southern California
14 and one in northern California, to fund domestic violence programs
15 and services that are specific to the lesbian, gay, bisexual, and
16 transgender community, including, but not limited to, any of the
17 following:

- 18 (1) Counseling.
- 19 (2) Legal assistance with temporary restraining orders, devices,
20 and custody disputes.
- 21 (3) Court and social service advocacy.
- 22 (4) Batterers intervention.
- 23 (5) Educational workshops and publications.
- 24 (6) Community resource and referral.
- 25 (7) Emergency housing.
- 26 (8) Hotline or warmline.
- 27 (9) Household establishment assistance.

28 (c) Each grant shall be awarded for a three-year term, as funds
29 are available, for the purposes of this section.

30 (d) In order to be eligible to receive funds under this section,
31 qualified organizations shall provide matching funds of at least 10
32 percent of the funds to be received under the section unless this
33 requirement is waived by the ~~Secretary of Cal-EMA~~ *Director of*
34 *Emergency Services*, at his or her discretion.

35 (e) As a condition of receiving funding pursuant to this section,
36 grant recipients shall ensure that appropriate staff and volunteers
37 having client contact meet the definition of “domestic violence
38 counselor,” as specified in subdivision (a) of Section 1037.1 of
39 the Evidence Code. The minimum training specified in paragraph
40 (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall

1 be provided to those staff and volunteers who do not meet the
2 requirements of paragraph (1) of subdivision (a) of Section 1037.1
3 of the Evidence Code.

4 (f) In order to qualify for a grant award under this section, the
5 recipient shall be a California nonprofit organization with a
6 demonstrated history of working in the area of domestic violence
7 intervention, education, and prevention and serving the lesbian,
8 gay, bisexual, and transgender community.

9 (g) The funding process for distributing grant awards to
10 qualifying organizations shall be administered by the ~~Cal EMA~~
11 *Office of Emergency Services* as follows:

12 (1) Grant funds shall be awarded to qualifying organizations as
13 a result of a competitive request for proposal (RFP) process. The
14 RFP process shall comply with all applicable state and federal
15 statutes and to the extent possible, the response to the RFP shall
16 not exceed 15 narrative pages, excluding attachments.

17 (2) The following criteria shall be used to evaluate grant
18 proposals:

19 (A) Whether the proposed program or services would further
20 the purpose of promoting healthy, nonviolent relationships in the
21 lesbian, gay, bisexual, and transgender community.

22 (B) Whether the proposed program or services would reach a
23 significant number of people in, and have the support of, the
24 lesbian, gay, bisexual, and transgender community.

25 (C) Whether the proposed program or services are grounded in
26 a firm understanding of lesbian, gay, bisexual, and transgender
27 domestic violence and represent an innovative approach to
28 addressing the issue.

29 (D) Whether the proposed program or services would reach
30 unique and underserved sectors of the lesbian, gay, bisexual, and
31 transgender community, such as youth, people of color, immigrants,
32 and transgender persons.

33 (3) Grant funds shall not be used to support any of the following:

34 (A) Scholarships.

35 (B) Awards to individuals.

36 (C) Out-of-state travel.

37 (D) Projects that are substantially completed before the
38 anticipated date of the grant award.

39 (E) Fundraising activities.

1 (h) Grant recipients may seek, receive, and make use of any
2 funds that may be available from all public and private sources to
3 augment any funds received pursuant to this section.

4 (i) ~~The Cal EMA~~ *Office of Emergency Services* may adopt rules
5 as necessary to implement the grant program created under this
6 section.

7 (j) ~~The Cal EMA~~ *Office of Emergency Services* may hire the
8 support staff and utilize all resources necessary to carry out the
9 purposes of this section.

10 (k) ~~The Cal EMA~~ *Office of Emergency Services* shall consult
11 with the State Department of Public Health to consider the
12 consolidation of their respective domestic violence programs and
13 report conclusions to the Legislature no later than June 30, 2011.

14 (l) For purposes of this section, “domestic violence” means the
15 infliction or threat of physical harm against past or present adult
16 or adolescent intimate partners, including physical, sexual, and
17 psychological abuse against the person, and is a part of a pattern
18 of assaultive, coercive, and controlling behavior directed at
19 achieving compliance from or control over that person.

20 *SEC. 491. Section 13825 of the Penal Code is amended to*
21 *read:*

22 13825. The State Graffiti Clearinghouse is hereby created in
23 ~~the agency~~ *Office of Emergency Services*. The State Graffiti
24 Clearinghouse shall do all of the following, subject to federal
25 funding:

26 (a) Assess and estimate the present costs to state and local
27 agencies for graffiti abatement.

28 (b) Award grants to state and local agencies that have
29 demonstrated implementation of effective graffiti reduction and
30 abatement programs.

31 (c) Receive and disburse funds to effectuate the purposes of the
32 clearinghouse.

33 *SEC. 492. Section 13826.62 of the Penal Code is amended to*
34 *read:*

35 13826.62. (a) There is hereby established in ~~the agency~~ *Office*
36 *of Emergency Services* the Urban Corps Program. The Urban Corps
37 Program is established as an optional activity under Section
38 13826.6. Community-based organizations receiving grants to
39 participate in the Urban Corps Program may implement the
40 following activities:

1 (1) Identification of publicly and privately administered
2 programs in the county dealing with the suppression or prevention
3 of criminal gang activities, or both.

4 (2) Maintenance of a listing of programs within the county
5 identified as dealing with the suppression or prevention of criminal
6 gang activities, or both.

7 (3) Surveying gang suppression and prevention organizations
8 for the types of services and activities each is engaged in, and
9 identifying needs among these organizations for resources to
10 provide services and fulfill their activities.

11 (4) Recruitment of volunteers, identification of their skills,
12 abilities, and interests, and matching volunteers with the resource
13 needs of gang prevention and suppression organizations.

14 (5) Establishment of an urban respite program for the purpose
15 of preventing self-destructive activities and diverting (A) identified
16 youth gang members, and (B) youths who are at risk of becoming
17 gang members, for the purposes of reducing or eliminating
18 incentives for those youths to participate in gang-related crime
19 activities.

20 (b) The Urban Corps Program shall operate within the ~~agency~~
21 *Office of Emergency Services* for two years following the
22 establishment of a contract with a community-based organization
23 to administer the program.

24 (c) This section shall be implemented to the extent that funds
25 are available to the ~~agency~~ *Office of Emergency Services* for this
26 purpose.

27 *SEC. 493. Section 13830 of the Penal Code is amended to*
28 *read:*

29 13830. There is hereby created in state government a Judicial
30 Criminal Justice Planning Committee of seven members. The
31 Judicial Council shall appoint the members of the committee who
32 shall hold office at its pleasure. In this respect the Legislature finds
33 as follows:

34 (a) The California court system has a constitutionally established
35 independence under the judicial and separation of power clauses
36 of the State Constitution.

37 (b) The California court system has a statewide structure created
38 under the Constitution, state statutes, and state court rules, and the
39 Judicial Council of California is the constitutionally established

1 state agency having responsibility for the operation of that
2 structure.

3 (c) The California court system will be directly affected by the
4 criminal justice planning that will be done under this title and by
5 the federal grants that will be made to implement that planning.

6 (d) For effective planning and implementation of court projects
7 it is essential that the ~~agency~~ *Office of Emergency Services* have
8 the advice and assistance of a state judicial system planning
9 committee.

10 *SEC. 494. Section 13833 of the Penal Code is amended to*
11 *read:*

12 13833. The expenses necessarily incurred by the members of
13 the Judicial Criminal Justice Planning Committee in the
14 performance of their duties under this title shall be paid by the
15 Judicial Council, but it shall be reimbursed by the ~~agency~~ *Office*
16 *of Emergency Services* to the extent that federal funds can be made
17 available for that purpose. Staff support for the committee's
18 activities shall be provided by the Judicial Council, but the cost
19 of that staff support shall be reimbursed by the ~~agency~~ *Office of*
20 *Emergency Services* to the extent that federal funds can be made
21 available for that purpose.

22 *SEC. 495. Section 13835.2 of the Penal Code is amended to*
23 *read:*

24 13835.2. (a) Funds appropriated from the Victim-Witness
25 Assistance Fund shall be made available through the ~~agency~~ *Office*
26 *of Emergency Services* to any public or private nonprofit agency
27 for the assistance of victims and witnesses that meets all of the
28 following requirements:

29 (1) It provides comprehensive services to victims and witnesses
30 of all types of crime. It is the intent of the Legislature to make
31 funds available only to programs that do not restrict services to
32 victims and witnesses of a particular type of crime, and do not
33 restrict services to victims of crime in which there is a suspect in
34 the case.

35 (2) It is recognized by the board of supervisors as the major
36 provider of comprehensive services to victims and witnesses in
37 the county.

38 (3) It is selected by the board of supervisors as the agency to
39 receive funds pursuant to this article.

1 (4) It assists victims of crime in the preparation, verification,
2 and presentation of their claims to the California Victim
3 Compensation and Government Claims Board for indemnification
4 pursuant to Article 1 (commencing with Section 13959) of Part 4
5 of Division 3 of Title 2 of the Government Code.

6 (5) It cooperates with the California Victim Compensation and
7 Government Claims Board in verifying the data required by Article
8 1 (commencing with Section 13959) of Part 4 of Division 3 of
9 Title 2 of the Government Code.

10 (b) The ~~agency~~ *Office of Emergency Services* shall consider the
11 following factors, together with any other circumstances it deems
12 appropriate, in awarding funds to public or private nonprofit
13 agencies designated as victim and witness assistance centers:

14 (1) The capability of the agency to provide comprehensive
15 services as defined in this article.

16 (2) The stated goals and objectives of the center.

17 (3) The number of people to be served and the needs of the
18 community.

19 (4) Evidence of community support.

20 (5) The organizational structure of the agency that will operate
21 the center.

22 (6) The capability of the agency to provide confidentiality of
23 records.

24 *SEC. 496. Section 13835.6 of the Penal Code is amended to*
25 *read:*

26 13835.6. (a) The ~~agency~~ *Office of Emergency Services*, in
27 cooperation with representatives from local victim and witness
28 assistance centers, shall develop standards defining the activities
29 and services enumerated in this article.

30 (b) The ~~agency~~ *Office of Emergency Services*, in cooperation
31 with representatives from local victim and witness assistance
32 centers, shall develop a method of evaluating the activities and
33 performance of centers established pursuant to this article.

34 *SEC. 497. Section 13835.7 of the Penal Code is amended to*
35 *read:*

36 13835.7. There is in the State Treasury the Victim-Witness
37 Assistance Fund. Funds appropriated thereto shall be dispensed
38 to the ~~agency~~ *Office of Emergency Services* exclusively for the
39 purposes specified in this article and for the support of the centers
40 specified in Section 13837.

1 *SEC. 498. Section 13835.10 of the Penal Code is amended to*
2 *read:*

3 13835.10. (a) The Legislature finds and declares all of the
4 following:

5 (1) That the provision of quality services for victims of crime
6 is of high priority.

7 (2) That existing victim service programs do not have sufficient
8 financial resources to consistently recruit and employ fully trained
9 personnel.

10 (3) That there is no consistency in the training provided to the
11 various agencies serving victims.

12 (4) That comprehensive training for victim service agencies is
13 geographically limited or unavailable.

14 (5) That there is currently no statewide comprehensive training
15 system in place for the state to ensure that all service providers
16 receive adequate training to provide quality services to victims of
17 crime.

18 (6) It is the intention of the Legislature to establish a statewide
19 training program within the ~~agency~~ *Office of Emergency Services*
20 to provide comprehensive standardized training to victim service
21 providers.

22 (b) The ~~agency~~ *Office of Emergency Services* shall establish a
23 statewide victim-assistance training program, the purpose of which
24 is to develop minimum training and selection standards, certify
25 training courses, and provide funding to enable local victim service
26 providers to acquire the required training.

27 (c) (1) For the purpose of raising the level of competence of
28 local victim service providers, the ~~office~~ *Office of Emergency*
29 *Services* shall adopt guidelines establishing minimum standards
30 of training for employees of victim-witness and sexual assault
31 programs funded by the office to provide services to victims of
32 crime. The ~~agency~~ *Office of Emergency Services* shall establish
33 an advisory committee composed of recognized statewide victim
34 service organizations, representatives of local victim service
35 programs, and others selected at the discretion of the executive
36 director to consult on the research and development of the training,
37 selection, and equivalency standards.

38 (2) Any local unit of government, community-based
39 organization, or any other public or private nonprofit entity funded
40 by the ~~agency or agencies~~ *Office of Emergency Services* as a

1 victim-witness or sexual assault program to provide services to
2 victims of crime shall adhere to the training and selection standards
3 established by the ~~agency or agencies~~ *Office of Emergency*
4 *Services*. The standards for sexual assault victim service programs
5 developed by the advisory committee established pursuant to
6 Section 13836 shall be the standards for purposes of this section.
7 With the exception of the sexual assault standards, the ~~agency~~
8 *Office of Emergency Services* shall conduct or contract with an
9 appropriate firm or entity for research on validated standards
10 pursuant to this section in consultation with the advisory committee
11 established pursuant to paragraph (1). The ~~agency~~ *Office of*
12 *Emergency Services* may defer the adoption of the selection
13 standards until the necessary research is completed. Until the
14 standards are adopted, affected victim service programs may
15 receive state funding from the ~~agency~~ *Office of Emergency Services*
16 upon certification of their willingness to adhere to the training
17 standards adopted by the ~~agency~~ *Office of Emergency Services*.

18 (3) Minimum training and selection standards may include, but
19 shall not be limited to, basic entry, continuation, supervisory,
20 management, specialized curricula, and confidentiality.

21 (4) Training and selection standards shall apply to all victim
22 service and management personnel of the victim-witness and sexual
23 assault agencies funded by the ~~agency~~ *Office of Emergency Services*
24 to provide services to victims of crime. Exemptions from this
25 requirement may be made by the ~~agency~~ *Office of Emergency*
26 *Services*. A victim service agency which, despite good faith efforts,
27 is unable to meet the standards established pursuant to this section,
28 may apply to the ~~agency~~ *Office of Emergency Services* for an
29 exemption. For the purpose of exemptions, the ~~agency~~ *Office of*
30 *Emergency Services* may establish procedures that allow for partial
31 adherence. The ~~agency~~ *Office of Emergency Services* may develop
32 equivalency standards which recognize professional experience,
33 education, training, or a combination of the above, for personnel
34 hired before July 1, 1987.

35 (5) Nothing in this section shall prohibit a victim service agency,
36 funded by the ~~agency~~ *Office of Emergency Services* to provide
37 services to victims of crime, from establishing training and
38 selection standards which exceed the minimum standards
39 established by the ~~agency~~ *Office of Emergency Services* pursuant
40 to this section.

1 (d) For purposes of implementing this section, the ~~agency Office~~
2 *of Emergency Services* has all of the following powers:

3 (1) To approve or certify, or both, training courses selected by
4 the agency.

5 (2) To make those inquiries which may be necessary to
6 determine whether every local unit of government,
7 community-based organization, or any other public or private entity
8 receiving state aid from the ~~agency Office of Emergency Services~~
9 as a victim-witness or sexual assault program for the provision of
10 services to victims of crime, is adhering to the standards for training
11 and selection established pursuant to this section.

12 (3) To adopt those guidelines which are necessary to carry out
13 the purposes of this section.

14 (4) To develop or present, or both, training courses for victim
15 service providers, or to contract with coalitions, councils, or other
16 designated entities, to develop or present, or both, those training
17 courses.

18 (5) To perform other activities and studies necessary to carry
19 out the intent of this section.

20 (e) (1) The ~~agency Office of Emergency Services~~ may utilize
21 any funds that may become available from the Victim-Witness
22 Assistance Fund to fund the cost of training staff of victim service
23 agencies which are funded by the ~~agency Office of Emergency~~
24 *Services* from the fund. The ~~agency Office of Emergency Services~~
25 may utilize federal or other state funds that may become available
26 to fund the cost of training staff of victim service agencies which
27 are not eligible for funding from the Victim-Witness Assistance
28 Fund.

29 (2) Peace officer personnel whose jurisdictions are eligible for
30 training subvention pursuant to Chapter 1 (commencing with
31 Section 13500) of Title 4 of this part and correctional or probation
32 personnel whose jurisdictions are eligible for state aid pursuant to
33 Article 2 (commencing with Section 6035) of Chapter 5 of Title
34 7 of Part 3 are not eligible to receive training reimbursements under
35 this section unless the person receiving the training is assigned to
36 provide victim services in accordance with a grant award agreement
37 with the ~~agency Office of Emergency Services~~ and is attending
38 training to meet the established standards.

39 *SEC. 499. Section 13836 of the Penal Code is amended to*
40 *read:*

1 13836. The ~~agency~~ *Office of Emergency Services* shall establish
2 an advisory committee which shall develop a course of training
3 for district attorneys in the investigation and prosecution of sexual
4 assault cases, child sexual exploitation cases, and child sexual
5 abuse cases and shall approve grants awarded pursuant to Section
6 13837. The courses shall include training in the unique emotional
7 trauma experienced by victims of these crimes.

8 It is the intent of the Legislature in the enactment of this chapter
9 to encourage the establishment of sex crime prosecution units,
10 which shall include, but not be limited to, child sexual exploitation
11 and child sexual abuse cases, in district attorneys' offices
12 throughout the state.

13 *SEC. 500. Section 13836.1 of the Penal Code is amended to*
14 *read:*

15 13836.1. The committee shall consist of 11 members. Five
16 shall be appointed by the ~~secretary~~ *Director of Emergency Services*,
17 and shall include three district attorneys or assistant or deputy
18 district attorneys, one representative of a city police department
19 or a sheriff or a representative of a sheriff's department, and one
20 public defender or assistant or deputy public defender of a county.
21 Six shall be public members appointed by the Commission on the
22 Status of Women and Girls, and shall include one representative
23 of a rape crisis center, and one medical professional experienced
24 in dealing with sexual assault trauma victims. The committee
25 members shall represent the points of view of diverse ethnic and
26 language groups.

27 Members of the committee shall receive no compensation for
28 their services but shall be reimbursed for their expenses actually
29 and necessarily incurred by them in the performance of their duties.
30 Staff support for the committee shall be provided by the ~~agency~~
31 *Office of Emergency Services*.

32 *SEC. 501. Section 13843 of the Penal Code is amended to*
33 *read:*

34 13843. (a) Allocation and award of funds made available under
35 this chapter shall be made upon application to the ~~agency~~ *Office*
36 *of Emergency Services*. All applications shall be reviewed and
37 evaluated by the ~~agency~~ *Office of Emergency Services*.

38 (b) The ~~secretary~~ *Director of Emergency Services* may allocate
39 and award funds to communities developing and providing ongoing
40 citizen involvement and crime resistance programs in compliance

1 with the established policies and criteria of the agency.
2 Applications receiving funding under this section shall be selected
3 from among those deemed appropriate for funding according to
4 the criteria, policy, and procedures established by the ~~agency~~ *Office*
5 *of Emergency Services*.

6 (c) With the exception of funds awarded for programs authorized
7 under paragraph (2) of subdivision (b) of Section 13844, no single
8 award of funds under this chapter shall exceed a maximum of two
9 hundred fifty thousand dollars (\$250,000) for a 12-month grant
10 period.

11 (d) Funds disbursed under this chapter shall not supplant local
12 funds that would, in the absence of the California Community
13 Crime Resistance Program, be made available to support crime
14 resistance programs.

15 (e) Funds disbursed under this chapter shall be supplemented
16 with local funds constituting, at a minimum, 10 percent of the total
17 crime resistance program budget during the initial year and 20
18 percent in subsequent periods of funding.

19 (f) Annually, up to a maximum of 10 percent of the total funds
20 appropriated to the Community Crime Resistance Program may
21 be used by the ~~agency~~ *Office of Emergency Services* to support
22 statewide technical assistance, training, and public awareness
23 activities relating to crime prevention.

24 (g) Funds awarded under this program as local assistance grants
25 shall not be subject to review as specified in Section 14780 of the
26 Government Code.

27 (h) Guidelines shall set forth the terms and conditions upon
28 which the ~~agency~~ *Office of Emergency Services* is prepared to offer
29 grants of funds pursuant to statutory authority. The guidelines do
30 not constitute rules, regulations, orders, or standards of general
31 application.

32 *SEC. 502. Section 13844 of the Penal Code is amended to*
33 *read:*

34 13844. (a) Use of funds granted under the California
35 Community Crime Resistance Program are restricted to the
36 following activities:

37 (1) Further the goal of a statewide crime prevention network
38 by supporting the initiation or expansion of local crime prevention
39 efforts.

1 (2) Provide information and encourage the use of new and
2 innovative refinements to the traditional crime prevention model
3 in localities that currently maintain a well-established crime
4 prevention program.

5 (3) Support the development of a coordinated service network,
6 including information exchange and case referral between such
7 programs as local victim-witness assistance programs, sexual
8 assault programs, gang violence reduction programs, drug
9 suppression programs, elderly care custodians, state and local
10 elderly service programs, or any other established and recognizable
11 local programs devoted to the lessening of crime and the promotion
12 of the community's well-being.

13 (b) With respect to the initiation or expansion of local crime
14 prevention efforts, projects supported under the California
15 Community Crime Resistance Program shall do either of the
16 following:

17 (1) Carry out as many of the following activities as deemed, in
18 the judgment of the ~~agency~~ *Office of Emergency Services*, to be
19 consistent with available resources:

20 (A) Crime prevention programs using tailored outreach
21 techniques in order to provide effective and consistent services for
22 the elderly in the following areas:

23 (i) Crime prevention information to elderly citizens regarding
24 personal safety, fraud, theft, grand theft, burglary, and elderly
25 abuse.

26 (ii) Services designed to respond to the specific and diverse
27 crime prevention needs of elderly residential communities.

28 (iii) Specific services coordinated to assist in the installation of
29 security devices or provision of escort services and victim
30 assistance.

31 (B) Programs to provide training, information, and prevention
32 literature to peace officers, elderly care custodians, health
33 practitioners, and social service providers regarding physical abuse
34 and neglect within residential health care facilities for the elderly.

35 (C) Programs to promote neighborhood involvement such as,
36 but not limited to, block clubs and other community or
37 resident-sponsored anticrime programs.

38 (D) Personal safety programs.

39 (E) Domestic violence prevention programs.

1 (F) Crime prevention programs specifically geared to youth in
2 schools and school district personnel.

3 (G) Programs which make available to residents and businesses
4 information on locking devices, building security, and related
5 crime resistance approaches.

6 (H) In cooperation with the Commission on Peace Officer
7 Standards and Training, support for the training of peace officers
8 in crime prevention and its effects on the relationship between
9 citizens and law enforcement.

10 (I) Efforts to address the crime prevention needs of communities
11 with high proportions of teenagers and young adults, low-income
12 families, and non-English-speaking residents, including juvenile
13 delinquency diversion, social service referrals, and making
14 available crime resistance literature in appropriate languages other
15 than English.

16 (2) Implement a community policing program in targeted
17 neighborhoods that are drug infested. The goal of this program
18 shall be to empower the people against illegal drug activity. A
19 program funded pursuant to this chapter shall be able to target one
20 or more neighborhoods within the grant period. In order to be
21 eligible for funding, the program shall have the commitment of
22 the community, local law enforcement, school districts, and
23 community service groups; and shall be supported by either the
24 city council or the board of supervisors, whichever is applicable.

25 (c) With respect to the support of new and innovative techniques,
26 communities taking part in the California Crime Resistance
27 Program shall carry out those activities, as determined by the
28 ~~agency~~ *Office of Emergency Services*, that conform to local needs
29 and are consistent with available expertise and resources. These
30 techniques may include, but are not limited to, community policing
31 programs or activities involving the following:

32 (1) Programs to reinforce the security of “latchkey” children,
33 including neighborhood monitoring, special contact telephone
34 numbers, emergency procedure training for the children, daily
35 telephone checks for the children’s well-being, and assistance in
36 developing safe alternatives to unsupervised conditions for
37 children.

38 (2) Programs dedicated to educating parents in procedures
39 designed to do all of the following:

40 (A) Minimize or prevent the abduction of children.

1 (B) Assist children in understanding the risk of child abduction.

2 (C) Maximize the recovery of abducted children.

3 (3) Programs devoted to developing automated systems for
4 monitoring and tracking crimes within organized neighborhoods.

5 (4) Programs devoted to developing timely “feedback
6 mechanisms” whose goals would be to alert residents to new crime
7 problems and to reinforce household participation in neighborhood
8 security organizations.

9 (5) Programs devoted to creating and packaging special crime
10 prevention approaches tailored to the special needs and
11 characteristics of California’s cultural and ethnic minorities.

12 (6) Research into the effectiveness of local crime prevention
13 efforts including the relationships between crime prevention
14 activities, participants’ economic and demographic characteristics,
15 project costs, local or regional crime rate, and law enforcement
16 planning and staff deployment.

17 (7) Programs devoted to crime and delinquency prevention
18 through the establishment of partnership initiatives utilizing elderly
19 and juvenile volunteers.

20 (d) All approved programs shall utilize volunteers to assist in
21 implementing and conducting community crime resistance
22 programs. Programs providing elderly crime prevention programs
23 shall recruit senior citizens to assist in providing services.

24 (e) Programs funded pursuant to this chapter shall demonstrate
25 a commitment to support citizen involvement with local funds
26 after the program has been developed and implemented with state
27 moneys.

28 *SEC. 503. Section 13846 of the Penal Code is amended to*
29 *read:*

30 13846. (a) Evaluation and monitoring of all grants made under
31 this section shall be the responsibility of the ~~agency office~~. The
32 ~~agency office~~ shall issue standard reporting forms for reporting
33 the level of activities and number of crimes reported in participating
34 communities.

35 (b) Information on successful programs shall be made available
36 and relayed to other California communities through the technical
37 assistance procedures of the ~~agency office~~.

38 *SEC. 504. Section 13847 of the Penal Code is amended to*
39 *read:*

1 13847. (a) There is hereby established in the ~~agency~~ *Office of*
2 *Emergency Services* a program of financial and technical assistance
3 for local law enforcement, called the Rural Indian Crime Prevention
4 Program. The program shall target the relationship between law
5 enforcement and Native American communities to encourage and
6 to strengthen cooperative efforts and to implement crime
7 suppression and prevention programs.

8 (b) The ~~secretary~~ *Director of Emergency Services* may allocate
9 and award funds to those local units of government, or
10 combinations thereof, in which a special program is established
11 in law enforcement agencies that meets the criteria set forth in
12 Sections 13847.1 and 13847.2.

13 (c) The allocation and award of funds shall be made upon
14 application executed by the chief law enforcement officer of the
15 applicant unit of government and approved by the legislative body.
16 Funds disbursed under this chapter shall not supplant local funds
17 that would, in the absence of the Rural Indian Crime Prevention
18 Program, be made available to support the suppression and
19 prevention of crime on reservations and rancherias.

20 (d) The ~~secretary~~ *Director of Emergency Services* shall prepare
21 and issue administrative guidelines and procedures for the Rural
22 Indian Crime Prevention Program consistent with this chapter.

23 (e) The guidelines shall set forth the terms and conditions upon
24 which the ~~agency~~ *Office of Emergency Services* is prepared to offer
25 grants of funds pursuant to statutory authority. The guidelines do
26 not constitute rules, regulations, orders, or standards of general
27 application.

28 *SEC. 505. Section 13847.2 of the Penal Code is amended to*
29 *read:*

30 13847.2. (a) The Rural Indian and Law Enforcement Local
31 Advisory Committee shall be composed of a chief executive of a
32 law enforcement agency, two tribal council members, two tribal
33 elders, one Indian law enforcement officer, one Indian community
34 officer, one representative of the Bureau of Indian Affairs, and
35 any additional members that may prove to be crucial to the
36 committee. All members of the advisory committee shall be
37 designated by the ~~secretary~~ *Director of Emergency Services*, who
38 shall provide staff services to the advisory committee.

39 (b) The ~~secretary~~ *Director of Emergency Services*, in
40 consultation with the advisory committee, shall develop specific

1 guidelines, and administrative procedures, for the selection of
2 projects to be funded by the Rural Indian Crime Prevention
3 Program which guidelines shall include the selection criteria
4 described in this chapter.

5 (c) Administration of the overall program and the evaluation
6 and monitoring of all grants made under this chapter shall be
7 performed by the ~~agency~~ *Office of Emergency Services*, provided
8 that funds expended for these functions shall not exceed 5 percent
9 of the total annual amount made available for the purpose of this
10 chapter.

11 *SEC. 506. Section 13851 of the Penal Code is amended to*
12 *read:*

13 13851. (a) There is hereby established in the ~~agency~~ *Office of*
14 *Emergency Services* a program of financial, training, and technical
15 assistance for local law enforcement, called the California Career
16 Criminal Apprehension Program. All funds made available to the
17 ~~agency~~ *Office of Emergency Services* for the purposes of this
18 chapter shall be administered and disbursed by the ~~secretary~~
19 *Director of Emergency Services*.

20 (b) The ~~secretary~~ *Director of Emergency Services* is authorized
21 to allocate and award funds to those local units of government or
22 combinations thereof, in which a special program is established
23 in law enforcement agencies that meets the criteria set forth in
24 Sections 13852 and 13853.

25 (c) The allocation and award of funds shall be made upon
26 application executed by the chief law enforcement officer of the
27 applicant unit of government and approved by the legislative body.
28 Funds disbursed under this chapter shall not supplant local funds
29 that would, in the absence of the California Career Criminal
30 Apprehension Program, be made available to support the
31 apprehension of multiple or repeat felony criminal offenders.

32 (d) The ~~secretary~~ *Director of Emergency Services* shall prepare
33 and issue administrative guidelines and procedures for the
34 California Career Criminal Apprehension Program consistent with
35 this chapter.

36 (e) These guidelines shall set forth the terms and conditions
37 upon which the ~~agency~~ *Office of Emergency Services* is prepared
38 to offer grants of funds pursuant to statutory authority. The
39 guidelines do not constitute rules, regulations, orders, or standards
40 of general application.

1 *SEC. 507. Section 13854 of the Penal Code is amended to*
2 *read:*

3 13854. (a) ~~The secretary~~ *Director of Emergency Services* shall
4 develop specific guidelines, and administrative procedures, for the
5 selection of the California Career Criminal Apprehension Program.

6 (b) Administration of the overall program and the evaluation
7 and monitoring of all grants made under this chapter shall be
8 performed by the ~~agency~~ *Office of Emergency Services*, provided
9 that funds expended for those functions shall not exceed 7.5 percent
10 of the total annual amount made available for the purpose of this
11 chapter.

12 (c) Local assistance grants made pursuant to this chapter shall
13 not be subject to review pursuant to Section 10290 of the Public
14 Contract Code.

15 *SEC. 508. Section 13861 of the Penal Code is amended to*
16 *read:*

17 13861. There is hereby created in the ~~agency~~ *Office of*
18 *Emergency Services* the Suppression of Drug Abuse in Schools
19 Program. All funds made available to the ~~agency~~ *Office of*
20 *Emergency Services* for the purposes of this chapter shall be
21 administered and disbursed by the ~~secretary~~ *Director of Emergency*
22 *Services* in consultation with the State Suppression of Drug Abuse
23 in Schools Advisory Committee established pursuant to Section
24 13863.

25 (a) ~~The~~ *secretary* *Director of Emergency Services*, in
26 consultation with the State Suppression of Drug Abuse in Schools
27 Advisory Committee, is authorized to allocate and award funds to
28 local law enforcement agencies and public schools jointly working
29 to develop drug abuse prevention and drug trafficking suppression
30 programs in substantial compliance with the policies and criteria
31 set forth in Sections 13862 and 13863.

32 (b) The allocation and award of funds shall be made upon the
33 joint application by the chief law enforcement officer of the
34 coapplicant law enforcement agency and approved by the law
35 enforcement agency's legislative body and the superintendent and
36 board of the school district coapplicant. The joint application of
37 the law enforcement agency and the school district shall be
38 submitted for review to the Local Suppression of Drug Abuse in
39 Schools Advisory Committee established pursuant to paragraph
40 (4) of subdivision (a) of Section 13862. After review, the

1 application shall be submitted to the ~~agency~~ *Office of Emergency*
2 *Services*. Funds disbursed under this chapter may enhance but shall
3 not supplant local funds that would, in the absence of the
4 Suppression of Drug Abuse in Schools Program, be made available
5 to suppress and prevent drug abuse among schoolage children and
6 to curtail drug trafficking in and around school areas.

7 (c) The coapplicant local law enforcement agency and the
8 coapplicant school district may enter into interagency agreements
9 between themselves which will allow the management and fiscal
10 tasks created pursuant to this chapter and assigned to both the law
11 enforcement agency and the school district to be performed by
12 only one of them.

13 (d) Within 90 days of the effective date of this chapter, the
14 ~~secretary~~ *Director of Emergency Services*, in consultation with the
15 State Suppression of Drug Abuse in Schools Advisory Committee
16 established pursuant to Section 13863, shall prepare and issue
17 administrative guidelines and procedures for the Suppression of
18 Drug Abuse in Schools Program consistent with this chapter. In
19 addition to all other formal requirements that may apply to the
20 enactment of these guidelines and procedures, a complete and final
21 draft shall be submitted within 60 days of the effective date of this
22 chapter to the Chairpersons of the Committee on Criminal Law
23 and Public Safety of the Assembly and the Judiciary Committee
24 of the Senate of the California Legislature.

25 *SEC. 509. Section 13864 of the Penal Code is amended to*
26 *read:*

27 13864. There is hereby created in the ~~agency~~ *Office of*
28 *Emergency Services* the Comprehensive Alcohol and Drug
29 Prevention Education component of the Suppression of Drug Abuse
30 in Schools Program in public elementary schools in grades 4 to 6,
31 inclusive. Notwithstanding Section 13861 or any other provision
32 in this code, all Comprehensive Alcohol and Drug Prevention
33 Education component funds made available to the ~~agency~~ *Office*
34 *of Emergency Services* in accordance with the Classroom
35 Instructional Improvement and Accountability Act shall be
36 administered by and disbursed to county superintendents of schools
37 in this state by the ~~secretary~~ *Director of Emergency Services*. All
38 applications for that funding shall be reviewed and evaluated by
39 the ~~agency~~ *Office of Emergency Services*, in consultation with the

1 State Department of Alcohol and Drug Programs and the State
2 Department of Education.

3 (a) The ~~secretary~~ *Director of Emergency Services* is authorized
4 to allocate and award funds to county department superintendents
5 of schools for allocation to individual school districts or to a
6 consortium of two or more school districts. Applications funded
7 under this section shall comply with the criteria, policies, and
8 procedures established under subdivision (b) of this section.

9 (b) As a condition of eligibility for the funding described in this
10 section, the school district or consortium of school districts shall
11 have entered into an agreement with a local law enforcement
12 agency to jointly implement a comprehensive alcohol and drug
13 abuse prevention, intervention, and suppression program developed
14 by the ~~agency~~ *Office of Emergency Services*, in consultation with
15 the State Department of Alcohol and Drug Programs and the State
16 Department of Education, containing all of the following
17 components:

18 (1) A standardized age-appropriate curriculum designed for
19 pupils in grades 4 to 6, inclusive, specifically tailored and sensitive
20 to the socioeconomic and ethnic characteristics of the target pupil
21 population. Although new curricula shall not be required to be
22 developed, existing curricula may be modified and adapted to meet
23 local needs. The elements of the standardized comprehensive
24 alcohol and drug prevention education program curriculum shall
25 be defined and approved by the Governor's Policy Council on
26 Drug and Alcohol Abuse, as established by Executive Order No.
27 D-70-80.

28 (2) A planning process that includes assessment of the school
29 district's characteristics, resources, and the extent of problems
30 related to juvenile drug abuse, and input from local law
31 enforcement agencies.

32 (3) A school district governing board policy that provides for
33 a coordinated intervention system that, at a minimum, includes
34 procedures for identification, intervention, and referral of at-risk
35 alcohol- and drug-involved youth, and identifies the roles and
36 responsibilities of law enforcement, school personnel, parents, and
37 pupils.

38 (4) Early intervention activities that include, but are not limited
39 to, the identification of pupils who are high risk or have chronic

1 drug abuse problems, assessment, and referral for appropriate
2 services, including ongoing support services.

3 (5) Parent education programs to initiate and maintain parental
4 involvement, with an emphasis for parents of at-risk pupils.

5 (6) Staff and in-service training programs, including both
6 indepth training for the core team involved in providing program
7 services and general awareness training for all school faculty and
8 administrative, credentialed, and noncredentialed school personnel.

9 (7) In-service training programs for local law enforcement
10 officers.

11 (8) School, law enforcement, and community involvement to
12 ensure coordination of program services. Pursuant to that
13 coordination, the school district or districts and other local agencies
14 are encouraged to use a single community advisory committee or
15 task force for drug, alcohol, and tobacco abuse prevention
16 programs, as an alternative to the creation of a separate group for
17 that purpose under each state or federally funded program.

18 (c) The application of the county superintendent of schools shall
19 be submitted to the ~~agency~~ *Office of Emergency Services*. Funds
20 made available to the ~~agency~~ *Office of Emergency Services* for
21 allocation under this section are intended to enhance, but shall not
22 supplant, local funds that would, in the absence of the
23 Comprehensive Alcohol and Drug Prevention Education
24 component, be made available to prevent, intervene in, or suppress
25 drug abuse among schoolage children. For districts that are already
26 implementing a comprehensive drug abuse prevention program
27 for pupils in grades 4 to 6, inclusive, the county superintendent
28 shall propose the use of the funds for drug prevention activities in
29 school grades other than 4 to 6, inclusive, compatible with the
30 program components of this section. The expenditure of funds for
31 that alternative purpose shall be approved by the ~~secretary~~ *Director*
32 *of Emergency Services*.

33 (1) Unless otherwise authorized by the ~~agency~~ *Office of*
34 *Emergency Services*, each county superintendent of schools shall
35 be the fiscal agent for any Comprehensive Alcohol and Drug
36 Prevention Education component award, and shall be responsible
37 for ensuring that each school district within that county receives
38 the allocation prescribed by the ~~agency~~ *Office of Emergency*
39 *Services*. Each county superintendent shall develop a countywide
40 plan that complies with program guidelines and procedures

1 established by the ~~agency~~ *Office of Emergency Services* pursuant
2 to subdivision (d). A maximum of 5 percent of the county's
3 allocation may be used for administrative costs associated with
4 the project.

5 (2) Each county superintendent of schools shall establish and
6 chair a local coordinating committee to assist the superintendent
7 in developing and implementing a countywide implementation
8 plan. This committee shall include the county drug administrator,
9 law enforcement executives, school district governing board
10 members and administrators, school faculty, parents, and drug
11 prevention and intervention program executives selected by the
12 superintendent and approved by the county board of supervisors.

13 (d) The ~~secretary~~ *Director of Emergency Services*, in
14 consultation with the State Department of Alcohol and Drug
15 Programs and the State Department of Education, shall prepare
16 and issue guidelines and procedures for the Comprehensive Alcohol
17 and Drug Prevention Education component consistent with this
18 section.

19 (e) The Comprehensive Alcohol and Drug Prevention Education
20 component guidelines shall set forth the terms and conditions upon
21 which the ~~agency~~ *Office of Emergency Services* is prepared to
22 award grants of funds pursuant to this section. The guidelines shall
23 not constitute rules, regulations, orders, or standards of general
24 application.

25 (f) Funds awarded under the Comprehensive Alcohol and Drug
26 Prevention Education Program shall not be subject to Section
27 10318 of the Public Contract Code.

28 (g) Funds available pursuant to Item 8100-111-001 and
29 Provision 1 of Item 8100-001-001 of the Budget Act of 1989, or
30 the successor provision of the appropriate Budget Act, shall be
31 allocated to implement this section.

32 (h) The ~~secretary~~ *Director of Emergency Services* shall
33 collaborate, to the extent possible, with other state agencies that
34 administer drug, alcohol, and tobacco abuse prevention education
35 programs to streamline and simplify the process whereby local
36 educational agencies apply for drug, alcohol, and tobacco education
37 funding under this section and under other state and federal
38 programs. The ~~agency~~ *Office of Emergency Services*, the State
39 Department of Alcohol and Drug Programs, the State Department
40 of Education, and other state agencies, to the extent possible, shall

1 develop joint policies and collaborate planning in the administration
2 of drug, alcohol, and tobacco abuse prevention education programs.

3 *SEC. 510. Section 13881 of the Penal Code is amended to*
4 *read:*

5 13881. (a) There is hereby established in the ~~agency office~~ a
6 program of financial and technical assistance for district attorneys'
7 offices, designated the California Major Narcotic Vendors
8 Prosecution Law. All funds appropriated to the ~~agency office~~ for
9 the purposes of this chapter shall be administered and disbursed
10 by the ~~secretary director~~ in consultation with the California Council
11 on Criminal Justice, and shall to the greatest extent feasible be
12 coordinated or consolidated with federal funds that may be made
13 available for these purposes.

14 (b) The ~~secretary director~~ is authorized to allocate and award
15 funds to counties in which the California Major Narcotic Vendors
16 Prosecution Law is implemented in substantial compliance with
17 the policies and criteria set forth in this chapter.

18 (c) The allocation and award of funds shall be made upon
19 application executed by the county's district attorney and approved
20 by its board of supervisors. Funds disbursed under this chapter
21 shall not supplant local funds that would, in the absence of the
22 California Major Narcotic Vendors Prosecution Law, be made
23 available to support the prosecution of felony drug cases. Funds
24 available under this program shall not be subject to review, as
25 specified in Section 14780 of the Government Code.

26 (d) The ~~secretary director~~ shall prepare and issue written
27 program and administrative guidelines and procedures for the
28 California Major Narcotic Vendors Prosecution Program consistent
29 with this chapter, which shall be submitted to the Chairpersons of
30 the Assembly Committee on Public Safety and the Senate
31 Committee on Criminal Procedure. These guidelines shall permit
32 the selection of a county for the allocation and award of funds only
33 on a finding by the ~~agency office~~ that the county is experiencing
34 a proportionately significant increase in major narcotic cases.
35 Further, the guidelines shall provide for the allocation and award
36 of funds to small county applicants, as designated by the ~~secretary~~
37 *director*. The guidelines shall also provide that any funds received
38 by a county under this chapter shall be used only for the
39 prosecution of cases involving major narcotic dealers. For purposes

1 of this subdivision, “small county” means a county having a
2 population of 200,000 or less.

3 *SEC. 511. Section 13897.2 of the Penal Code is amended to*
4 *read:*

5 13897.2. (a) The ~~agency~~ *Office of Emergency Services* shall
6 grant an award to an appropriate private, nonprofit organization,
7 to provide a statewide resource center, as described in Section
8 13897.1.

9 (b) The center shall:

10 (1) Provide callers with information about victims’ legal rights
11 to compensation pursuant to Chapter 5 (commencing with Section
12 13959) of Part 4 of Division 3 of Title 2 of the Government Code
13 and, where appropriate, provide victims with guidance in exercising
14 these rights.

15 (2) Provide callers who provide services to victims of crime
16 with legal information regarding the legal rights of victims of
17 crime.

18 (3) Advise callers about any potential civil causes of action and,
19 where appropriate, provide callers with references to local legal
20 aid and lawyer referral services.

21 (4) Advise and assist callers in understanding and implementing
22 their rights to participate in sentencing and parole eligibility
23 hearings as provided by statute.

24 (5) Advise callers about victims’ rights in the criminal justice
25 system, assist them in overcoming problems, including the return
26 of property, and inform them of any procedures protecting
27 witnesses.

28 (6) Refer callers, as appropriate, to local programs, which
29 include victim-witness programs, rape crisis units, domestic
30 violence projects, and child sexual abuse centers.

31 (7) Refer callers to local resources for information about
32 appropriate public and private benefits and the means of obtaining
33 aid.

34 (8) Publicize the existence of the toll-free service through the
35 print and electronic media, including public service
36 announcements, brochures, press announcements, various other
37 educational materials, and agreements for the provision of
38 publicity, by private entities.

39 (9) Compile comprehensive referral lists of local resources that
40 include the following: victims’ assistance resources, including

1 legal and medical services, financial assistance, personal counseling
 2 and support services, and victims’ support groups.

3 (10) Produce promotional materials for distribution to law
 4 enforcement agencies, state and local agencies, print, radio, and
 5 television media outlets, and the general public. These materials
 6 shall include placards, video and audio training materials, written
 7 handbooks, and brochures for public distribution. Distribution of
 8 these materials shall be coordinated with the local victims’ service
 9 programs.

10 (11) Research, compile, and maintain a library of legal
 11 information concerning crime victims and their rights.

12 (12) Provide a 20-percent minimum cash match for all funds
 13 appropriated pursuant to this chapter which match may include
 14 federal and private funds in order to supplement any funds
 15 appropriated by the Legislature.

16 (c) The resource center shall be located so as to assure
 17 convenient and regular access between the center and those state
 18 agencies most concerned with crime victims. The entity receiving
 19 the grant shall be a private, nonprofit organization, independent
 20 of law enforcement agencies, and have qualified staff
 21 knowledgeable in the legal rights of crime victims and the programs
 22 and services available to victims throughout the state. The
 23 subgrantee shall have an existing statewide, toll-free information
 24 service and have demonstrated substantial capacity and experience
 25 serving crime victims in areas required by this act.

26 (d) The services of the resource center shall not duplicate the
 27 victim service activities of the ~~agency~~ *Office of Emergency Services*
 28 or those activities of local victim programs funded through the
 29 ~~agency~~ *Office of Emergency Services*.

30 (e) The subgrantee shall be compensated at its federally
 31 approved indirect cost rate, if any. For the purposes of this section,
 32 “federally approved indirect cost rate” means that rate established
 33 by the federal Department of Health and Human Services or other
 34 federal agency for the subgrantee. Nothing in this section shall be
 35 construed as requiring the ~~agency~~ *Office of Emergency Services*
 36 to permit the use of federally approved indirect cost rates for other
 37 subgrantees of other grants administered by the ~~office~~ *Office of*
 38 *Emergency Services*.

39 (f) All information and records retained by the center in the
 40 course of providing services under this chapter shall be confidential

1 and privileged pursuant to Article 3 (commencing with Section
2 950) of Chapter 4 of Division 8 of the Evidence Code and Article
3 4 (commencing with Section 6060) of Chapter 4 of Division 3 of
4 the Business and Professions Code. Nothing in this subdivision
5 shall prohibit compilation and distribution of statistical data by
6 the center.

7 *SEC. 512. Section 13897.3 of the Penal Code is amended to*
8 *read:*

9 13897.3. The ~~agency~~ *Office of Emergency Services* shall
10 develop written guidelines for funding and performance standards
11 for monitoring the effectiveness of the resource center program.
12 The program shall be evaluated by a public or private nonprofit
13 entity under a contract with the ~~agency~~ *Office of Emergency*
14 *Services.*

15 *SEC. 513. Section 13901 of the Penal Code is amended to*
16 *read:*

17 13901. (a) For the purposes of coordinating local criminal
18 justice activities and planning for the use of state and federal action
19 funds made available through any grant programs, criminal justice
20 and delinquency prevention planning districts shall be established.

21 (b) On January 1, 1976, all planning district boundaries shall
22 remain as they were immediately prior to that date. Thereafter, the
23 number and boundaries of those planning districts may be altered
24 from time to time pursuant to this section; provided that no county
25 shall be divided into two or more districts, nor shall two or more
26 counties which do not comprise a contiguous area form a single
27 district.

28 (c) Prior to taking any action to alter the boundaries of any
29 planning district, the council shall adopt a resolution indicating its
30 intention to take the action and, at least 90 days prior to the taking
31 of the action, shall forward a copy of the resolution to all units of
32 government directly affected by the proposed action.

33 (d) If any county or a majority of the cities directly affected by
34 the proposed action objects thereto, and a copy of the resolution
35 of each board of supervisors or city council stating its objection
36 is delivered to the ~~Secretary of Emergency Management~~ *Director*
37 *of Emergency Services* within 30 days following the giving of the
38 notice of the proposed action, the ~~secretary~~ *director* shall conduct
39 a public meeting within the boundaries of the district as they are
40 proposed to be determined. Notice of the time and place of the

1 meeting shall be given to the public and to all units of local
2 government directly affected by the proposed action, and
3 reasonable opportunity shall be given to members of the public
4 and representatives of those units to present their views on the
5 proposed action.

6 *SEC. 514. Section 14111 of the Penal Code is amended to*
7 *read:*

8 14111. The Legislature further finds that:

9 (a) It is in the public interest to translate the findings of the
10 California Commission on Crime Control and Violence Prevention
11 into community-empowering, community-activated violence
12 prevention efforts that would educate, inspire, and inform the
13 citizens of California about, coordinate existing programs relating
14 to, and provide direct services addressing the root causes of,
15 violence in California.

16 (b) The recommendations in the report of the commission can
17 serve as both the foundation and guidelines for short-,
18 intermediate-, and long-term programs to address and alleviate
19 violence in California.

20 (c) It is in the public interest to facilitate the highest degree of
21 coordination between, cooperation among, and utilization of public,
22 nonprofit, and private sector resources, programs, agencies,
23 organizations, and institutions toward maximally successful
24 violence prevention and crime control efforts.

25 (d) Prevention is a sound fiscal, as well as social, policy
26 objective. Crime and violence prevention programs can and should
27 yield substantially beneficial results with regard to the exorbitant
28 costs of both violence and crime to the public and private sectors.

29 (e) ~~The California Emergency Management Agency~~ *Office of*
30 *Emergency Services* is the appropriate state agency to contract for
31 programs addressing the root causes of violence.

32 *SEC. 515. Section 14112 of the Penal Code is amended to*
33 *read:*

34 14112. The Legislature therefore intends:

35 (a) To develop community violence prevention and conflict
36 resolution programs, in the state, based upon the recommendations
37 of the California Commission on Crime Control and Violence
38 Prevention, that would present a balanced, comprehensive
39 educational, intellectual, and experiential approach toward
40 eradicating violence in our society.

1 (b) That these programs shall be regulated, and funded pursuant
2 to contracts with the ~~California Emergency Management Agency~~
3 *Office of Emergency Services*.

4 *SEC. 516. Section 14113 of the Penal Code is amended to*
5 *read:*

6 14113. Unless otherwise required by context, as used in this
7 title:

8 (a) “Agency” or “office” means the ~~California Emergency~~
9 *Management Agency Office of Emergency Services*.

10 (b) “Secretary” or “director” means the ~~Secretary of Emergency~~
11 *Management Director of Emergency Services*.

12 *SEC. 517. Section 14117 of the Penal Code is amended to*
13 *read:*

14 14117. (a) Each program shall have a governing board or an
15 interagency coordinating team, or both, of at least nine members
16 representing a cross section of existing and recipient,
17 community-based, public and private persons, programs, agencies,
18 organizations, and institutions. Each team shall do all of the
19 following:

20 (1) As closely as possible represent the socioeconomic, ethnic,
21 linguistic, and cultural makeup of the community and shall
22 evidence an interest in and commitment to the categorical areas
23 of violence prevention and conflict resolution.

24 (2) Be responsible for the implementation, evaluation, and
25 operation of the program and all its constituent elements, including
26 those specific direct services as may be provided pursuant to
27 Section 14115.

28 (3) Be accountable for the distribution of all funds.

29 (4) Designate and appoint a responsible administrative authority
30 acceptable to the ~~agency~~ *Office of Emergency Services* prior to the
31 receipt of a grant.

32 (5) Submit an annual report to the ~~agency~~ *Office of Emergency*
33 *Services*, which shall include information on all of the following:

34 (A) The number of learning events.

35 (B) The number of persons trained.

36 (C) An overview of the changing level of information regarding
37 root causes of violence.

38 (D) An overview of the changing level of attitude regarding
39 root causes of violence.

1 (E) The changing level of behavior regarding root causes of
2 violence.

3 (F) The degree to which the program has been successful in
4 satisfying the requirements set forth in subdivisions (e) and (f) of
5 Section 14114.

6 (G) Other measures of program efficacy as specified by the
7 ~~agency~~ *Office of Emergency Services*.

8 (b) Coordinating teams established under this section may adopt
9 local policies, procedures, and bylaws consistent with this title.

10 *SEC. 518. Section 14118 of the Penal Code is amended to*
11 *read:*

12 14118. (a) ~~The agency~~ *Office of Emergency Services* shall
13 prepare and issue written program, fiscal, and administrative
14 guidelines for the contracted programs that are consistent with this
15 title, including guidelines for identifying recipient programs,
16 agencies, organizations, and institutions, and organizing the
17 coordinating teams. ~~The agency~~ *Office of Emergency Services*
18 shall then issue a request for proposals. The responses to the request
19 for proposals shall be rated according to the priorities set forth in
20 subdivision (b) and additional criteria established by the guidelines.
21 The highest rated responses shall be selected. ~~The agency~~ *Office*
22 *of Emergency Services* shall do all of the following:

23 (1) Subject the proposed program and administrative guidelines
24 to a 30-day period of broad public evaluation with public hearings
25 commencing in May 1985, prior to adoption, including specific
26 solicitation of input from culturally, geographically,
27 socioeconomically, educationally, and ethnically diverse persons,
28 programs, agencies, organizations, and institutions.

29 (2) Provide adequate public notice of the public evaluation
30 around the state in major metropolitan and rural newspapers and
31 related media outlets, and to local public, private, and nonprofit
32 human service executives and advisory boards, and other
33 appropriate persons and organizations.

34 (3) Establish a mechanism for obtaining, evaluating, and
35 incorporating when appropriate and feasible, public input regarding
36 the written program and administrative guidelines prior to adoption.

37 (b) Applicants for contracts under this title may be existing
38 community-based public and nonprofit programs, agencies,
39 organizations, and institutions, newly developed nonprofit

1 corporations, or joint proposals from combinations of either or
2 both of the above.

3 *SEC. 519. Section 14119 of the Penal Code is amended to*
4 *read:*

5 14119. (a) The ~~agency~~ *Office of Emergency Services* shall
6 promote, organize, and conduct a series of one-day crime and
7 violence prevention training workshops around the state. The
8 ~~agency~~ *Office of Emergency Services* shall seek participation in
9 the workshops from ethnically, linguistically, culturally,
10 educationally, and economically diverse persons, agencies,
11 organizations, and institutions.

12 (b) The training workshops shall have all of the following goals:

13 (1) To identify phenomena which are thought to be root causes
14 of crime and violence.

15 (2) To identify local manifestations of those root causes.

16 (3) To examine the findings and recommendations of the
17 California Commission on Crime Control and Violence Prevention.

18 (4) To focus on team building and interagency cooperation and
19 coordination toward addressing the local problems of crime and
20 violence.

21 (5) To examine the merits and necessity of a local crime and
22 violence prevention effort.

23 (c) There shall be at least three workshops.

24 *SEC. 520. Section 14120 of the Penal Code is amended to*
25 *read:*

26 14120. (a) Programs shall be funded, depending upon the
27 availability of funds, for a period of two years.

28 (b) The ~~agency~~ *Office of Emergency Services* shall provide 50
29 percent of the program costs, to a maximum amount of fifty
30 thousand dollars (\$50,000) per program per year. The recipient
31 shall provide the remaining 50 percent with other resources which
32 may include in-kind contributions and services. The administrative
33 expenses for the pilot programs funded under Section 14120 shall
34 not exceed 10 percent.

35 (c) Programs should be seeking private sector moneys and
36 developing ways to become self-sufficient upon completion of
37 pilot program funding.

38 (d) The recipient programs shall be responsible for a yearend
39 independent audit.

1 (e) The ~~agency~~ *Office of Emergency Services* shall do an interim
2 evaluation of the programs, commencing in July 1986, and shall
3 report to the Legislature and the people with the results of the
4 evaluation prior to October 31, 1986. The evaluation shall include,
5 but not be limited to, an assessment and inventory of all of the
6 following:

7 (1) The number of learning events.

8 (2) The number of persons trained.

9 (3) The changing level of information regarding root causes of
10 violence.

11 (4) The changing level of attitude regarding root causes of
12 violence.

13 (5) The changing level of behavior regarding root causes of
14 violence.

15 (6) The reduced level of violence in our society.

16 (7) The degree to which the program has succeeded in reaching
17 and impacting positively upon local ethnic, cultural, and
18 socioeconomic groups in the service area.

19 A final evaluation shall be made with a report prior to October
20 31, 1987, which shall also include specific recommendations to
21 the Legislature and the people of this state regarding methods and
22 means by which these violence prevention and crime control
23 programmatic efforts can be enhanced and improved.

24 *SEC. 521. Section 14121 of the Penal Code is amended to*
25 *read:*

26 14121. The ~~agency~~ *Office of Emergency Services* may hire
27 support staff and utilize resources necessary to carry out the
28 purposes of this title.

29 *SEC. 522. Section 14140 of the Penal Code is amended to*
30 *read:*

31 14140. (a) Each county is authorized and encouraged to create
32 a county task force on violent crimes against women. The board
33 of supervisors of a county which elects to create a task force under
34 this section shall notify the ~~California Emergency Management~~
35 *Agency Office of Emergency Services* that the county is
36 establishing, by appointment, a countywide task force. Each county
37 task force shall develop a countywide policy on violent crimes
38 against women.

39 (b) The ~~California Emergency Management Agency~~ *Office of*
40 *Emergency Services* may provide technical assistance to, and

1 collect and disseminate information on, the county task forces
2 established under this section.

3 *SEC. 523. Section 12101 of the Public Contract Code is*
4 *amended to read:*

5 12101. It is the intent of the Legislature that policies developed
6 by the ~~California Department of Technology Agency~~ and
7 procedures developed by the Department of General Services in
8 accordance with Section 12102 provide for the following:

9 (a) The expeditious and value-effective acquisition of
10 information technology goods and services to satisfy state
11 requirements.

12 (b) The acquisition of information technology goods and services
13 within a competitive framework.

14 (c) The delegation of authority by the Department of General
15 Services to each state agency that has demonstrated to the
16 department's satisfaction the ability to conduct value-effective
17 information technology goods and services acquisitions.

18 (d) The exclusion from state bid processes, at the state's option,
19 of any supplier having failed to meet prior contractual requirements
20 related to information technology goods and services.

21 (e) The review and resolution of protests submitted by any
22 bidders with respect to any information technology goods and
23 services acquisitions.

24 *SEC. 524. Section 12103 of the Public Contract Code is*
25 *amended to read:*

26 12103. In addition to the mandatory requirements enumerated
27 in Section 12102, the acquisition policies developed and maintained
28 by the ~~California Department of Technology Agency~~ and
29 procedures developed and maintained by the Department of
30 General Services in accordance with this chapter may provide for
31 the following:

32 (a) Price negotiation with respect to contracts entered into in
33 accordance with this chapter.

34 (b) System or equipment component performance, or availability
35 standards, including an assessment of the added cost to the state
36 to receive contractual guarantee of a level of performance.

37 (c) Requirement of a bond or assessment of a cost penalty with
38 respect to a contract or consideration of a contract offered by a
39 supplier whose performance has been determined unsatisfactory

1 in accordance with established procedures maintained in the State
2 Administrative Manual as required by Section 12102.

3 *SEC. 525. Section 12104 of the Public Contract Code is*
4 *amended to read:*

5 12104. (a) (1) Commencing on or before January 1, 2007, the
6 State Contracting Manual shall set forth all procedures and methods
7 that shall be used by the department when seeking to obtain bids
8 for the acquisition of information technology.

9 (2) Revisions to the manual must be publicly announced,
10 including, but not limited to, postings on the department's Internet
11 homepage.

12 (b) The department, in consultation with the ~~California~~
13 ~~Department of Technology Agency~~, shall develop, implement, and
14 maintain standardized methods for the development of information
15 technology requests for proposals.

16 (c) All information technology requests for proposals shall be
17 reviewed by the ~~California Department of Technology Agency~~
18 and the Department of General Services prior to release to the
19 public.

20 *SEC. 526. Section 12105 of the Public Contract Code is*
21 *amended to read:*

22 12105. The Department of General Services and the ~~California~~
23 ~~Department of Technology Agency~~ shall coordinate in the
24 development of policies and procedures that implement the intent
25 of this chapter. The ~~California Department of Technology Agency~~
26 shall have the final authority in the determination of any general
27 policy and the Department of General Services shall have the final
28 authority in the determination of any procedures.

29 *SEC. 527. Section 12120 of the Public Contract Code is*
30 *amended to read:*

31 12120. The Legislature finds and declares that, with the advent
32 of deregulation in the telecommunications industry, substantial
33 cost savings can be realized by the state through the specialized
34 evaluation and acquisition of alternative telecommunications
35 systems. All contracts for the acquisition of telecommunications
36 services and all contracts for the acquisition of telecommunications
37 goods, whether by lease or purchase, shall be made by, or under
38 the supervision of, the ~~California Department of Technology~~
39 ~~Agency~~. All acquisitions shall be accomplished in accordance with
40 Chapter 3 (commencing with Section 12100), relating to the

1 acquisition of information technology goods and services, except
2 to the extent any directive or provision is uniquely applicable to
3 information technology acquisitions. The ~~agency department~~ shall
4 have responsibility for the establishment of policy and procedures
5 for telecommunications. The ~~agency department~~ shall have
6 responsibility for the establishment of tactical policy and
7 procedures for information technology and telecommunications
8 acquisitions consistent with statewide strategic policy. The Trustees
9 of the California State University and the Board of Governors of
10 the California Community Colleges shall assume the functions of
11 the ~~agency department~~ with regard to acquisition of
12 telecommunications goods and services by the California State
13 University and the California Community Colleges, respectively.
14 The trustees and the board shall each grant to the agency an
15 opportunity to bid whenever the university or the college system
16 solicits bids for telecommunications goods and services.

17 *SEC. 528. Section 12121 of the Public Contract Code is*
18 *amended to read:*

19 12121. As used in this chapter:

20 (a) ~~“Agency”~~ *“Department”* means the ~~California Department~~
21 ~~of Technology Agency~~.

22 (b) *“Tactical policy”* means the policies of an organization
23 necessary to direct operational staff in carrying out their day-to-day
24 activities.

25 (c) *“Strategic policy”* means policy which defines the goals and
26 objectives for an organization.

27 *SEC. 529. Section 715 of the Public Resources Code is*
28 *amended to read:*

29 715. The Department of Forestry and Fire Protection, in
30 cooperation with the ~~California Emergency Management Agency~~
31 *Office of Emergency Services*, shall develop a program to certify
32 active duty military pilots to engage in firefighting in the state.

33 *SEC. 530. Section 2802 of the Public Resources Code is*
34 *amended to read:*

35 2802. (a) The department shall develop jointly with the United
36 States Geological Survey a prototype earthquake prediction system
37 along the central San Andreas fault near the City of Parkfield.

38 (b) The system shall include a dense cluster of seismic and
39 crustal deformation instrumentation capable of monitoring
40 geophysical and geochemical phenomena associated with

1 earthquakes in the region. These data shall be analyzed
2 continuously to determine if precursory anomalies can be identified
3 with sufficient certainty to make a short-term prediction. The
4 department shall not duplicate any of the ongoing efforts of the
5 United States Geological Survey or any public or private college
6 or university in the development of this system.

7 (c) In meeting its obligations under this chapter, the department
8 shall develop, in cooperation with the United States Geological
9 Survey, a plan for completion of the Parkfield instrumentation
10 network. The plan shall provide for all of the following:

11 (1) Augmentation of monitoring instruments with the goal of
12 detecting precursors of the Parkfield characteristic earthquake.

13 (2) Operation by the department of a remote data review station
14 in Sacramento which will provide state scientists with data from
15 the Parkfield prototype earthquake prediction system and other
16 data, as required, to advise the ~~California Emergency Management~~
17 ~~Agency Office of Emergency Services~~ of the occurrence of
18 precursors and verification of the predicted event.

19 (3) Advising the United States Geological Survey, the ~~California~~
20 ~~Emergency Management Agency Office of Emergency Services~~,
21 the Seismic Safety Commission, and the California Earthquake
22 Prediction Evaluation Council, regarding the department's review
23 of Parkfield data.

24 (d) On January 1, 1987, the department shall issue a progress
25 report to the Governor, the Legislature, and the Seismic Safety
26 Commission. An annual progress report shall be made each year
27 thereafter. The project shall terminate on January 1, 1992, unless
28 extended by statute.

29 *SEC. 531. Section 2803 of the Public Resources Code is*
30 *amended to read:*

31 2803. (a) Concurrently with the development of the Parkfield
32 prototype earthquake prediction system, the ~~California Emergency~~
33 ~~Management Agency Office of Emergency Services~~, in consultation
34 with the California Earthquake Prediction Evaluation Council,
35 shall develop a comprehensive emergency response plan for
36 short-term earthquake predictions. The plan shall include all of
37 the following:

38 (1) A method of peer review involving the California Earthquake
39 Prediction Evaluation Council to evaluate the validity of short-term
40 earthquake predictions and to develop guidelines for initiating

1 state action in response to anomalous geochemical and geophysical
2 phenomena.

3 (2) A means of rapidly activating governmental response to a
4 predicted event.

5 (3) Plans for mitigating earthquake losses to vulnerable
6 populations, including, but not limited to, drawdown of
7 impoundment levels behind dams, positioning of emergency
8 equipment in safe areas, and mobilization of firefighting, law
9 enforcement, rescue, and medical personnel.

10 (4) A public warning system.

11 (5) Strategies for dealing with earthquake predictions that fail
12 to occur (false alarms) and the failure of an earthquake prediction
13 system to forecast a damaging event.

14 (b) ~~The California Emergency Management Agency Office of~~
15 ~~Emergency Services~~ shall consult with the department, the Seismic
16 Safety Commission, the United States Geological Survey, and the
17 Federal Emergency Management Agency in the development of
18 the plan.

19 *SEC. 532. Section 2811 of the Public Resources Code is*
20 *amended to read:*

21 2811. As used in this chapter:

22 (a) “Agency” or “office” means ~~the California Emergency~~
23 ~~Management Agency Office of Emergency Services.~~

24 (b) “Commission” means the Seismic Safety Commission.

25 (c) “Local jurisdiction” means a city, county, or district.

26 (d) “Preparedness” means long-term preearthquake hazard
27 mitigation, reconstruction, and recovery planning and preparation
28 for emergency response.

29 *SEC. 533. Section 2814 of the Public Resources Code is*
30 *amended to read:*

31 2814. The earthquake preparedness activities established under
32 this chapter shall be carried out by ~~the agency Office of Emergency~~
33 ~~Services.~~ The commission and ~~agency Office of Emergency Services~~
34 shall work together and use appropriate scientific information and
35 recommendations provided by the division. Other arrangements
36 to coordinate the activities established by this chapter shall be
37 made, through mutual agreement, by the commission and the
38 ~~agency Office of Emergency Services.~~ A local advisory board shall
39 be established to provide advice and guidance on project activities
40 in the Counties of San Diego, Imperial, and Santa Barbara.

1 *SEC. 534. Section 2815 of the Public Resources Code is*
2 *amended to read:*

3 2815. The ~~agency~~ *Office of Emergency Services* may enter into
4 agreements with local, regional, and federal agencies, councils of
5 government, and private organizations and contractors, and may
6 receive and expend funds provided by those entities in support of
7 comprehensive earthquake preparedness programs authorized by
8 this chapter. The commission and ~~agency~~ *Office of Emergency*
9 *Services* shall seek assistance from appropriate federal agencies.

10 *SEC. 535. Section 3233 of the Public Resources Code is*
11 *amended to read:*

12 3233. (a) The division may develop field rules which establish
13 volumetric thresholds for emergency reporting by the operator of
14 oil discharges to land associated with onshore drilling, exploration,
15 or production operations, where the oil discharges, because of the
16 circumstances established pursuant to paragraph (1) of subdivision
17 (c), cannot pass into or threaten the waters of the state. The division
18 may not adopt field rules under this section, unless the State Water
19 Resources Control Board and the Department of Fish and Game
20 first concur with the volumetric reporting thresholds contained in
21 the proposed field rules. Subchapter 1 (commencing with Section
22 1710) of Chapter 4 of Division 2 of Title 14 of the California Code
23 of Regulations shall apply to the adoption and implementation of
24 field rules authorized by this section.

25 (b) The authority granted to the division pursuant to subdivision
26 (a) shall apply solely to oil fields located in the San Joaquin Valley,
27 as designated by the division. The division shall adopt the field
28 rules not later than January 1, 1998.

29 (c) For purposes of implementing this section, the division, the
30 State Water Resources Control Board, and the Department of Fish
31 and Game shall enter into an agreement that defines the process
32 for establishing both of the following:

33 (1) The circumstances, such as engineered containment, under
34 which oil discharges cannot pass into or threaten the waters of this
35 state.

36 (2) The volumetric reporting thresholds that are applicable under
37 the circumstances established pursuant to paragraph (1).

38 (d) In no case shall a reporting threshold established in the field
39 rules, where the oil discharge cannot pass into or threaten the
40 waters of this state, be less than one barrel (42 gallons), unless

1 otherwise established by federal law or regulation. Until field rules
2 are adopted, emergency reporting of oil discharges shall continue
3 as required by existing statute and regulations.

4 (e) An operator who discharges oil in amounts less than the
5 volumetric thresholds adopted by the division pursuant to this
6 section is exempt from all applicable state and local reporting
7 requirements. Discharges of oil in amounts equal to, or greater
8 than, the volumetric thresholds adopted by the division pursuant
9 to this section shall be immediately reported to the ~~California~~
10 ~~Emergency Management Agency Office of Emergency Services~~
11 which shall inform the division and other local or state agencies
12 as required by Section 8589.7 of the Government Code. Reporting
13 to the ~~California Emergency Management Agency Office of~~
14 ~~Emergency Services~~ shall be deemed to be in compliance with all
15 applicable state and local reporting requirements.

16 (f) Oil discharges below the reporting thresholds established in
17 the field rules shall be exempt from the emergency notification or
18 reporting requirements, and any penalties provided for
19 nonreporting, established under paragraph (1) of subdivision (a)
20 of Section 13260 of the Water Code, subdivisions (a), (c), and (e)
21 of Section 13272 of the Water Code, Section 25507 of the Health
22 and Safety Code, Sections 8670.25.5 and 51018 of the Government
23 Code, and subdivision (h) of Section 1722 of Title 14 of the
24 California Code of Regulations. Oil discharge reporting
25 requirements under Section 51018 of the Government Code shall
26 be applicable if a spill involves a fire or explosion.

27 (g) This section shall not affect existing reporting or notification
28 requirements under federal law.

29 (h) Nothing in this section shall be construed to relieve any
30 party of any responsibility established by statute, regulation, or
31 order, to clean up or remediate any oil discharge, whether
32 reportable or exempt pursuant to this section.

33 (i) Reporting provided pursuant to this section is not intended
34 to prohibit any department or agency from seeking and obtaining
35 any supplemental postreporting information to which the
36 department or agency might otherwise be entitled.

37 (j) For purposes of this section, “oil” means naturally occurring
38 crude oil.

39 *SEC. 536. Section 5075.8 of the Public Resources Code is*
40 *amended to read:*

1 5075.8. (a) The department may convene a planning task force
2 in order to facilitate the development of a comprehensive plan for
3 the San Joaquin River Parkway.

4 The task force shall include, but not be limited to, a
5 representative of the following entities:

6 (1) State Lands Commission.

7 (2) Department of Parks and Recreation.

8 (3) Department of Fish and Game.

9 (4) State Reclamation Board.

10 (5) County of Fresno.

11 (6) County of Madera.

12 (7) City of Fresno.

13 (8) Fresno County and City Chamber of Commerce.

14 (9) Fresno Sand and Gravel Producers.

15 (10) San Joaquin River Property Owners Association.

16 (11) Upper San Joaquin River Association.

17 (12) San Joaquin River Parkway and Conservation Trust.

18 (13) San Joaquin River Committee.

19 ~~(14) Department of Boating and Waterways.~~

20 (b) The plan shall be submitted to the Legislature not later than
21 June 1, 1991.

22 *SEC. 537. Section 5099.12 of the Public Resources Code is*
23 *amended to read:*

24 5099.12. Of the annual apportionment of funds received by
25 the director pursuant to this chapter, 60 percent shall be allocated
26 for local governmental agency projects and 40 percent for state
27 agency projects. The state agency share shall be disbursed to the
28 following state agencies in the following percentages: ~~55~~ 60 percent
29 to the Department of Parks and Recreation; 35 percent to the
30 Wildlife Conservation Board or the Department of Fish and Game;
31 *and* 5 percent to the Department of Water Resources; ~~and 5 percent~~
32 ~~to the Department of Boating and Waterways.~~ The State Coastal
33 Conservancy established pursuant to Section 31100 is eligible to
34 compete for grants of funds for projects of an outdoor recreational
35 nature from the 6 percent contingency fund established by this
36 section.

37 If either the state or local governmental agencies are unable to
38 utilize their allocation of funds, the director shall allocate the
39 uncommitted funds to those state or local governmental agencies
40 that are in position to take advantage of the funds during the year

1 in which they are allocated. The 60-percent allocation for local
2 governmental agency projects and the 40-percent allocation to
3 state agency projects shall not be computed until the costs of
4 maintaining and keeping up to date the plan required pursuant to
5 Section 5099.2 and an additional 6 percent for deposit to a
6 contingency fund have been deducted.

7 *SEC. 538. Section 10002 of the Public Resources Code is*
8 *amended to read:*

9 10002. The Director of Fish and Game shall prepare proposed
10 streamflow requirements, which shall be specified in terms of
11 cubic feet of water per second, for each stream or watercourse
12 identified pursuant to Section 10001. In developing the
13 requirements for each stream, the director shall consult with the
14 Director of Water Resources, ~~the Director of Boating and~~
15 ~~Waterways~~, the Director of Parks and Recreation and with all
16 affected local governments. The Director of Fish and Game may
17 also consult with any private individuals, groups, or organizations
18 as the director deems advisable. Upon completion of the proposed
19 streamflow requirements for any individual stream or watercourse,
20 the Director of Fish and Game shall transmit these proposed
21 requirements to the State Water Resources Control Board. The
22 State Water Resources Control Board shall consider these
23 requirements within a stream as set forth in Section 1257.5 of the
24 Water Code. The Director of Fish and Game shall complete the
25 preparation of proposed requirements for the initial streams not
26 later than July 1, 1989.

27 The Department of Fish and Game may contract for temporary
28 services for purposes of preparing the proposed streamflow
29 requirements.

30 *SEC. 539. Section 25402.9 of the Public Resources Code is*
31 *amended to read:*

32 25402.9. (a) On or before July 1, 1996, the commission shall
33 develop, adopt, and publish an informational booklet to educate
34 and inform homeowners, rental property owners, renters, sellers,
35 brokers, and the general public about the statewide home energy
36 rating program adopted pursuant to Section 25942.

37 (b) In the development of the booklet, the commission shall
38 consult with representatives of the ~~Department of Real Estate~~
39 *Bureau of Real Estate*, the Department of Housing and Community
40 Development, the Public Utilities Commission, investor-owned

1 and municipal utilities, cities and counties, real estate licensees,
 2 home builders, mortgage lenders, home appraisers and inspectors,
 3 home energy rating organizations, contractors who provide home
 4 energy services, consumer groups, and environmental groups.

5 (c) The commission shall charge a fee for the informational
 6 booklet to recover its costs under subdivision (a).

7 *SEC. 540. Section 25701 of the Public Resources Code is*
 8 *amended to read:*

9 25701. (a) Within six months after the effective date of this
 10 division, each electric utility, gas utility, and fuel wholesaler or
 11 manufacturer in the state shall prepare and submit to the
 12 commission a proposed emergency load curtailment plan or
 13 emergency energy supply distribution plan setting forth proposals
 14 for identifying priority loads or users in the event of a sudden and
 15 serious shortage of fuels or interruption in the generation of
 16 electricity.

17 (b) The commission shall encourage electric utilities to cooperate
 18 in joint preparation of an emergency load curtailment plan or
 19 emergency energy distribution plan. If such a cooperative plan is
 20 developed between two or more electric utilities, such utilities may
 21 submit such joint plans to the commission in place of individual
 22 plans required by subdivision (a) of this section.

23 (c) The commission shall collect from all relevant governmental
 24 agencies, including, but not limited to, the Public Utilities
 25 Commission and the ~~California Emergency Management Agency~~
 26 *Office of Emergency Services*, any existing contingency plans for
 27 dealing with sudden energy shortages or information related
 28 thereto.

29 *SEC. 541. Section 25943 of the Public Resources Code is*
 30 *amended to read:*

31 25943. (a) (1) By March 1, 2010, the commission shall
 32 establish a regulatory proceeding to develop and implement a
 33 comprehensive program to achieve greater energy savings in
 34 California’s existing residential and nonresidential building stock.
 35 This program shall comprise a complementary portfolio of
 36 techniques, applications, and practices that will achieve greater
 37 energy efficiency in existing residential and nonresidential
 38 structures that fall significantly below the current standards in Title
 39 24 of the California Code of Regulations, as determined by the
 40 commission.

1 (2) The comprehensive program may include, but need not be
2 limited to, a broad range of energy assessments, building
3 benchmarking, energy rating, cost-effective energy efficiency
4 improvements, public and private sector energy efficiency
5 financing options, public outreach and education efforts, and green
6 workforce training.

7 (b) To develop and implement the program specified in
8 subdivision (a), the commission shall do both of the following:

9 (1) Coordinate with the Public Utilities Commission and consult
10 with representatives from the ~~Department of Real Estate Bureau~~
11 *of Real Estate*, the Department of Housing and Community
12 Development, investor-owned and publicly owned utilities, local
13 governments, real estate licensees, commercial and home builders,
14 commercial property owners, small businesses, mortgage lenders,
15 financial institutions, home appraisers, inspectors, energy rating
16 organizations, consumer groups, environmental and environmental
17 justice groups, and other entities the commission deems
18 appropriate.

19 (2) Hold at least three public hearings in geographically diverse
20 locations throughout the state.

21 (c) In developing the requirements for the program specified in
22 subdivision (a), the commission shall consider all of the following:

23 (1) The amount of annual and peak energy savings, greenhouse
24 gas emission reductions, and projected customer utility bill savings
25 that will accrue from the program.

26 (2) The most cost-effective means and reasonable timeframes
27 to achieve the goals of the program.

28 (3) The various climatic zones within the state.

29 (4) An appropriate method to inform and educate the public
30 about the need for, benefits of, and environmental impacts of, the
31 comprehensive energy efficiency program.

32 (5) The most effective way to report the energy assessment
33 results and the corresponding energy efficiency improvements to
34 the owner of the residential or nonresidential building, including,
35 among other things, the following:

36 (A) Prioritizing the identified energy efficiency improvements.

37 (B) The payback period or cost-effectiveness of each
38 improvement identified.

39 (C) The various incentives, loans, grants, and rebates offered
40 to finance the improvements.

- 1 (D) Available financing options including all of the following:
2 (i) Mortgages or sales agreement components.
3 (ii) On-bill financing.
4 (iii) Contractual property tax assessments.
5 (iv) Home warranties.
6 (6) Existing statutory and regulatory requirements to achieve
7 energy efficiency savings and greenhouse gas emission reductions.
8 (7) A broad range of implementation approaches, including both
9 utility and nonutility administration of energy efficiency programs.
10 (8) Any other considerations deemed appropriate by the
11 commission.
- 12 (d) The program developed pursuant to this section shall do all
13 of the following:
- 14 (1) Minimize the overall costs of establishing and implementing
15 the comprehensive energy efficiency program requirements.
- 16 (2) Ensure, for residential buildings, that the energy efficiency
17 assessments, ratings, or improvements do not unreasonably or
18 unnecessarily affect the home purchasing process or the ability of
19 individuals to rent housing. A transfer of property subject to the
20 program implemented pursuant to this section shall not be
21 invalidated solely because of the failure of a person to comply
22 with a provision of the program.
- 23 (3) Ensure, for nonresidential buildings, that the energy
24 improvements do not have an undue economic impact on California
25 businesses.
- 26 (4) Determine, for residential buildings, the appropriateness of
27 the Home Energy Rating System (HERS) program to support the
28 goals of this section and whether there are a sufficient number of
29 HERS-certified raters available to meet the program requirements.
- 30 (5) Determine, for nonresidential structures, the availability of
31 an appropriate cost-effective energy efficiency assessment system
32 and whether there are a sufficient number of certified raters or
33 auditors available to meet the program requirements.
- 34 (6) Coordinate with the California Workforce Investment Board,
35 the Employment Training Panel, the California Community
36 Colleges, and other entities to ensure a qualified, well-trained
37 workforce is available to implement the program requirements.
- 38 (7) Coordinate with, and avoid duplication of, existing
39 proceedings of the Public Utilities Commission and programs
40 administered by utilities.

1 (e) A home energy rating or energy assessment service does not
2 meet the requirements of this section unless the service has been
3 certified by the commission to be in compliance with the program
4 criteria developed pursuant to this section and is in conformity
5 with other applicable elements of the program.

6 (f) The commission shall periodically update the criteria and
7 adopt any revision that, in its judgment, is necessary to improve
8 or refine program requirements after receiving public input.

9 (g) Before implementing an element of the program developed
10 pursuant to subdivision (a) that requires the expansion of statutory
11 authority of the commission or the Public Utilities Commission,
12 the commission and the Public Utilities Commission shall obtain
13 legislative approval for the expansion of their authorities.

14 (h) The commission shall report on the status of the program in
15 the integrated energy policy report pursuant to Section 25302.

16 (i) The commission shall fund activities undertaken pursuant
17 to this section from the Federal Trust Fund consistent with the
18 federal American Recovery and Reinvestment Act of 2009 (Public
19 Law 111-5) or other sources of nonstate funds available to the
20 commission for the purposes of this section.

21 (j) For purposes of this section, “energy assessment” means a
22 determination of an energy user’s energy consumption level,
23 relative efficiency compared to other users, and opportunities to
24 achieve greater efficiency or improve energy resource utilization.

25 *SEC. 542. Section 29735 of the Public Resources Code is*
26 *amended to read:*

27 29735. There is hereby created the Delta Protection
28 Commission consisting of 15 members as follows:

29 (a) One member of the board of supervisors, or his or her
30 designee, of each of the five counties within the Delta whose
31 supervisorial district is within the primary zone shall be appointed
32 by the board of supervisors of each of those respective counties.

33 (b) (1) Two elected city council members shall be selected and
34 appointed by city selection committees, from the appropriate
35 regions specified in subparagraphs (A) and (B), one in each of the
36 following areas:

37 (A) One from the south Delta, consisting of the County of San
38 Joaquin.

39 (B) One from the west Delta, from either the County of Contra
40 Costa or the County of Solano, on a rotating basis.

- 1 (2) One elected city council member shall be selected and
 2 appointed by city selection committees, from regional and area
 3 councils of government from the north Delta, consisting of the
 4 Counties of Yolo and Sacramento.
- 5 (3) A city council member appointed pursuant to this subdivision
 6 may select a designee for purposes of this subdivision.
- 7 (4) Notwithstanding Section 29736, the term of office of the
 8 members selected pursuant to this subdivision shall be two years.
- 9 (c) One member each from the board of directors of three
 10 different reclamation districts that are located within the primary
 11 zone who are residents of the Delta, and who are elected by the
 12 trustees of reclamation districts pursuant to paragraphs (1), (2),
 13 and (3). Each reclamation district may nominate one director to
 14 be a member. The member from an area described in paragraph
 15 (1), (2), or (3) shall be selected from among the nominees by a
 16 majority vote of the reclamation districts in that area. A member
 17 selected pursuant to this subdivision may select a designee for this
 18 purpose. For the purposes of this section, each reclamation district
 19 shall have one vote. Reclamation district members shall consist
 20 of the following:
- 21 (1) One member from the area of the North Delta Water Agency
 22 as described in Section 9.1 of the North Delta Water Agency Act
 23 (Chapter 283 of the Statutes of 1973).
- 24 (2) One member from an area including the west Delta
 25 consisting of the area of the County of Contra Costa within the
 26 Delta and within the Central Delta Water Agency as described in
 27 Section 9.1 of the Central Delta Water Agency Act (Chapter 1133
 28 of the Statutes of 1973).
- 29 (3) One member from the area of the South Delta Water Agency
 30 as described in Section 9.1 of the South Delta Water Agency Act
 31 (Chapter 1089 of the Statutes of 1973).
- 32 (d) The Secretary of Food and Agriculture, or the secretary’s
 33 sole designee.
- 34 (e) The executive officer of the State Lands Commission, or the
 35 executive officer’s sole designee.
- 36 (f) The Secretary of the Natural Resources Agency, or his or
 37 her sole designee.
- 38 (g) The Secretary of ~~Business, Transportation and Housing,~~
 39 *Transportation*, or his or her sole designee.

1 *SEC. 543. Section 30169 of the Public Resources Code is*
2 *amended to read:*

3 30169. (a) The Legislature hereby finds and declares that a
4 dispute exists as to the proper location of the inland boundary of
5 the coastal zone in the area commonly known as Aliso Viejo and
6 that, after extensive review of the history of this boundary segment,
7 the criteria utilized to establish the boundary in 1976, and the
8 relevant topographical information, it is possible to reach differing
9 conclusions of equal validity regarding the proper location of the
10 coastal zone boundary. The Legislature further finds that it is not
11 possible to determine objectively which ridgeline feature in the
12 Aliso Viejo area most closely approximates the boundary criteria
13 utilized by the Legislature in 1976, and that it is in the best public
14 interest to resolve the current boundary dispute in order to avoid
15 further delay in the completion of the local coastal program for
16 Orange County. The Legislature further finds that a timely
17 resolution of this boundary dispute can best be accomplished by
18 adjusting the coastal zone boundary in the manner set forth in this
19 section and within the general framework of Section 30103 and
20 consistent with the need to protect the coastal resources of the
21 Aliso Viejo area and to carry out the requirements of Section
22 30213.

23 (b) In the Aliso Creek area of Orange County approximately
24 286 acres are added and approximately 1,020 acres are excluded
25 as specifically shown on maps 28A and 28B dated April 15, 1980,
26 and filed on April 22, 1980, with the office of the Secretary of
27 State and which are on file in the office of the commission. The
28 maps are hereby adopted by reference. The changes made in the
29 inland boundary of the coastal zone by this section are in addition
30 to any changes made by any map referred to in Section 30150,
31 except to the extent that the changes made by this section affect a
32 segment of the boundary previously changed by the map, in which
33 case the changes made by this section shall supersede any of those
34 previous changes.

35 (c) The executive director of the commission may adjust the
36 precise location of the inland boundary of the coastal zone not
37 more than 100 yards in either a seaward or landward direction in
38 order to conform the precise boundary location to the specific
39 limits of development adjacent to the coastal zone boundary as
40 shown on maps 28A and 28B. However, in any subdivided area,

1 the executive director may adjust the precise location of the inland
2 boundary of the coastal zone not more than 100 feet in a landward
3 direction in order to include any development of the first row of
4 lots immediately adjacent to the boundary as shown on those maps,
5 where the executive director determines that the adjustment is
6 necessary to ensure that adequate controls will be applied to the
7 development in order to minimize any potential adverse effects
8 on the coastal zone resources. The executive director shall prepare
9 a detailed map showing any of the changes and shall file a copy
10 of the map with the county clerk.

11 (d) Prior to the adoption and approval of a drainage control plan
12 by the County of Orange for the Aliso Viejo Planned Community
13 (as designated by Amendment No. L. U. 79-1 to the Land Use
14 Element of the Orange County General Plan), the county shall
15 consult with the executive director of the commission to ensure
16 that any drainage control facilities located outside the coastal zone
17 are adequate to provide for no increase in peak runoff, by virtue
18 of the development of the Aliso Viejo Planned Community, which
19 would result in adverse impacts on coastal zone resources.

20 (e) On or before January 31, 1981, the commission shall, after
21 public hearing and in consultation with the County of Orange,
22 certify or reject a local coastal program segment prepared and
23 submitted by the county on or before August 1, 1980, for the
24 following parcel in the Aliso Creek area: land owned by the Aliso
25 Viejo Company, a California corporation, as of April 22, 1980,
26 within the coastal zone as amended by this section. The local
27 coastal program required by this subdivision shall, for all purposes
28 of this division, constitute a certified local coastal program segment
29 for that parcel in the County of Orange. The segment of the
30 county's local coastal program for the parcel may be amended
31 pursuant to this division relating to the amendment of local coastal
32 programs. If the commission neither certifies nor rejects the
33 submitted local coastal program within the time limit specified in
34 this subdivision, the land added to the coastal zone by this section
35 shall no longer be subject to this division. It is the intent of the
36 Legislature in enacting this subdivision, that a procedure to
37 expedite the preparation and adoption of a local coastal program
38 for that land be established so that the public and the affected
39 property owner know as soon as possible what uses are permissible.

1 (f) The commission, through its executive director, shall enter
2 into a binding and enforceable agreement with Aliso Viejo
3 Company, and the agreement shall be recorded as a covenant to
4 run with the land with no prior liens other than tax and assessment
5 liens restricting the Aliso Viejo Planned Community. The
6 agreement shall provide for all of the following:

7 (1) The Aliso Viejo Company shall provide at least 1,000 units
8 of for-sale housing to moderate-income persons at prices affordable
9 to a range of households earning from 81 to 120 percent of the
10 median income for Orange County as adjusted for family size
11 pursuant to the commission's housing guidelines on affordable
12 housing dated January 22, 1980, and July 16, 1979, and any
13 additional provisions as agreed to between the commission and
14 the Aliso Viejo Company as referred to in this subdivision.

15 For purposes of this subdivision, median income constitutes the
16 figure most recently established by the Department of Housing
17 and Urban Development at the time the public report for the units,
18 or any portion thereof, is issued by the ~~Department of Real Estate~~
19 *Bureau of Real Estate*. The affordable units required by this
20 subdivision shall be priced equally over the moderate-income range
21 and shall reflect a reasonable mix as to size and number of
22 bedrooms.

23 (2) The 1,000 units provided pursuant to this subdivision shall
24 be sold subject to controls on resale substantially as provided in
25 the commission's housing guidelines on affordable housing, dated
26 January 22, 1980, and July 16, 1979, and any additional provisions
27 as agreed to between the commission and the Aliso Viejo Company
28 as referred to in this subdivision. On or before entering the
29 agreement provided for herein, the Aliso Viejo Company shall
30 enter into an agreement, approved by the executive director of the
31 commission, with the Orange County Housing Authority or any
32 other appropriate housing agency acceptable to the executive
33 director of the commission to provide for the administration of the
34 resale controls including the qualification of purchasers.

35 (3) The 1,000 units provided pursuant to this subdivision may
36 be dispersed throughout the Aliso Viejo Planned Community, and
37 shall be completed and offered for sale prior to, or simultaneously
38 with, other units in the overall project, so that at any time at least
39 7½ percent of the units constructed shall be resale-controlled until
40 the 1,000 units are completed.

1 (4) The Department of Housing and Community Development
2 and the County of Orange shall be third party beneficiaries to the
3 agreement provided in this subdivision and shall have the power
4 to enforce any and all provisions of the agreement.

5 (5) This agreement may only be amended upon the
6 determination of the Aliso Viejo Company or its successors or
7 assigns, the commission, the Department of Housing and
8 Community Development, and the County of Orange that the
9 change is necessary in order to prevent adverse effects on the
10 supply of low- and moderate-income housing opportunities and
11 to improve the methods of providing the housing at continually
12 affordable prices.

13 The Legislature hereby finds and declares that, because the Aliso
14 Viejo Company, in addition to the 1,000 units of controlled housing
15 provided in this subdivision, will provide for 2,000 units of
16 subsidized affordable housing for low income persons and 2,000
17 affordable housing units for moderate income persons pursuant to
18 the company's housing program, the purposes of Section 30213
19 will be met by enactment of this subdivision. The Legislature
20 further finds and declares that the general provisions of this
21 subdivision are specifically described and set forth in letters by
22 Aliso Viejo Company and the executive director of the commission
23 published in the Journals of the Senate and the Assembly of the
24 1979–80 Regular Session, and it is the intent of the Legislature
25 that the commission and Aliso Viejo Company conform the
26 agreement provided in this subdivision to the specific provisions
27 described in the letters.

28 (g) Notwithstanding any other provision of law, the application
29 of this division by the commission to the development or use of
30 any infrastructure necessary and appropriate to serve development
31 within the portions of the Aliso Viejo Planned Community located
32 inland of the coastal zone as amended by this section, shall be
33 strictly limited to addressing direct impacts on coastal zone
34 resources and shall be carried out in a manner that assures that the
35 infrastructure will be provided. Furthermore, the commission shall
36 amend without conditions its prior permit No. A-61-76 to provide
37 for its release of sewer outfall flow limitations necessary and
38 appropriate to serve the Aliso Viejo Planned Community located
39 inland of the coastal zone as amended by this subdivision. For
40 purposes of this subdivision, "infrastructure" means those facilities

1 and improvements necessary and appropriate to develop, construct,
2 and serve urban communities, including but not limited to, streets,
3 roads, and highways; transportation systems and facilities; schools;
4 parks; water and sewage systems and facilities; electric, gas, and
5 communications systems and facilities; and drainage and flood
6 control systems and facilities. Notwithstanding this subdivision,
7 the commission may limit, or reasonably condition, the use of the
8 transit corridor in Aliso Creek Valley to transit uses, uses approved
9 by the commission that will serve the Aliso Greenbelt Project
10 prepared by the State Coastal Conservancy, the provision of access
11 to and from the sewage treatment works in Aliso Creek Valley,
12 emergency uses, and drainage and flood control systems and
13 facilities and other services approved pursuant to this subdivision.

14 (h) This section shall become operative only when the
15 commission and Aliso Viejo Company have entered into the
16 binding and enforceable agreement provided for in this section,
17 and the agreement has been duly recorded with the county recorder
18 of Orange County.

19 *SEC. 544. Section 30301 of the Public Resources Code is*
20 *amended to read:*

21 30301. The commission shall consist of the following 15
22 members:

23 (a) The Secretary of the Resources Agency.

24 (b) The Secretary of ~~Business, Transportation and Housing~~
25 *Transportation.*

26 (c) The Chairperson of the State Lands Commission.

27 (d) Six representatives of the public from the state at large. The
28 Governor, the Senate Committee on Rules, and the Speaker of the
29 Assembly shall each appoint two of these members.

30 (e) Six representatives selected from six coastal regions. The
31 Governor shall select one member from the north coast region and
32 one member from the south central coast region. The Speaker of
33 the Assembly shall select one member from the central coast region
34 and one member from the San Diego coast region. The Senate
35 Committee on Rules shall select one member from the north central
36 coast region and one member from the south coast region. For
37 purposes of this division, these regions are defined as follows:

38 (1) The north coast region consists of the Counties of Del Norte,
39 Humboldt, and Mendocino.

1 (2) The north central coast region consists of the Counties of
2 Sonoma and Marin and the City and County of San Francisco.

3 (3) The central coast region consists of the Counties of San
4 Mateo, Santa Cruz, and Monterey.

5 (4) The south central coast region consists of the Counties of
6 San Luis Obispo, Santa Barbara, and Ventura.

7 (5) The south coast region consists of the Counties of Los
8 Angeles and Orange.

9 (6) The San Diego coast region consists of the County of San
10 Diego.

11 *SEC. 545. Section 36300 of the Public Resources Code is*
12 *amended to read:*

13 36300. The Ocean Resources Task Force is hereby created in
14 state government. The task force is composed of the following or
15 their designee: the Secretary ~~of~~ *for* Environmental ~~Affairs~~
16 *Protection*, the Secretary of the *Natural* Resources Agency, the
17 State ~~Director of~~ *Public Health Officer Services*, the Secretary of
18 ~~the Business, Transportation and Housing Agency~~, the Chairperson
19 or Executive Officer of the State Lands Commission as determined
20 by the commission, the Chairperson or Executive Director of the
21 California Coastal Commission as determined by the commission,
22 the Chairperson or Executive Officer of the Coastal Conservancy
23 as determined by the conservancy, the Chairperson or Executive
24 Director of the San Francisco Bay Conservation and Development
25 Commission as determined by the commission, the Director of
26 Conservation, the Director of Fish and Game, ~~the Director of~~
27 ~~Boating and Waterways~~, the Director of Parks and Recreation, the
28 ~~Chairperson of the Mining and Geology Board~~ *Office of Mine*
29 *Reclamation*, the Chairperson or Executive Director of the State
30 Water Resources Control Board as determined by the board, the
31 ~~Executive Officer~~ *executive officer* of each California regional
32 water quality control board for a coastal region, the Director of
33 Finance, the Chairperson or Executive Director of the State Energy
34 Resources Conservation and Development Commission as
35 determined by the commission, the Chairperson of the State Air
36 Resources Board, the Chairperson of the Senate Committee on
37 Natural Resources and ~~Wildlife Water~~, the Chairperson of the
38 Assembly Committee *on Natural Resources*, the President of the
39 University of California, the Chancellor of the California State
40 University, and the Director of the California Sea Grant program.

1 *SEC. 546. Section 40400 of the Public Resources Code is*
2 *amended to read:*

3 40400. There is in the ~~Natural Resources~~ *California*
4 *Environmental Protection Agency* the Department of Resources
5 Recycling and Recovery. The Department of Resources Recycling
6 and Recovery shall be administered under the control of an
7 executive officer known as the Director of Resources Recycling
8 and Recovery. Any reference in any law or regulation to the State
9 Solid Waste Management Board, the California Waste Management
10 Board, or the California Integrated Waste Management Board shall
11 hereafter apply to the Department of Resources Recycling and
12 Recovery. The Director of Resources Recycling and Recovery
13 shall hear and decide appeals of decisions of the Department of
14 Resources Recycling and Recovery made pursuant to this division.

15 *SEC. 547. Section 42703 of the Public Resources Code is*
16 *amended to read:*

17 42703. (a) Except as provided in subdivision (d), the
18 Department of Transportation shall require the use of crumb rubber
19 in lieu of other materials at the following levels for state highway
20 construction or repair projects that use asphalt as a construction
21 material:

22 (1) On and after January 1, 2007, the Department of
23 Transportation shall use, on an annual average, not less than 6.62
24 pounds of CRM per metric ton of the total amount of asphalt paving
25 materials used.

26 (2) On and after January 1, 2010, the Department of
27 Transportation shall use, on an annual average, not less than 8.27
28 pounds of CRM per metric ton of the total amount of asphalt paving
29 materials used.

30 (3) On and after January 1, 2013, the Department of
31 Transportation shall use, on an annual average, not less than 11.58
32 pounds of CRM per metric ton of the total amount of asphalt paving
33 materials used.

34 (b) (1) The annual average use of crumb rubber required in
35 subdivision (a) shall be achieved on a statewide basis and shall
36 not require the use of asphalt containing crumb rubber in each
37 individual project or in a place where it is not feasible to use that
38 material.

39 (2) On and after January 1, 2007, and before January 1, 2015,
40 not less than 50 percent of the asphalt pavement used to comply

1 with the requirements of subdivision (a) shall be rubberized asphalt
2 concrete.

3 (3) On and after January 1, 2015, the Department of
4 Transportation may use any material meeting the definition of
5 asphalt containing crumb rubber, with respect to product type or
6 specification, to comply with the requirements of subdivision (a).

7 (c) (1) ~~The Secretary of Business, Transportation and Housing~~
8 ~~Transportation~~ shall, on or before ~~January 1, 2009, and on or before~~
9 ~~January 1 annually thereafter of each year~~, prepare an analysis
10 comparing the cost differential between asphalt containing crumb
11 rubber and conventional asphalt. The analysis shall include the
12 cost of the quantity of asphalt product needed per lane mile paved
13 and, at a minimum, shall include all of the following:

14 (A) The lifespan and duration of the asphalt materials.

15 (B) The maintenance cost of the asphalt materials and other
16 potential cost savings to the department, including, but not limited
17 to, reduced soundwall construction costs resulting from noise
18 reduction qualities of rubberized asphalt concrete.

19 (C) The difference between each type or specification of asphalt
20 containing crumb rubber, considering the cost-effectiveness of
21 each type or specification separately in comparison to the
22 cost-effectiveness of conventional asphalt paving materials.

23 (2) Notwithstanding subdivision (a), if, after completing the
24 analysis required by paragraph (1), the secretary determines that
25 the cost of asphalt containing crumb rubber exceeds the cost of
26 conventional asphalt, the Department of Transportation shall
27 continue to meet the requirement specified in paragraph (1) of
28 subdivision (a), and shall not implement the requirement specified
29 in paragraph (2) of subdivision (a). If the secretary determines,
30 pursuant to an analysis prepared pursuant to paragraph (1), that
31 the cost of asphalt containing crumb rubber does not exceed the
32 cost of conventional asphalt, the Department of Transportation
33 shall implement paragraph (2) of subdivision (a) within one year
34 of that determination, but not before January 1, 2010.

35 (3) Notwithstanding subdivision (a), if the Department of
36 Transportation delays the implementation of paragraph (2) of
37 subdivision (a), the Department of Transportation shall not
38 implement the requirement of paragraph (3) of subdivision (a)
39 until three years after the date the department implements paragraph
40 (2) of subdivision (a).

1 (d) For the purposes of complying with the requirements of
2 subdivision (a), only crumb rubber manufactured in the United
3 States that is derived from waste tires taken from vehicles owned
4 and operated in the United States may be used.

5 (e) The Department of Transportation and the board shall
6 develop procedures for using crumb rubber and other derived tire
7 products in other projects.

8 (f) The Department of Transportation shall notify and confer
9 with the East Bay Municipal Utility District before using asphalt
10 containing crumb rubber on a state highway construction or repair
11 project that overlays district infrastructure.

12 (g) For purposes of this section the following definitions shall
13 apply:

14 (1) “Asphalt containing crumb rubber” means any asphalt
15 pavement construction, rehabilitation, or maintenance material
16 that contains reclaimed tire rubber and that is specified for use by
17 the Department of Transportation.

18 (2) “Crumb rubber” or “CRM” has the same meaning as defined
19 in Section 42801.7.

20 (3) “Rubberized asphalt concrete” or “RAC” means a paving
21 material that uses an asphalt rubber binder containing an amount
22 of reclaimed tire rubber that is 15 percent or more by weight of
23 the total blend, and that meets other specifications for both the
24 physical properties of asphalt rubber and the application of asphalt
25 rubber, as defined in the American Society for Testing and
26 Materials (ASTM) Standard Specification for Asphalt-Rubber
27 Binder.

28 *SEC. 548. Section 43035 of the Public Resources Code is*
29 *amended to read:*

30 43035. (a) The board, in cooperation with the ~~California~~
31 ~~Emergency Management Agency Office of Emergency Services,~~
32 shall develop an integrated waste management disaster plan to
33 provide for the handling, storage, processing, transportation, and
34 diversion from disposal sites, or provide for disposal at a disposal
35 site where absolutely necessary, of solid waste, resulting from a
36 state of emergency or a local emergency, as defined, respectively,
37 in subdivisions (b) and (c) of Section 8558 of the Government
38 Code.

1 (b) The board may adopt regulations, including emergency
2 regulations, necessary to carry out the integrated waste management
3 disaster plan.

4 *SEC. 549. Section 75121 of the Public Resources Code is*
5 *amended to read:*

6 75121. (a) The Strategic Growth Council is hereby established
7 in state government and it shall consist of the Director of State
8 Planning and Research, the Secretary of the Resources Agency,
9 the Secretary for Environmental Protection, the Secretary of
10 ~~Business, Transportation and Housing~~ *Transportation*, the
11 Secretary of California Health and Human Services, and one
12 member of the public to be appointed by the Governor. The public
13 member shall have a background in land use planning, local
14 government, resource protection and management, or community
15 development or revitalization.

16 (b) Staff for the council shall be reflective of the council's
17 membership.

18 *SEC. 550. Section 783 of the Public Utilities Code is amended*
19 *to read:*

20 783. (a) The commission shall continue to enforce the rules
21 governing the extension of service by gas and electrical
22 corporations to new residential, commercial, agricultural, and
23 industrial customers in effect on January 1, 1982, except that the
24 commission shall amend the existing rules to permit applicants for
25 service to install extensions in accordance with subdivision (f).
26 Except for periodic review provisions of existing rules, and
27 amendments to permit installations by an applicant's contractor,
28 the commission shall not investigate amending these rules or issue
29 any orders or decisions which amend these rules, unless the
30 investigation or proceeding for the issuance of the order or decision
31 is conducted pursuant to subdivision (b).

32 (b) Whenever the commission institutes an investigation into
33 the terms and conditions for the extension of services provided by
34 gas and electrical corporations to new or existing customers, or
35 considers issuing an order or decision amending those terms or
36 conditions, the commission shall make written findings on all of
37 the following issues:

38 (1) The economic effect of the line and service extension terms
39 and conditions upon agriculture, residential housing, mobilehome

1 parks, rural customers, urban customers, employment, and
2 commercial and industrial building and development.

3 (2) The effect of requiring new or existing customers applying
4 for an extension to an electrical or gas corporation to provide
5 transmission or distribution facilities for other customers who will
6 apply to receive line and service extensions in the future.

7 (3) The effect of requiring a new or existing customer applying
8 for an extension to an electrical or gas corporation to be responsible
9 for the distribution of, reinforcements of, relocations of, or
10 additions to that gas or electrical corporation.

11 (4) The economic effect of the terms and conditions upon
12 projects, including redevelopment projects, funded or sponsored
13 by cities, counties, or districts.

14 (5) The effect of the line and service extension regulations, and
15 any modifications to them, on existing ratepayers.

16 (6) The effect of the line and service extension regulations, and
17 any modifications to them, on the consumption and conservation
18 of energy.

19 (7) The extent to which there is cost-justification for a special
20 line and service extension allowance for agriculture.

21 (c) The commission shall request the assistance of appropriate
22 state agencies and departments in conducting any investigation or
23 proceeding pursuant to subdivision (b), including, but not limited
24 to, ~~the Business, Transportation and Housing Agency~~
25 *Transportation Agency*, the Department of Food and Agriculture,
26 the Department of Consumer Affairs, ~~the Department of Real~~
27 *Estate Bureau of Real Estate*, the Department of Housing and
28 Community Development, and the Department of Economic and
29 Business Development.

30 (d) Any new order or decision issued pursuant to an investigation
31 or proceeding conducted pursuant to subdivision (b) shall become
32 effective on July 1 of the year which follows the year when the
33 new order or decision is adopted by the commission, so as to ensure
34 that the public has at least six months to consider the new order
35 or decision.

36 (e) The commission shall conduct any investigation or
37 proceeding pursuant to subdivision (b) within the commission's
38 existing budget, and any state agency or department which is
39 requested by the commission to provide assistance pursuant to

1 subdivision (c) shall also provide the assistance within the agency’s
2 or department’s existing budget.

3 (f) An electrical or gas corporation shall permit any new or
4 existing customer who applies for an extension of service from
5 that corporation to install a gas or electric extension in accordance
6 with the regulations of the commission and any applicable
7 specifications of that electrical or gas corporation.

8 *SEC. 551. Section 883 of the Public Utilities Code is amended*
9 *to read:*

10 883. (a) The commission shall, on or before February 1, 2001,
11 issue an order initiating an investigation and opening a proceeding
12 to examine the current and future definitions of universal service.
13 That proceeding shall include public hearings that encourage
14 participation by a broad and diverse range of interests from all
15 areas of the state, including, but not limited to, all of the following:

- 16 (1) Consumer groups.
- 17 (2) Communication service providers, including all providers
18 of high-speed access services.
- 19 (3) Facilities-based telephone providers.
- 20 (4) Information service providers and Internet access providers.
- 21 (5) Rural and urban users.
- 22 (6) Public interest groups.
- 23 (7) Representatives of small and large businesses and industry.
- 24 (8) Local agencies.

25 (9) State agencies, including, but not limited to, all of the
26 following:

- 27 ~~(A) The Business, Transportation and Housing Agency.~~
- 28 ~~(B)~~
- 29 ~~(A) The State and Consumer Services- Government Operations~~
30 ~~Agency.~~
- 31 ~~(C)~~
- 32 (B) The State Department of Education.
- 33 ~~(D)~~
- 34 (C) The State Department of *Public Health-Services*.
- 35 ~~(E)~~
- 36 (D) The California State Library.
- 37 (10) Colleges and universities.

38 (b) The objectives of the proceeding set forth in subdivision (a)
39 shall include all of the following:

1 (1) To investigate the feasibility of redefining universal service
2 in light of current trends toward accelerated convergence of voice,
3 video, and data, with an emphasis on the role of basic
4 telecommunications and Internet services in the workplace, in
5 education and workforce training, access to health care, and
6 increased public safety.

7 (2) To evaluate the extent to which technological changes have
8 reduced the relevance of existing regulatory regimes given their
9 current segmentation based upon technology.

10 (3) To receive broad-based input from a cross section of
11 interested parties and make recommendations on whether video,
12 data, and Internet service providers should be incorporated into
13 an enhanced Universal Lifeline Service program, as specified,
14 including relevant policy recommendations regarding regulatory
15 and statutory changes and funding options that are consistent with
16 the principles set forth in subdivision (c) of Section 871.7.

17 (4) To reevaluate prior definitions of basic service in a manner
18 that will, to the extent feasible, effectively incorporate the latest
19 technologies to provide all California residents with all of the
20 following:

21 (A) Improved quality of life.

22 (B) Expanded access to public and private resources for
23 education, training, and commerce.

24 (C) Increased access to public resources enhancing public health
25 and safety.

26 (D) Assistance in bridging the “digital divide” through expanded
27 access to new technologies by low income, disabled, or otherwise
28 disadvantaged Californians.

29 (5) To assess projected costs of providing enhanced universal
30 lifeline service in accordance with the intent of this article, and to
31 delineate the subsidy support needed to maintain the redefined
32 scope of universal service in a competitive market.

33 (6) To design and recommend an equitable and broad-based
34 subsidy support mechanism for universal service in competitive
35 markets in a manner that conforms with subdivision (c) of Section
36 871.7.

37 (7) To develop a process to periodically review and revise the
38 definition of universal service to reflect new technologies and
39 markets consistent with subdivision (c) of Section 871.7.

1 (8) To consider whether similar regulatory treatment for the
2 provision of similar services is appropriate and feasible.

3 (c) In conducting its investigation, the commission shall take
4 into account the role played by a number of diverse but convergent
5 industries and providers, even though many of these entities are
6 not subject to economic regulation by the commission or any other
7 government entity.

8 (d) The recommendations of the commission shall be consistent
9 with state policies for telecommunications as set forth in Section
10 709, and with all of the following principles:

11 (1) Universal service shall, to the extent feasible, be provided
12 at affordable prices regardless of linguistic, cultural, ethnic,
13 physical, financial, and geographic considerations.

14 (2) Consumers shall be provided access to all information
15 needed to allow timely and informed choices about
16 telecommunications products and services that are part of the
17 universal service program and how best to use them.

18 (3) Education, health care, community, and government
19 institutions shall be positioned as early recipients of new and
20 emerging technologies so as to maximize the economic and social
21 benefits of these services.

22 (e) The commission shall complete its investigation and report
23 to the Legislature its findings and recommendations on or before
24 January 1, 2002.

25 *SEC. 552. Section 2774.5 of the Public Utilities Code is*
26 *amended to read:*

27 2774.5. An electrical corporation or local publicly owned
28 electric utility shall immediately notify the Commissioner of the
29 California Highway Patrol, the ~~California Emergency Management~~
30 ~~Agency~~ *Office of Emergency Services*, and the sheriff and any
31 affected chief of police of the specific area within their respective
32 law enforcement jurisdictions that will sustain a planned loss of
33 power as soon as the planned loss becomes known as to when and
34 where that power loss will occur. The notification shall include
35 common geographical boundaries, grid or block numbers of the
36 affected area, and the next anticipated power loss area designated
37 by the electrical corporation or public entity during rotating
38 blackouts.

1 *SEC. 553. Section 2872.5 of the Public Utilities Code, as*
2 *amended by Section 64 of Chapter 404 of the Statutes of 2010, is*
3 *amended to read:*

4 2872.5. (a) The commission, in consultation with the ~~California~~
5 ~~Office of Emergency Management Agency Services~~ and the
6 ~~California Department of Technology Agency~~, shall open an
7 investigative proceeding to determine whether standardized
8 notification systems and protocol should be utilized by entities
9 that are authorized to use automatic dialing-announcing devices
10 pursuant to subdivision (e) of Section 2872, to facilitate notification
11 of affected members of the public of local emergencies. The
12 commission shall not establish standards for notification systems
13 or standard notification protocol unless it determines that the
14 benefits of the standards exceed the costs.

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

20 *SEC. 554. Section 2892 of the Public Utilities Code is amended*
21 *to read:*

22 2892. (a) A provider of commercial mobile radio service, as
23 defined in Section 216.8, shall provide access for end users of that
24 service to the local emergency telephone systems described in the
25 Warren-911-Emergency Assistance Act (Article 6 (commencing
26 with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title
27 5 of the Government Code). “911” shall be the primary access
28 number for those emergency systems. A provider of commercial
29 mobile radio service, in accordance with all applicable Federal
30 Communication Commission orders, shall transmit all “911” calls
31 from technologically compatible commercial mobile radio service
32 communication devices without requiring user validation or any
33 similar procedure. A provider of commercial mobile radio service
34 may not charge any airtime, access, or similar usage charge for
35 any “911” call placed from a commercial mobile radio service
36 telecommunications device to a local emergency telephone system.

37 (b) A “911” call from a commercial mobile radio service
38 telecommunications device may be routed to a public safety
39 answering point other than the Department of the California

1 Highway Patrol only if the alternate routing meets all of the
2 following requirements:

3 (1) The “911” call originates from a location other than from a
4 freeway, as defined in Section 23.5 of the Streets and Highways
5 Code, under the jurisdiction of the Department of the California
6 Highway Patrol.

7 (2) The alternate routing is economically and technologically
8 feasible.

9 (3) The alternate routing will benefit public safety and reduce
10 burdens on dispatchers for the Department of the California
11 Highway Patrol.

12 (4) The Department of the California Highway Patrol, the
13 ~~California Department of Technology Agency~~, and the proposed
14 alternate public safety answering point, in consultation with the
15 wireless industry, providers of “911” selective routing service, and
16 local law enforcement officials, determine that it is in the best
17 interest of the public and will provide more effective emergency
18 service to the public to route “911” calls that do not originate from
19 a freeway, as defined in Section 23.5 of the Streets and Highways
20 Code, under the jurisdiction of the Department of the California
21 Highway Patrol to another public safety answering point.

22 *SEC. 555. Section 2892.1 of the Public Utilities Code is*
23 *amended to read:*

24 2892.1. (a) For purposes of this section, “telecommunications
25 service” means voice communication provided by a telephone
26 corporation as defined in Section 234, voice communication
27 provided by a provider of satellite telephone services, voice
28 communication provided by a provider of mobile telephony service,
29 as defined in Section 2890.2, and voice communication provided
30 by a commercially available facilities-based provider of voice
31 communication services utilizing voice over Internet Protocol or
32 any successor protocol.

33 (b) The commission, in consultation with the ~~California Office~~
34 ~~of Emergency Management Agency Services~~ and the ~~California~~
35 ~~Department of Technology Agency~~, shall open an investigative or
36 other appropriate proceeding to identify the need for
37 telecommunications service systems not on the customer’s premises
38 to have backup electricity to enable telecommunications networks
39 to function and to enable the customer to contact a public safety
40 answering point operator during an electrical outage, to determine

1 performance criteria for backup systems, and to determine whether
2 the best practices recommended by the Network Reliability and
3 Interoperability Council in December 2005, for backup systems
4 have been implemented by telecommunications service providers
5 operating in California. If the commission determines it is in the
6 public interest, the commission shall, consistent with subdivisions
7 (c) and (d), develop and implement performance reliability
8 standards.

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

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

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

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

21 *SEC. 556. Section 7551.1 of the Public Utilities Code is*
22 *amended to read:*

23 7551.1. The Secretary of ~~the Business, Transportation and~~
24 ~~Housing Agency~~ *Transportation* may grant to every railroad
25 corporation whose primary business is the transportation of
26 passengers the rights-of-way for the location, construction, and
27 maintenance of its necessary works and for every necessary adjunct
28 thereto over any portion of highway owned by the State of
29 California which is not otherwise disposed of or in use, not in any
30 case exceeding in ~~length~~ *length* or width that which is necessary
31 for the construction of works and adjuncts, or for the protection
32 thereof, and in no case to exceed 200 feet in width.

33 *SEC. 557. Section 7551.3 of the Public Utilities Code is*
34 *amended to read:*

35 7551.3. (a) To ensure that a fair and reasonable price is paid
36 for public acquisition of railroad rights-of-way, it is the intent of
37 the Legislature to have railroad rights-of-way valuation procedures
38 and guidelines developed and adopted for use when state and
39 federal funds are expended.

1 (b) The Secretary of ~~Business, Transportation, and Housing,~~
2 *Transportation* in collaboration with other public agencies and
3 within existing resources, shall develop recommended procedures
4 and guidelines for valuation of railroad rights-of-way.

5 (c) The recommended procedures and guidelines shall be
6 transmitted to the Legislature and Governor on or before March
7 1, 1994.

8 *SEC. 558. Section 7661 of the Public Utilities Code is amended*
9 *to read:*

10 7661. (a) The commission shall require every railroad
11 corporation operating in this state to develop, within 90 days of
12 the effective date of the act adding this section, in consultation
13 with, and with the approval of, the ~~California Emergency~~
14 ~~Management Agency~~ *Office of Emergency Services*, a protocol for
15 rapid communications with the ~~agency~~ *Office of Emergency*
16 *Services*, the Department of the California Highway Patrol, and
17 designated county public safety agencies in an endangered area if
18 there is a runaway train or any other uncontrolled train movement
19 that threatens public health and safety.

20 (b) A railroad corporation shall promptly notify the ~~California~~
21 ~~Emergency Management Agency~~ *Office of Emergency Services*,
22 the Department of the California Highway Patrol, and designated
23 county public safety agencies, through a communication to the
24 Warning Center of the ~~California Emergency Management Agency~~
25 *Office of Emergency Services*, if there is a runaway train or any
26 other uncontrolled train movement that threatens public health and
27 safety, in accordance with the railroad corporation's
28 communications protocol developed pursuant to subdivision (a).

29 (c) The notification required pursuant to subdivision (b) shall
30 include the following information, whether or not an accident or
31 spill occurs:

32 (1) The information required by subdivision (c) of Section 7673.

33 (2) In the event of a runaway train, a train list.

34 (3) In the event of an uncontrolled train movement or
35 uncontrolled movement of railcars, a track list or other inventory
36 document if available.

37 (d) The consumer protection and safety division shall investigate
38 any incident that results in a notification required pursuant to
39 subdivision (b), and shall report its findings concerning the cause
40 or causes to the commission. The commission shall include the

1 division's report in its report to the Legislature pursuant to Section
2 7711.

3 *SEC. 559. Section 7662 of the Public Utilities Code is amended*
4 *to read:*

5 7662. (a) (1) A railroad corporation shall place appropriate
6 signage to notify an engineer of an approaching grade crossing,
7 consistent with federal law.

8 (2) Whistle post signs shall be deemed to satisfy this
9 requirement.

10 (b) (1) Whenever a railroad issues written or verbal instructions
11 to employees that may restrict or stop train movements because
12 of track conditions, structures, persons, or equipment working,
13 appropriate flags that are readily visible and easily recognizable
14 to the crews on both passenger and freight trains shall be displayed
15 as quickly as practicable. Yellow flags shall be used for temporary
16 speed restrictions, consistent with paragraphs (2) and (3).
17 Yellow-red flags shall be used, consistent with paragraphs (4) and
18 (5), when a train may be required to stop.

19 (2) Yellow flags shall be used to warn trains to restrict
20 movement because of track conditions or structures. Except as
21 provided in paragraph (3), a yellow flag shall be displayed two
22 miles before the restricted area in order to ensure that train
23 movement is restricted at the proper location.

24 (3) When the restricted area is close to a terminal, junction, or
25 another area, the yellow flag may be displayed less than two miles
26 before the restricted area. This information shall be included in
27 the written instructions to employees issued pursuant to paragraph
28 (1).

29 (4) Yellow-red flags shall be used to warn trains to be prepared
30 to stop because of persons or equipment working. A yellow-red
31 flag shall be displayed two miles before the restricted area in order
32 to ensure that the train is prepared to stop at the proper location.

33 (5) When the restricted area is close to a terminal, junction, or
34 other area, the yellow-red flag may be displayed less than two
35 miles before the restricted area. This information shall be included
36 in the written instructions to employees issued pursuant to
37 paragraph (1).

38 (6) Flags shall be displayed only on the track affected and shall
39 be displayed to the right side of the track as viewed from the

1 approaching train. The flags shall be displayed to protect all
 2 possible access to the restricted area.

3 (c) A railroad corporation shall provide milepost markers to
 4 train crews at accurate one-mile intervals. The markers shall be
 5 readily visible to the locomotive engineer within the locomotive
 6 cab, and shall be kept in good repair and replaced when necessary.

7 (d) A railroad corporation shall place whistle signs to the right
 8 of the main track in the direction of approach, exactly one-quarter
 9 mile from the entrance to any grade crossing as a point of reference
 10 for locomotive engineers who blow the whistle and ring the bell
 11 for these grade crossings as a warning to the public. The signs,
 12 which shall consist of an “X” or “W” or other identifiable mark
 13 or symbol on a square plate mounted on a post, shall be readily
 14 visible to a locomotive engineer within the locomotive cab, shall
 15 be kept in good repair, and shall be replaced when necessary.

16 (e) A railroad corporation shall place permanent speed signs to
 17 the right of the track in the direction of approach, two miles in
 18 advance of the point where the speed is either increased or
 19 decreased for both passenger and freight trains. The signs shall be
 20 readily visible to a locomotive engineer within the locomotive cab,
 21 shall be kept in good repair, and shall be replaced when necessary.

22 (f) A railroad corporation shall notify the commission and the
 23 collective bargaining representative of any affected employee of
 24 any new utilization of remote control locomotives in the state, on
 25 or after January 1, 2007.

26 (g) A railroad corporation shall provide immediate notification
 27 to the ~~California Emergency Management Agency Office of~~
 28 *Emergency Services* of accidents, incidents, and other events,
 29 concurrent with those provided to the Federal Railroad
 30 Administration’s National Response Center, as required by Part
 31 225.9 of Title 49 of the Code of Federal Regulations.

32 *SEC. 560. Section 7663 of the Public Utilities Code is amended*
 33 *to read:*

34 7663. Whenever the Department of the California Highway
 35 Patrol or a designated local public safety agency responds to a
 36 railroad accident, the accident shall be reported to the ~~California~~
 37 ~~Emergency Management Agency Office of Emergency Services.~~

38 *SEC. 561. Section 7665.1 of the Public Utilities Code is*
 39 *amended to read:*

1 7665.1. Unless the context requires otherwise, for purposes of
2 this article:

3 (a) “Agency” or “office” means the ~~California Emergency~~
4 ~~Management Agency Office of Emergency Services.~~

5 (b) “Secretary” or “director” means the ~~Secretary of Emergency~~
6 ~~Management Director of Emergency Services.~~

7 *SEC. 562. Section 7665.2 of the Public Utilities Code is*
8 *amended to read:*

9 7665.2. By July 1, 2007, every operator of rail facilities shall
10 provide a risk assessment to the commission and the ~~agency office~~
11 for each rail facility in the state that is under its ownership,
12 operation, or control. The risk assessment shall, for each rail
13 facility, describe all of the following:

14 (a) The location and functions of the rail facility.

15 (b) All types of cargo that are moved through, or stored at, the
16 rail facility.

17 (c) Any hazardous cargo that is moved through, or stored at,
18 the rail facility.

19 (d) The frequency that any hazardous cargo is moved through,
20 or stored at, the rail facility.

21 (e) A description of the practices of the rail operator to prevent
22 acts of sabotage, terrorism, or other crimes on the rail facility.

23 (f) All training programs that the rail operator requires for its
24 employees at the rail facility.

25 (g) The emergency response procedures of the rail operator to
26 deal with acts of sabotage, terrorism, or other crimes at the rail
27 facility.

28 (h) The procedures of the rail operator to communicate with
29 local and state law enforcement personnel, emergency personnel,
30 transportation officials, and other first responders, in the event of
31 acts of sabotage, terrorism, or other crimes at the rail facility.

32 *SEC. 563. Section 7665.3 of the Public Utilities Code is*
33 *amended to read:*

34 7665.3. The ~~agency office~~ may provide the risk assessment
35 provided pursuant to Section 7665.2 to other law enforcement or
36 emergency personnel.

37 *SEC. 564. Section 7665.4 of the Public Utilities Code is*
38 *amended to read:*

39 7665.4. (a) By January 1, 2008, every rail operator shall
40 develop and implement an infrastructure protection program to

1 protect rail infrastructure in the state from acts of sabotage,
2 terrorism, or other crimes.

3 (b) (1) The infrastructure protection program shall address the
4 security of all critical infrastructure.

5 (2) The infrastructure protection program shall provide training
6 to all employees of the rail operator performing work at a rail
7 facility on how to recognize, prevent, and respond to acts of
8 sabotage, terrorism, or other crimes.

9 (c) (1) All employees of a contractor or subcontractor of a rail
10 operator, and any other person performing work at a rail facility
11 that is not the employee of the rail operator, shall receive training
12 equivalent to that received by employees of the rail operator
13 pursuant to paragraph (2) of subdivision (b), within a reasonable
14 period of time. The commission, in consultation with the ~~secretary~~
15 *director*, may adopt reasonable rules or orders to implement this
16 requirement.

17 (2) All employees of a contractor or subcontractor of a rail
18 operator, and any other person performing work at a rail facility
19 that is not the employee of the rail operator, shall undergo an
20 equivalent evaluation of their background, skills, and fitness as
21 the rail operator implements for its employees pursuant to its
22 infrastructure protection plan. The commission, in consultation
23 with the ~~secretary~~ *director*, may adopt reasonable rules or orders
24 to implement this requirement.

25 (d) Each rail operator in the state shall provide to the
26 commission and the ~~secretary~~ *director* a copy of its infrastructure
27 protection program. Notwithstanding Chapter 3.5 (commencing
28 with Section 6250) of Division 7 of Title 1 of the Government
29 Code, the commission and the ~~secretary~~ *director* shall keep this
30 information confidential.

31 (e) The infrastructure protection program shall be updated by
32 the rail operator at least once every year, and the updated plan
33 shall be submitted to the commission and the ~~secretary~~ *director*.

34 (f) The commission, in consultation with the ~~agency office~~, shall
35 review the infrastructure protection program submitted by a rail
36 operator, may conduct inspections to facilitate the review, and may
37 order a rail operator to improve, modify, or change its program to
38 comply with the requirements of this article.

1 (g) The commission may fine a rail operator for failure to
2 comply with the requirements of this section or an order of the
3 commission pursuant to this section.

4 *SEC. 565. Section 7673 of the Public Utilities Code is amended*
5 *to read:*

6 7673. Each railroad corporation which transports hazardous
7 materials in the state shall do all of the following:

8 (a) Provide a system map of the state to the Office of Emergency
9 Services and to the Public Utilities Commission, showing practical
10 groupings of mileposts on the system and showing mileposts of
11 stations, terminals, junction points, road crossings, and the locations
12 of natural gas and liquid pipelines in railroad rights-of-way.

13 (b) Annually submit to the ~~California Emergency Management~~
14 ~~Agency~~ *Office of Emergency Services* a copy of a publication
15 which identifies emergency handling guidelines for the surface
16 transportation of hazardous materials, except that if the railroad
17 corporation is classified as a class I carrier by the Interstate
18 Commerce Commission pursuant to Subpart A of Part 1201 of
19 Subchapter C of Chapter X of the Code of Federal Regulations,
20 the railroad corporation shall annually submit to the ~~California~~
21 ~~Emergency Management Agency~~ *Office of Emergency Services*
22 50 copies of this publication which the agency shall make available
23 to the Public Utilities Commission and local administering agencies
24 and to other response agencies. These guidelines shall not be
25 considered comprehensive instructions for the handling of any
26 specific incident.

27 (c) If there is a train incident resulting in a release or an
28 overturned railcar or an impact which threatens a release of a
29 hazardous material, provide the emergency response agency with
30 all of the following information:

31 (1) A list of each car in the train and the order of the cars.

32 (2) The contents of each car, if loaded, in the train.

33 (3) Identification of the cars and contents in the train which are
34 involved in the incident, including, but not limited to, those cars
35 which have derailed.

36 (4) Emergency handling procedures for each hazardous material
37 transported in or on the involved cars of the train.

38 *SEC. 566. Section 7718 of the Public Utilities Code is amended*
39 *to read:*

1 7718. (a) The Railroad Accident Prevention and Immediate
 2 Deployment Force is hereby created in the California
 3 Environmental Protection Agency. The force shall be responsible
 4 for providing immediate onsite response capability in the event of
 5 large-scale releases of toxic materials resulting from surface
 6 transportation accidents and for implementing the state hazardous
 7 materials incident prevention and immediate deployment plan.
 8 This force shall act cooperatively and in concert with existing local
 9 emergency response units. The force shall consist of representatives
 10 of all of the following:

- 11 (1) Department of Fish and Game.
- 12 (2) California Environmental Protection Agency.
- 13 (3) State Air Resources Board.
- 14 (4) California Integrated Waste Management Board.
- 15 (5) California regional water quality control boards.
- 16 (6) Department of Toxic Substances Control.
- 17 (7) Department of Pesticide Regulation.
- 18 (8) Office of Environmental Health Hazard Assessment.
- 19 (9) State Department of *Public Health Services*.
- 20 (10) Department of the California Highway Patrol.
- 21 (11) Department of Food and Agriculture.
- 22 (12) Department of Forestry and Fire Protection.
- 23 (13) Department of Parks and Recreation.
- 24 ~~(14) Department of Boating and Waterways.~~
- 25 ~~(15) California~~
- 26 (14) Public Utilities Commission.
- 27 ~~(16)~~
- 28 (15) Any other potentially affected state, local, or federal agency.
- 29 ~~(17) California~~
- 30 (16) *Office of Emergency Management Agency Services*.

31 (b) The California Environmental Protection Agency shall
 32 develop a state railroad accident prevention and immediate
 33 deployment plan in cooperation with the State Fire Marshal,
 34 affected businesses, and all of the entities listed in paragraphs (1)
 35 to (17), inclusive, of subdivision (a).

36 (c) The plan specified in subdivision (b) shall be a
 37 comprehensive set of policies and directions that every potentially
 38 affected state agency and business shall follow if there is a railroad
 39 accident to minimize the potential damage to the public health and

1 safety, property, and the environment that might result from
2 accidents involving railroad activities in the state.

3 *SEC. 567. Section 99212 of the Public Utilities Code is*
4 *amended to read:*

5 99212. “Secretary” means the Secretary of ~~the Business,~~
6 ~~Transportation and Housing Agency~~ *Transportation.*

7 *SEC. 568. Section 99243 of the Public Utilities Code is*
8 *amended to read:*

9 99243. (a) The Controller, in cooperation with the department
10 and the operators, shall design and adopt a uniform system of
11 accounts and records, from which the operators shall prepare and
12 submit annual reports of their operation to the transportation
13 planning agencies having jurisdiction over them and to the
14 Controller within 90 days of the end of the fiscal year. If the report
15 is filed in electronic format as prescribed by the Controller, the
16 report shall be furnished within 110 days after the close of each
17 fiscal year. The report shall specify (1) the amount of revenue
18 generated from each source and its application for the prior fiscal
19 year and (2) the data necessary to determine which section, with
20 respect to Sections 99268.1, 99268.2, 99268.3, 99268.4, 99268.5,
21 and 99268.9, the operator is required to be in compliance in order
22 to be eligible for funds under this article.

23 (b) As a supplement to the annual report prepared pursuant to
24 subdivision (a), each operator shall include an estimate of the
25 amount of revenues to be generated from each source and its
26 proposed application for the next fiscal year, and a report on the
27 extent to which it has contracted with the Prison Industry Authority,
28 including the nature and dollar amounts of all contracts entered
29 into during the reporting period and proposed for the next reporting
30 period.

31 (c) The Controller shall instruct the county auditor to withhold
32 payments from the fund to an operator that has not submitted its
33 annual report to the Controller within the time specified by
34 subdivision (a).

35 (d) In establishing the uniform system of accounts and records,
36 the Controller shall include the data required by the United States
37 Department of Transportation and the department.

38 (e) Notwithstanding any other law or any regulation, including
39 any California Code of Regulations provision, the City of El
40 Segundo, the City of Huntington Beach, the City of Inglewood,

1 the City of Long Beach, or the City of South Lake Tahoe may
2 select, for purposes of this chapter, on a one-time basis, a fiscal
3 year that does not end on June 30. After the city has sent a written
4 notice to the Secretary of ~~Business, Transportation and Housing~~
5 *Transportation* and the Controller that the city has selected a fiscal
6 year other than one ending on June 30, the fiscal year selected by
7 the city shall be its fiscal year for all reports required by the state
8 under this chapter.

9 *SEC. 569. Section 131242 of the Public Utilities Code is*
10 *amended to read:*

11 131242. The Secretary of ~~the Business, Transportation and~~
12 ~~Housing Agency~~ *Transportation* shall convene the initial meeting
13 of the county transportation authority at the county seat, within 90
14 days after the authority is created.

15 *SEC. 570. Section 161003 of the Public Utilities Code is*
16 *amended to read:*

17 161003. As used in this division, “secretary” means the
18 Secretary of ~~the Business, Transportation and Housing Agency~~
19 *Transportation*.

20 *SEC. 571. Section 185020 of the Public Utilities Code is*
21 *amended to read:*

22 185020. (a) There is in ~~state government~~ *the Transportation*
23 *Agency* a High-Speed Rail Authority.

24 (b) (1) The authority is composed of nine members as follows:

25 (A) Five members appointed by the Governor.

26 (B) Two members appointed by the Senate Committee on Rules.

27 (C) Two members appointed by the Speaker of the Assembly.

28 (2) For the purposes of making appointments to the authority,
29 the Governor, the Senate Committee on Rules, and the Speaker of
30 the Assembly shall take into consideration geographical diversity
31 to ensure that all regions of the state are adequately represented.

32 (c) Except as provided in subdivision (d), and until their
33 successors are appointed, members of the authority shall hold
34 office for terms of four years. A vacancy shall be filled by the
35 appointing power making the original appointment, by appointing
36 a member to serve the remainder of the term.

37 (d) (1) On and after January 1, 2001, the terms of all persons
38 who are then members of the authority shall expire, but those
39 members may continue to serve until they are reappointed or until
40 their successors are appointed. In order to provide for evenly

1 staggered terms, persons appointed or reappointed to the authority
2 after January 1, 2001, shall be appointed to initial terms to expire
3 as follows:

4 (A) Of the five persons appointed by the Governor, one shall
5 be appointed to a term which expires on December 31, 2002, one
6 shall be appointed to a term which expires on December 31, 2003,
7 one shall be appointed to a term which expires on December 31,
8 2004, and two shall be appointed to terms which expires on
9 December 31, 2005.

10 (B) Of the two persons appointed by the Senate Committee on
11 Rules, one shall be appointed to a term which expires on December
12 31, 2002, and one shall be appointed to a term which expires on
13 December 31, 2004.

14 (C) Of the two persons appointed by the Speaker of the
15 Assembly, one shall be appointed to a term which expires on
16 December 31, 2003, and one shall be appointed to a term which
17 expires on December 31, 2005.

18 (2) Following expiration of each of the initial terms provided
19 for in this subdivision, the term shall expire every four years
20 thereafter on December 31.

21 (e) Members of the authority are subject to the Political Reform
22 Act of 1974 (Title 9 (commencing with Section 81000)).

23 (f) From among its members, the authority shall elect a
24 chairperson, who shall preside at all meetings of the authority, and
25 a vice chairperson to preside in the absence of the chairperson.
26 The chairperson shall serve a term of one year.

27 (g) Five members of the authority constitute a quorum for taking
28 any action by the authority.

29 *SEC. 572. Section 185035 of the Public Utilities Code is*
30 *amended to read:*

31 185035. (a) The authority shall establish an independent peer
32 review group for the purpose of reviewing the planning,
33 engineering, financing, and other elements of the authority's plans
34 and issuing an analysis of appropriateness and accuracy of the
35 authority's assumptions and an analysis of the viability of the
36 authority's financing plan, including the funding plan for each
37 corridor required pursuant to subdivision (b) of Section 2704.08
38 of the Streets and Highways Code.

39 (b) The peer review group shall include all of the following:

1 (1) Two individuals with experience in the construction or
2 operation of high-speed trains in Europe, Asia, or both, designated
3 by the Treasurer.

4 (2) Two individuals, one with experience in engineering and
5 construction of high-speed trains and one with experience in project
6 finance, designated by the Controller.

7 (3) One representative from a financial services or financial
8 consulting firm who shall not have been a contractor or
9 subcontractor of the authority for the previous three years,
10 designated by the Director of Finance.

11 (4) One representative with experience in environmental
12 planning, designated by the Secretary of ~~Business, Transportation~~
13 ~~and Housing~~ *Transportation*.

14 (5) Two expert representatives from agencies providing intercity
15 or commuter passenger train services in California, designated by
16 the Secretary of ~~Business, Transportation and Housing~~
17 *Transportation*.

18 (c) The peer review group shall evaluate the authority’s funding
19 plans and prepare its independent judgment as to the feasibility
20 and reasonableness of the plans, appropriateness of assumptions,
21 analyses, and estimates, and any other observations or evaluations
22 it deems necessary.

23 (d) The authority shall provide the peer review group any and
24 all information that the peer review group may request to carry
25 out its responsibilities.

26 (e) The peer review group shall report its findings and
27 conclusions to the Legislature no later than 60 days after receiving
28 the plans.

29 *SEC. 573. Section 97.2 of the Revenue and Taxation Code is*
30 *amended to read:*

31 97.2. Notwithstanding any other provision of this chapter, the
32 computations and allocations made by each county pursuant to
33 Section 96.1 or its predecessor section shall be modified for the
34 1992–93 fiscal year pursuant to subdivisions (a) to (d), inclusive,
35 and for the 1997–98 and 1998–99 fiscal years pursuant to
36 subdivision (e), as follows:

37 (a) (1) Except as provided in paragraph (2), the amount of
38 property tax revenue deemed allocated in the prior fiscal year to
39 each county shall be reduced by the dollar amounts indicated as
40 follows, multiplied by 0.953649:

	Property Tax Reduction per County
1	
2	
3	
4	Alameda \$ 27,323,576
5	Alpine 5,169
6	Amador 286,131
7	Butte 846,452
8	Calaveras 507,526
9	Colusa 186,438
10	Contra Costa 12,504,318
11	Del Norte 46,523
12	El Dorado 1,544,590
13	Fresno 5,387,570
14	Glenn 378,055
15	Humboldt 1,084,968
16	Imperial 998,222
17	Inyo 366,402
18	Kern 6,907,282
19	Kings 1,303,774
20	Lake 998,222
21	Lassen..... 93,045
22	Los Angeles 244,178,806
23	Madera 809,194
24	Marin 3,902,258
25	Mariposa 40,136
26	Mendocino 1,004,112
27	Merced 2,445,709
28	Modoc 134,650
29	Mono 319,793
30	Monterey 2,519,507
31	Napa 1,362,036
32	Nevada..... 762,585
33	Orange 9,900,654
34	Placer 1,991,265
35	Plumas 71,076
36	Riverside 7,575,353
37	Sacramento 15,323,634
38	San Benito 198,090
39	San Bernardino 14,467,099
40	San Diego 17,687,776

1	San Francisco	53,266,991
2	San Joaquin	8,574,869
3	San Luis Obispo	2,547,990
4	San Mateo	7,979,302
5	Santa Barbara	4,411,812
6	Santa Clara	20,103,706
7	Santa Cruz	1,416,413
8	Shasta	1,096,468
9	Sierra	97,103
10	Siskiyou	467,390
11	Solano	5,378,048
12	Sonoma	5,455,911
13	Stanislaus	2,242,129
14	Sutter	831,204
15	Tehama	450,559
16	Trinity	50,399
17	Tulare	4,228,525
18	Tuolumne	740,574
19	Ventura	9,412,547
20	Yolo	1,860,499
21	Yuba	842,857

22

23 (2) Notwithstanding paragraph (1), the amount of the reduction
 24 specified in that paragraph for any county or city and county that
 25 has been materially and substantially impacted as a result of a
 26 federally declared disaster, as evidenced by at least 20 percent of
 27 the cities, or cities and unincorporated areas of the county
 28 representing 20 percent of the population within the county
 29 suffering substantial damage, as certified by the ~~Secretary of~~
 30 ~~Emergency Management~~ *Director of Emergency Services*,
 31 occurring between October 1, 1989, and the effective date of this
 32 section, shall be reduced by that portion of five million dollars
 33 (\$5,000,000) determined for that county or city and county pursuant
 34 to subparagraph (B) of paragraph (3).

35 (3) On or before October 1, 1992, the Director of Finance shall
 36 do all of the following:

37 (A) Determine the population of each county and city and county
 38 in which a federally declared disaster has occurred between October
 39 1, 1989, and the effective date of this section.

1 (B) Determine for each county and city and county as described
2 in subparagraph (A) its share of five million dollars (\$5,000,000)
3 on the basis of that county's population relative to the total
4 population of all counties described in subparagraph (A).

5 (C) Notify each auditor of each county and city and county of
6 the amounts determined pursuant to subparagraph (B).

7 (b) (1) Except as provided in paragraph (2), the amount of
8 property tax revenue deemed allocated in the prior fiscal year to
9 each city, except for a newly incorporated city that did not receive
10 property tax revenues in the 1991–92 fiscal year, shall be reduced
11 by 9 percent. In making the above computation with respect to
12 cities in Alameda County, the computation for a city described in
13 paragraph (6) of subdivision (a) of Section 100.7, as added by
14 Section 73.5 of Chapter 323 of the Statutes of 1983, shall be
15 adjusted so that the amount multiplied by 9 percent is reduced by
16 the amount determined for that city for “museums” pursuant to
17 paragraph (2) of subdivision (h) of Section 95.

18 (2) Notwithstanding paragraph (1), the amount of the reduction
19 determined pursuant to that paragraph for any city that has been
20 materially and substantially impacted as a result of a federally
21 declared disaster, as certified by the ~~Secretary of the California~~
22 ~~Emergency Management Agency~~ *Director of Emergency Services*,
23 occurring between October 1, 1989, and the effective date of this
24 section, shall be reduced by that portion of fifteen million dollars
25 (\$15,000,000) determined for that city pursuant to subparagraph
26 (B) of paragraph (3).

27 (3) On or before October 1, 1992, the Director of Finance shall
28 do all of the following:

29 (A) Determine the population of each city in which a federally
30 declared disaster has occurred between October 1, 1989, and the
31 effective date of this section.

32 (B) Determine for each city as described in subparagraph (A)
33 its share of fifteen million dollars (\$15,000,000) on the basis of
34 that city's population relative to the total population of all cities
35 described in subparagraph (A).

36 (C) Notify each auditor of each county and city and county of
37 the amounts determined pursuant to subparagraph (B).

38 (4) In the 1992–93 fiscal year and each fiscal year thereafter,
39 the auditor shall adjust the computations required pursuant to
40 Article 4 (commencing with Section 98) so that those computations

1 do not result in the restoration of any reduction required pursuant
2 to this section.

3 (c) (1) Subject to paragraph (2), the amount of property tax
4 revenue, other than those revenues that are pledged to debt service,
5 deemed allocated in the prior fiscal year to a special district, other
6 than a multicounty district, a local hospital district, or a district
7 governed by a city council or whose governing board has the same
8 membership as a city council, shall be reduced by 35 percent. For
9 purposes of this subdivision, “revenues that are pledged to debt
10 service” include only those amounts required to pay debt service
11 costs in the 1991–92 fiscal year on debt instruments issued by a
12 special district for the acquisition of capital assets.

13 (2) No reduction pursuant to paragraph (1) for any special
14 district, other than a countywide water agency that does not sell
15 water at retail, shall exceed an amount equal to 10 percent of that
16 district’s total annual revenues, from whatever source, as shown
17 in the 1989–90 edition of the State Controller’s Report on Financial
18 Transactions Concerning Special Districts (not including any
19 annual revenues from fiscal years following the 1989–90 fiscal
20 year). With respect to any special district, as defined pursuant to
21 subdivision (m) of Section 95, that is allocated property tax revenue
22 pursuant to this chapter but does not appear in the State Controller’s
23 Report on Financial Transactions Concerning Special Districts,
24 the auditor shall determine the total annual revenues for that special
25 district from the information in the 1989–90 edition of the State
26 Controller’s Report on Financial Transactions Concerning
27 Counties. With respect to a special district that did not exist in the
28 1989–90 fiscal year, the auditor may use information from the first
29 full fiscal year, as appropriate, to determine the total annual
30 revenues for that special district. No reduction pursuant to
31 paragraph (1) for any countywide water agency that does not sell
32 water at retail shall exceed an amount equal to 10 percent of that
33 portion of that agency’s general fund derived from property tax
34 revenues.

35 (3) The auditor in each county shall, on or before January 15,
36 1993, and on or before January 30 of each year thereafter, submit
37 information to the Controller concerning the amount of the property
38 tax revenue reduction to each special district within that county
39 as a result of paragraphs (1) and (2). The Controller shall certify
40 that the calculation of the property tax revenue reduction to each

1 special district within that county is accurate and correct, and
2 submit this information to the Director of Finance.

3 (A) The Director of Finance shall determine whether the total
4 of the amounts of the property tax revenue reductions to special
5 districts, as certified by the Controller, is equal to the amount that
6 would be required to be allocated to school districts and community
7 college districts as a result of a three hundred seventy-five million
8 dollar (\$375,000,000) shift of property tax revenues from special
9 districts for the 1992–93 fiscal year. If, for any year, the total of
10 the amount of the property tax revenue reductions to special
11 districts is less than the amount as described in the preceding
12 sentence, the amount of property tax revenue, other than those
13 revenues that are pledged to debt service, deemed allocated in the
14 prior fiscal year to a special district, other than a multicounty
15 district, a local hospital district, or a district governed by a city
16 council or whose governing board has the same membership as a
17 city council, shall, subject to subparagraph (B), be reduced by an
18 amount up to 5 percent of the amount subject to reduction for that
19 district pursuant to paragraphs (1) and (2).

20 (B) No reduction pursuant to subparagraph (A), in conjunction
21 with a reduction pursuant to paragraphs (1) and (2), for any special
22 district, other than a countywide water agency that does not sell
23 water at retail, shall exceed an amount equal to 10 percent of that
24 district's total annual revenues, from whatever source, as shown
25 in the most recent State Controller's Report on Financial
26 Transactions Concerning Special Districts. No reduction pursuant
27 to subparagraph (A), in conjunction with a reduction pursuant to
28 paragraphs (1) and (2), for any countywide water agency that does
29 not sell water at retail shall exceed an amount equal to 10 percent
30 of that portion of that agency's general fund derived from property
31 tax revenues.

32 (C) In no event shall the amount of the property tax revenue
33 loss to a special district derived pursuant to subparagraphs (A) and
34 (B) exceed 40 percent of that district's property tax revenues or
35 10 percent of that district's total revenues, from whatever source.

36 (4) For the purpose of determining the total annual revenues of
37 a special district that provides fire protection or fire suppression
38 services, all of the following shall be excluded from the
39 determination of total annual revenues:

1 (A) If the district had less than two million dollars (\$2,000,000)
2 in total annual revenues in the 1991–92 fiscal year, the revenue
3 generated by a fire suppression assessment levied pursuant to
4 Article 3.6 (commencing with Section 50078) of Chapter 1 of Part
5 1 of Division 1 of Title 5 of the Government Code.

6 (B) The total amount of all funds, regardless of the source, that
7 are appropriated to a district, including a fire department, by a
8 board of supervisors pursuant to Section 25642 of the Government
9 Code or Chapter 7 (commencing with Section 13890) of Part 2.7
10 of Division 12 of the Health and Safety Code for fire protection.
11 The amendment of this subparagraph by Chapter 290 of the Statutes
12 of 1997 shall not be construed to affect any exclusion from the
13 total annual revenues of a special district that was authorized by
14 this subparagraph as it read prior to that amendment.

15 (C) The revenue received by a district as a result of contracts
16 entered into pursuant to Section 4133 of the Public Resources
17 Code.

18 (5) For the purpose of determining the total annual revenues of
19 a resource conservation district, all of the following shall be
20 excluded from the determination of total annual revenues:

21 (A) Any revenues received by that district from the state for
22 financing the acquisition of land, or the construction or
23 improvement of state projects, and for which that district serves
24 as the fiscal agent in administering those state funds pursuant to
25 an agreement entered into between that district and a state agency.

26 (B) Any amount received by that district as a private gift or
27 donation.

28 (C) Any amount received as a county grant or contract as
29 supplemental to, or independent of, that district's property tax
30 share.

31 (D) Any amount received by that district as a federal or state
32 grant.

33 (d) (1) The amount of property tax revenues not allocated to
34 the county, cities within the county, and special districts as a result
35 of the reductions calculated pursuant to subdivisions (a), (b), and
36 (c) shall instead be deposited in the Educational Revenue
37 Augmentation Fund to be established in each county. The amount
38 of revenue in the Educational Revenue Augmentation Fund,
39 derived from whatever source, shall be allocated pursuant to
40 paragraphs (2) and (3) to school districts and county offices of

1 education, in total, and to community college districts, in total, in
2 the same proportion that property tax revenues were distributed
3 to school districts and county offices of education, in total, and
4 community college districts, in total, during the 1991–92 fiscal
5 year.

6 (2) The auditor shall, based on information provided by the
7 county superintendent of schools pursuant to this paragraph,
8 allocate the proportion of the Educational Revenue Augmentation
9 Fund to those school districts and county offices of education
10 within the county that are not excess tax school entities, as defined
11 in subdivision (n) of Section 95. The county superintendent of
12 schools shall determine the amount to be allocated to each school
13 district and county office of education in inverse proportion to the
14 amounts of property tax revenue per average daily attendance in
15 each school district and county office of education. In no event
16 shall any additional money be allocated from the fund to a school
17 district or county office of education upon that school district or
18 county office of education becoming an excess tax school entity.

19 (3) The auditor shall, based on information provided by the
20 Chancellor of the California Community Colleges pursuant to this
21 paragraph, allocate the proportion of the Educational Revenue
22 Augmentation Fund to those community college districts within
23 the county that are not excess tax school entities, as defined in
24 subdivision (n) of Section 95. The chancellor shall determine the
25 amount to be allocated to each community college district in
26 inverse proportion to the amounts of property tax revenue per
27 funded full-time equivalent student in each community college
28 district. In no event shall any additional money be allocated from
29 the fund to a community college district upon that district becoming
30 an excess tax school entity.

31 (4) (A) If, after making the allocation required pursuant to
32 paragraph (2), the auditor determines that there are still additional
33 funds to be allocated, the auditor shall allocate those excess funds
34 pursuant to paragraph (3). If, after making the allocation pursuant
35 to paragraph (3), the auditor determines that there are still
36 additional funds to be allocated, the auditor shall allocate those
37 excess funds pursuant to paragraph (2).

38 (B) (i) (I) For the 1995–96 fiscal year and each fiscal year
39 thereafter, if, after making the allocations pursuant to paragraphs
40 (2) and (3) and subparagraph (A), the auditor determines that there

1 are still additional funds to be allocated, the auditor shall, subject
 2 to clauses (ii) and (iii), allocate those excess funds to the county
 3 superintendent of schools. Funds allocated pursuant to this
 4 subclause shall be counted as property tax revenues for special
 5 education programs in augmentation of the amount calculated
 6 pursuant to Section 2572 of the Education Code, to the extent that
 7 those property tax revenues offset state aid for county offices of
 8 education and school districts within the county pursuant to
 9 subdivision (c) of Section 56836.08 of the Education Code.

10 (II) For the 2007–08 fiscal year and for each fiscal year
 11 thereafter, both of the following apply:

12 (ia) In allocating the revenues described in subclause (I), the
 13 auditor shall apportion funds to the appropriate special education
 14 local plan area to cover the amount determined in Section
 15 56836.173 of the Education Code.

16 (ib) Except as otherwise provided by sub-subclause (ia), property
 17 tax revenues described in subclause (I) shall not be apportioned
 18 to special education programs funded pursuant to Section
 19 56836.173 of the Education Code.

20 (III) If, for the 2000–01 fiscal year or any fiscal year thereafter,
 21 any additional revenues remain after the implementation of
 22 subclauses (I) and (II), the auditor shall allocate those remaining
 23 revenues among the county, cities, and special districts in
 24 proportion to the amounts of ad valorem property tax revenue
 25 otherwise required to be shifted from those local agencies to the
 26 county’s Educational Revenue Augmentation Fund for the relevant
 27 fiscal year.

28 (IV) A county Educational Revenue Augmentation Fund shall
 29 not be required to provide funding for special education programs
 30 funded pursuant to Section 56836.173 of the Education Code or
 31 any predecessor to that section for a fiscal year prior to the 2007–08
 32 fiscal year that it has not already provided for these programs prior
 33 to the beginning of the 2007–08 fiscal year.

34 (ii) For the 1995–96 fiscal year only, clause (i) shall have no
 35 application to the County of Mono and the amount allocated
 36 pursuant to clause (i) in the County of Marin shall not exceed five
 37 million dollars (\$5,000,000).

38 (iii) For the 1996–97 fiscal year only, the total amount of funds
 39 allocated by the auditor pursuant to clause (i) and clause (i) of
 40 subparagraph (B) of paragraph (4) of subdivision (d) of Section

1 97.3 shall not exceed that portion of two million five hundred
2 thousand dollars (\$2,500,000) that corresponds to the county's
3 proportionate share of all moneys allocated pursuant to clause (i)
4 and clause (i) of subparagraph (B) of paragraph (4) of subdivision
5 (d) of Section 97.3 for the 1995–96 fiscal year. Upon the request
6 of the auditor, the Department of Finance shall provide to the
7 auditor all information in the department's possession that is
8 necessary for the auditor to comply with this clause.

9 (iv) Notwithstanding clause (i) of this subparagraph, for the
10 1999–2000 fiscal year only, if, after making the allocations
11 pursuant to paragraphs (2) and (3) and subparagraph (A), the
12 auditor determines that there are still additional funds to be
13 allocated, the auditor shall allocate the funds to the county, cities,
14 and special districts in proportion to the amounts of ad valorem
15 property tax revenue otherwise required to be shifted from those
16 local agencies to the county's Educational Revenue Augmentation
17 Fund for the relevant fiscal year. The amount allocated pursuant
18 to this clause shall not exceed eight million two hundred thirty-nine
19 thousand dollars (\$8,239,000), as appropriated in Item
20 6110-250-0001 of Section 2.00 of the Budget Act of 1999 (Chapter
21 50, Statutes of 1999). This clause shall be operative for the
22 1999–2000 fiscal year only to the extent that moneys are
23 appropriated for purposes of this clause in the Budget Act of 1999
24 by an appropriation that specifically references this clause.

25 (C) For purposes of allocating the Educational Revenue
26 Augmentation Fund for the 1996–97 fiscal year, the auditor shall,
27 after making the allocations for special education programs, if any,
28 required by subparagraph (B), allocate all remaining funds among
29 the county, cities, and special districts in proportion to the amounts
30 of ad valorem property tax revenue otherwise required to be shifted
31 from those local agencies to the county's Educational Revenue
32 Augmentation Fund for the relevant fiscal year. For purposes of
33 ad valorem property tax revenue allocations for the 1997–98 fiscal
34 year and each fiscal year thereafter, no amount of ad valorem
35 property tax revenue allocated to the county, a city, or a special
36 district pursuant to this subparagraph shall be deemed to be an
37 amount of ad valorem property tax revenue allocated to that local
38 agency in the prior fiscal year.

39 (5) For purposes of allocations made pursuant to Section 96.1
40 or its predecessor section for the 1993–94 fiscal year, the amounts

1 allocated from the Educational Revenue Augmentation Fund
2 pursuant to this subdivision, other than amounts deposited in the
3 Educational Revenue Augmentation Fund pursuant to Section
4 33681 of the Health and Safety Code, shall be deemed property
5 tax revenue allocated to the Educational Revenue Augmentation
6 Fund in the prior fiscal year.

7 (e) (1) For the 1997–98 fiscal year:

8 (A) The amount of property tax revenue deemed allocated in
9 the prior fiscal year to any city subject to the reduction specified
10 in paragraph (2) of subdivision (b) shall be reduced by an amount
11 that is equal to the difference between the amount determined for
12 the city pursuant to paragraph (1) of subdivision (b) and the amount
13 of the reduction determined for the city pursuant to paragraph (2)
14 of subdivision (b).

15 (B) The amount of property tax revenue deemed allocated in
16 the prior fiscal year to any county or city and county subject to the
17 reduction specified in paragraph (2) of subdivision (a) shall be
18 reduced by an amount that is equal to the difference between the
19 amount specified for the county or city and county pursuant to
20 paragraph (1) of subdivision (a) and the amount of the reduction
21 determined for the county or city and county pursuant to paragraph
22 (2) of subdivision (a).

23 (2) The amount of property tax revenues not allocated to a city
24 or city and county as a result of this subdivision shall be deposited
25 in the Educational Revenue Augmentation Fund described in
26 subparagraph (A) of paragraph (1) of subdivision (d).

27 (3) For purposes of allocations made pursuant to Section 96.1
28 for the 1998–99 fiscal year, the amounts allocated from the
29 Educational Revenue Augmentation Fund pursuant to this
30 subdivision shall be deemed property tax revenues allocated to the
31 Educational Revenue Augmentation Fund in the prior fiscal year.

32 (f) It is the intent of the Legislature in enacting this section that
33 this section supersede and be operative in place of Section 97.03
34 of the Revenue and Taxation Code, as added by Senate Bill 617
35 of the 1991–92 Regular Session.

36 *SEC. 574. Section 19528 of the Revenue and Taxation Code*
37 *is amended to read:*

38 19528. (a) Notwithstanding any other provision of law, the
39 Franchise Tax Board may require any board, as defined in Section
40 22 of the Business and Professions Code, and the State Bar, the

1 ~~Department of Real Estate~~ *Bureau of Real Estate*, and the Insurance
2 Commissioner (hereinafter referred to as licensing board) to
3 provide to the Franchise Tax Board the following information with
4 respect to every licensee:

- 5 (1) Name.
- 6 (2) Address or addresses of record.
- 7 (3) Federal employer identification number (if the entity is a
8 partnership) or social security number (for all others).
- 9 (4) Type of license.
- 10 (5) Effective date of license or renewal.
- 11 (6) Expiration date of license.
- 12 (7) Whether license is active or inactive, if known.
- 13 (8) Whether license is new or renewal.

14 (b) The Franchise Tax Board may do the following:

15 (1) Send a notice to any licensee failing to provide the
16 identification number or social security number as required by
17 subdivision (a) of Section 30 of the Business and Professions Code
18 and subdivision (a) of Section 1666.5 of the Insurance Code,
19 describing the information that was missing, the penalty associated
20 with not providing it, and that failure to provide the information
21 within 30 days will result in the assessment of the penalty.

22 (2) After 30 days following the issuance of the notice described
23 in paragraph (1), assess a one hundred dollar (\$100) penalty, due
24 and payable upon notice and demand, for any licensee failing to
25 provide either its federal employer identification number (if the
26 licensee is a partnership) or his or her social security number (for
27 all others) as required in Section 30 of the Business and Professions
28 Code and Section 1666.5 of the Insurance Code.

29 (c) Notwithstanding Chapter 3.5 (commencing with Section
30 6250) of Division 7 of Title 1 of the Government Code, the
31 information furnished to the Franchise Tax Board pursuant to
32 Section 30 of the Business and Professions Code or Section 1666.5
33 of the Insurance Code shall not be deemed to be a public record
34 and shall not be open to the public for inspection.

35 *SEC. 575. Section 41030 of the Revenue and Taxation Code*
36 *is amended to read:*

37 41030. The ~~California~~ *Department of Technology Agency* shall
38 determine annually, on or before October 1, a surcharge rate that
39 it estimates will produce sufficient revenue to fund the current
40 fiscal year's 911 costs. The surcharge rate shall be determined by

1 dividing the costs (including incremental costs) the ~~California~~
2 ~~Department of Technology Agency~~ estimates for the current fiscal
3 year of 911 plans approved pursuant to Section 53115 of the
4 Government Code, less the available balance in the State
5 Emergency Telephone Number Account in the General Fund, by
6 its estimate of the charges for intrastate telephone communications
7 services and VoIP service to which the surcharge will apply for
8 the period of January 1 to December 31, inclusive, of the next
9 succeeding calendar year, but in no event shall such surcharge rate
10 in any year be greater than three-quarters of 1 percent nor less than
11 one-half of 1 percent.

12 *SEC. 576. Section 41031 of the Revenue and Taxation Code*
13 *is amended to read:*

14 41031. The ~~California~~ ~~Department of Technology Agency~~ shall
15 make its determination of the surcharge rate each year no later
16 than October 1 and shall notify the board of the new rate, which
17 shall be fixed by the board to be effective with respect to charges
18 made for intrastate telephone communication services and VoIP
19 service on or after January 1 of the next succeeding calendar year.

20 *SEC. 577. Section 41032 of the Revenue and Taxation Code*
21 *is amended to read:*

22 41032. Immediately upon notification by the ~~California~~
23 ~~Department of Technology Agency~~ and fixing the surcharge rate,
24 the board shall each year no later than November 15 publish in its
25 minutes the new rate, and it shall notify by mail every service
26 supplier registered with it of the new rate.

27 *SEC. 578. Section 41136.1 of the Revenue and Taxation Code*
28 *is amended to read:*

29 41136.1. For each fiscal year, moneys in the State Emergency
30 Telephone Number Account not appropriated for a purpose
31 specified in Section 41136 shall be held in trust for future
32 appropriation for upcoming, planned “911” emergency telephone
33 number projects that have been approved by the ~~California~~
34 ~~Department of Technology Agency~~, even if the projects have not
35 yet commenced.

36 *SEC. 579. Section 41137 of the Revenue and Taxation Code*
37 *is amended to read:*

38 41137. The ~~California~~ ~~Department of Technology Agency~~ shall
39 pay, from funds appropriated from the State Emergency Telephone
40 Number Account by the Legislature, as provided in Section 41138,

1 bills submitted by service suppliers or communications equipment
2 companies for the installation and ongoing costs of the following
3 communication services provided local agencies by service
4 suppliers in connection with the “911” emergency telephone
5 number system:

- 6 (a) A basic system.
- 7 (b) A basic system with telephone central office identification.
- 8 (c) A system employing automatic call routing.
- 9 (d) Approved incremental costs that have been concurred in by
10 the ~~California Department of Technology Agency~~.

11 *SEC. 580. Section 41137.1 of the Revenue and Taxation Code*
12 *is amended to read:*

13 41137.1. The ~~California Department of Technology Agency~~
14 shall pay, from funds appropriated from the State Emergency
15 Telephone Number Account by the Legislature, as provided in
16 Section 41138, claims submitted by local agencies for approved
17 incremental costs and for the cost of preparation of final plans
18 submitted to the ~~California Department of Technology Agency~~
19 for approval on or before October 1, 1978, as provided in Section
20 53115 of the Government Code.

21 *SEC. 581. Section 41138 of the Revenue and Taxation Code*
22 *is amended to read:*

23 41138. (a) It is the intent of the Legislature that the
24 reimbursement rates for “911” emergency telephone number
25 equipment shall not exceed specified amounts negotiated with
26 each interested supplier and approved by the ~~California Department~~
27 ~~of Technology Agency~~. The ~~California Technology Agency~~
28 ~~department~~ shall negotiate supplier pricing to ensure cost
29 effectiveness and the best value for the “911” emergency telephone
30 number system. The ~~California Technology Agency department~~
31 shall pay those bills as provided in Section 41137 only under the
32 following conditions:

33 (1) The ~~California Technology Agency department~~ shall have
34 received the local agency’s “911” emergency telephone number
35 system plan by July 1 of the prior fiscal year and approved the
36 plan by October 1 of the prior fiscal year.

37 (2) The Legislature has appropriated in the Budget Bill an
38 amount sufficient to pay those bills.

39 (3) The ~~California Technology Agency department~~ has reviewed
40 and approved each line item of a request for funding to ensure the

1 necessity of the proposed equipment or services and the eligibility
2 for reimbursement.

3 (4) The amounts to be paid do not exceed the pricing submitted
4 by the supplier and approved by the ~~California Technology Agency~~
5 *department*. Extraordinary circumstances may warrant spending
6 in excess of the established rate, but shall be preapproved by the
7 ~~California Technology Agency department~~. In determining the
8 reimbursement rate, the ~~California Technology Agency department~~
9 shall utilize the approved pricing submitted by the supplier
10 providing the equipment or service.

11 (b) Nothing in this section shall be construed to limit an agency's
12 ability to select a supplier or procure telecommunications
13 equipment as long as the supplier's pricing is preapproved by the
14 ~~California Department of Technology Agency~~. Agencies shall be
15 encouraged to procure equipment on a competitive basis. Any
16 amount in excess of the pricing approved by the ~~California~~
17 ~~Technology Agency department~~ shall not be reimbursed.

18 *SEC. 582. Section 41139 of the Revenue and Taxation Code*
19 *is amended to read:*

20 41139. From funds appropriated by the Legislature from the
21 Emergency Telephone Number Account, the ~~California Department~~
22 ~~of Technology Agency~~ shall begin paying bills as provided in
23 Sections 41137, 41137.1, and 41138 in the 1977-78 fiscal year
24 for plans submitted by local agencies by July 1, 1976, to the
25 ~~California Technology Agency which department that the~~
26 ~~California Technology Agency department~~ has approved.

27 *SEC. 583. Section 41140 of the Revenue and Taxation Code*
28 *is amended to read:*

29 41140. The ~~California Department of Technology Agency~~ shall
30 reimburse local agencies, from funds appropriated from the
31 Emergency Telephone Number Account by the Legislature, for
32 amounts not previously compensated for by another governmental
33 agency, which have been paid by agencies for approved
34 incremental costs or to service suppliers or communication
35 equipment companies for the following communications services
36 supplied in connection with the "911" emergency telephone
37 number, provided local agency plans had been approved by the
38 ~~California Technology Agency department~~:

39 (a) A basic system.

40 (b) A basic system with telephone central office identification.

1 (c) A system employing automatic call routing.

2 (d) Approved incremental costs.

3 *SEC. 584. Section 41141 of the Revenue and Taxation Code*
4 *is amended to read:*

5 41141. Claims for reimbursement shall be submitted by local
6 agencies to the ~~California Department of Technology Agency~~,
7 which shall determine payment eligibility and shall reduce the
8 claim for charges that exceed the approved incremental costs,
9 approved contract amounts, or the established tariff rates for costs.
10 No claim shall be paid until funds are appropriated by the
11 Legislature.

12 *SEC. 585. Section 41142 of the Revenue and Taxation Code*
13 *is amended to read:*

14 41142. Notwithstanding any other provision of this article, if
15 the Legislature fails to appropriate an amount sufficient to pay
16 bills submitted to the ~~California Department of Technology Agency~~
17 by service suppliers or communications equipment companies for
18 the installation and ongoing communications services supplied
19 local agencies in connection with the “911” emergency telephone
20 number system, and to pay claims of local agencies which, prior
21 to the effective date of this part, paid amounts to service suppliers
22 or communications equipment companies for the installation and
23 ongoing expenses in connection with the “911” emergency
24 telephone number system, the obligation of service suppliers and
25 local agencies to provide “911” emergency telephone service shall
26 terminate and service shall not again be required until the
27 Legislature has appropriated an amount sufficient to pay those
28 bills or claims. Nothing in this part shall preclude local agencies
29 from purchasing or acquiring any communication equipment from
30 companies other than the telephone service suppliers.

31 *SEC. 586. Section 22.5 is added to the Streets and Highways*
32 *Code, to read:*

33 22.5. Whenever the term “Business, Transportation and
34 Housing Agency” appears within the Streets and Highways Code,
35 it shall refer to the Transportation Agency, and whenever the term
36 “Secretary of Business, Transportation and Housing” appears
37 within the Streets and Highways Code, it shall refer to the
38 Secretary of Transportation.

39 *SEC. 587. Section 165 of the Vehicle Code is amended to read:*

40 165. An authorized emergency vehicle is:

1 (a) Any publicly owned and operated ambulance, lifeguard, or
 2 lifesaving equipment or any privately owned or operated ambulance
 3 licensed by the Commissioner of the California Highway Patrol
 4 to operate in response to emergency calls.

5 (b) Any publicly owned vehicle operated by the following
 6 persons, agencies, or organizations:

7 (1) Any federal, state, or local agency, department, or district
 8 employing peace officers as that term is defined in Chapter 4.5
 9 (commencing with Section 830) of Part 2 of Title 3 of the Penal
 10 Code, for use by those officers in the performance of their duties.

11 (2) Any forestry or fire department of any public agency or fire
 12 department organized as provided in the Health and Safety Code.

13 (c) Any vehicle owned by the state, or any bridge and highway
 14 district, and equipped and used either for fighting fires, or towing
 15 or servicing other vehicles, caring for injured persons, or repairing
 16 damaged lighting or electrical equipment.

17 (d) Any state-owned vehicle used in responding to emergency
 18 fire, rescue, or communications calls and operated either by the
 19 ~~California Emergency Management Agency~~ *Office of Emergency*
 20 *Services* or by any public agency or industrial fire department to
 21 which the ~~California Emergency Management Agency~~ *Office of*
 22 *Emergency Services* has assigned the vehicle.

23 (e) Any vehicle owned or operated by any department or agency
 24 of the United States government when the vehicle is used in
 25 responding to emergency fire, ambulance, or lifesaving calls or is
 26 actively engaged in law enforcement work.

27 (f) Any vehicle for which an authorized emergency vehicle
 28 permit has been issued by the Commissioner of the California
 29 Highway Patrol.

30 *SEC. 588. Section 1500 of the Vehicle Code is amended to*
 31 *read:*

32 1500. (a) There is in the ~~Business, Transportation and Housing~~
 33 *Transportation Agency* the Department of Motor Vehicles.

34 (b) *Whenever the term “Business, Transportation and Housing*
 35 *Agency” appears within the Vehicle Code, it shall refer to the*
 36 *Transportation Agency, and whenever the term “Secretary of*
 37 *Business, Transportation and Housing” appears within the Vehicle*
 38 *Code, it shall refer to the Secretary of Transportation.*

39 *SEC. 589. Section 1505 of the Vehicle Code is amended to*
 40 *read:*

1 1505. The director, with the approval of the Governor and the
2 Secretary of ~~the Business, Transportation and Housing Agency,~~
3 shall organize the department in ~~such a manner as~~ *that* he or she
4 may deem necessary to conduct the work of the department.

5 *SEC. 590. Section 1808.51 of the Vehicle Code is amended to*
6 *read:*

7 1808.51. Notwithstanding Sections 1808.5 and 12800.5, both
8 of the following may obtain copies of fullface engraved pictures
9 or photographs of individuals directly from the department:

10 (a) ~~The Department of Real Estate Bureau of Real Estate,~~ as a
11 department, individually, or through its staff, for purposes of
12 enforcing the Real Estate Law (Part 1 (commencing with Section
13 10000) of Division 4 of the Business and Professions Code) or the
14 Subdivided Lands Law (Chapter 1 (commencing with Section
15 11000) of Part 2 of Division 4 of the Business and Professions
16 Code).

17 (b) The city attorney of a city and county and his or her
18 investigators for purposes of performing functions related to city
19 and county operations.

20 *SEC. 591. Section 2100 of the Vehicle Code is amended to*
21 *read:*

22 2100. There is in the ~~Business, Transportation and Housing~~
23 ~~Transportation Agency~~ the Department of the California Highway
24 Patrol.

25 *SEC. 592. Section 2109 of the Vehicle Code is amended to*
26 *read:*

27 2109. The commissioner shall organize the department with
28 the approval of the Governor and the Secretary of ~~the Business,~~
29 ~~Transportation and Housing Agency~~ and may arrange and classify
30 the work of the department and may, with the approval of the
31 Governor and the Secretary of ~~the Business, Transportation and~~
32 ~~Housing Agency,~~ create or abolish divisions thereof.

33 *SEC. 593. Section 2901 of the Vehicle Code is amended to*
34 *read:*

35 2901. The Governor may appoint a highway safety
36 representative who shall serve in the ~~Business, Transportation and~~
37 ~~Housing Transportation Agency~~ and who shall, in consultation
38 with the Governor and Secretary of ~~the Business, Transportation~~
39 ~~and Housing Agency Transportation,~~ prepare the California Traffic
40 Safety Program. The Governor is responsible for the administration

1 of the program, and has final approval of all phases of the program,
2 and may take all action necessary to secure the full benefits
3 available to the program under the Federal Highway Safety Act
4 of 1966, and any amendments thereto. The highway safety
5 representative serves at the pleasure of the secretary.

6 *SEC. 594. Section 2902 of the Vehicle Code is amended to*
7 *read:*

8 2902. To the maximum extent permitted by federal law and
9 regulations and the laws of this state, the Governor may delegate
10 to the Secretary of ~~the Business and Transportation Agency~~ and
11 the highway safety representative ~~any power or~~ the authority
12 necessary to administer the program, and the secretary and the
13 representative may exercise ~~such power or this~~ authority once
14 delegated.

15 *SEC. 595. Section 5066 of the Vehicle Code is amended to*
16 *read:*

17 5066. (a) The department, in conjunction with the California
18 Highway Patrol, shall design and make available for issuance
19 pursuant to this article the California memorial license plate.
20 Notwithstanding Section 5060, the California memorial license
21 plate may be issued in a combination of numbers or letters, or both,
22 as requested by the applicant for the plates. A person described in
23 Section 5101, upon payment of the additional fees set forth in
24 subdivision (b), may apply for and be issued a set of California
25 memorial license plates.

26 (b) In addition to the regular fees for an original registration or
27 renewal of registration, the following additional fees shall be paid
28 for the issuance, renewal, retention, or transfer of the California
29 memorial license plates authorized pursuant to this section:

30 (1) For the original issuance of the plates, fifty dollars (\$50).

31 (2) For a renewal of registration of the plates or retention of the
32 plates, if renewal is not required, forty dollars (\$40).

33 (3) For transfer of the plates to another vehicle, fifteen dollars
34 (\$15).

35 (4) For each substitute replacement plate, thirty-five dollars
36 (\$35).

37 (5) In addition, for the issuance of an environmental license
38 plate, as defined in Section 5103, the additional fees required
39 pursuant to Sections 5106 and 5108 shall be deposited
40 proportionately in the funds described in subdivision (c).

1 (c) The department shall deposit the additional revenue derived
2 from the issuance, renewal, transfer, and substitution of California
3 memorial license plates as follows:

4 (1) Eighty-five percent in the Antiterrorism Fund, which is
5 hereby created in the General Fund.

6 (A) Upon appropriation by the Legislature, one-half of the
7 money in the fund shall be allocated by the Controller to the
8 ~~California Emergency Management Agency~~ *Office of Emergency*
9 *Services* to be used solely for antiterrorism activities. The ~~agency~~
10 *office* shall not use more than 5 percent of the money appropriated
11 to it for administrative purposes.

12 (B) Upon appropriation by the Legislature in the annual Budget
13 Act or in another statute, one-half of the money in the fund shall
14 be used solely for antiterrorism activities.

15 (2) Fifteen percent in the California Memorial Scholarship Fund,
16 which is hereby established in the General Fund. Money deposited
17 in this fund shall be administered by the Scholarshare Investment
18 Board, and shall be available, upon appropriation in the annual
19 Budget Act or in another statute, for distribution or encumbrance
20 by the board pursuant to Article 21.5 (commencing with Section
21 70010) of Chapter 2 of Part 42 of the Education Code.

22 (d) The department shall deduct its costs to administer, but not
23 to develop, the California memorial license plate program. The
24 department may utilize an amount of money, not to exceed fifty
25 thousand dollars (\$50,000) annually, derived from the issuance,
26 renewal, transfer, and substitution of California memorial license
27 plates for the continued promotion of the California memorial
28 license plate program of this section.

29 (e) For the purposes of this section, “antiterrorism activities”
30 means activities related to the prevention, detection, and emergency
31 response to terrorism that are undertaken by state and local law
32 enforcement, fire protection, and public health agencies. The funds
33 provided for these activities, to the extent that funds are available,
34 shall be used exclusively for purposes directly related to fighting
35 terrorism. Eligible activities include, but are not limited to, hiring
36 support staff to perform administrative tasks, hiring and training
37 additional law enforcement, fire protection, and public health
38 personnel, response training for existing and additional law
39 enforcement, fire protection, and public health personnel, and
40 hazardous materials and other equipment expenditures.

1 (f) Beginning January 1, 2007, and each January 1 thereafter,
2 the department shall determine the number of currently outstanding
3 and valid California memorial license plates. If that number is less
4 than 7,500 in any year, then the department shall no longer issue
5 or replace those plates.

6 *SEC. 596. Section 9706 of the Vehicle Code is amended to*
7 *read:*

8 9706. (a) Application for partial year registration in
9 conjunction with an application for original California registration
10 shall be made by the owner within 20 days of the date the vehicle
11 first becomes subject to California registration. Any application
12 for partial year registration submitted after that 20-day period shall
13 be denied registration for a partial year, and the vehicle shall be
14 subject to payment of the fees for the entire registration year. In
15 addition to the fee for the registration year, a penalty, as specified
16 in Section 9554, shall be added to the fee for registration.

17 (b) Any application to renew registration for a part of the
18 remainder of the registration year or for the entire remainder of
19 the registration year shall be made prior to midnight of the
20 expiration date of the last issued registration certificate. Application
21 shall be made upon presentation of the last issued registration card
22 or of a potential registration issued by the department for use at
23 the time of renewal and by payment of the required partial year
24 fees, or, if renewal is for the remainder of the registration year, by
25 payment of the annual fee required by Section 9400 or 9400.1, as
26 reduced pursuant to Section 9407.

27 (c) Notwithstanding any other provision of law, an owner who
28 registers a vehicle pursuant to this article during a calendar year
29 shall, if the vehicle was not operated, moved, or left standing upon
30 a highway, file a certificate of nonoperation prior to the date of
31 the first operation of the vehicle on the highways in a manner
32 which requires that registration and shall, by December 31 of each
33 calendar year thereafter, file a certification pursuant to subdivisions
34 (a) and (b) of Section 4604 when the vehicle is not registered for
35 operation on the highways for the succeeding calendar year.

36 (d) Notwithstanding subdivision (c), the owner of any vehicle
37 being moved or operated for the purpose of providing support to
38 firefighting operations while the vehicle or owner is under contract
39 to the United States Forestry Service, the United States Department
40 of the Interior, the Bureau of Land Management, the Department

1 of Forestry and Fire Protection, or the ~~California Emergency~~
2 ~~Management Agency Office of Emergency Services~~ may obtain
3 partial year registration if application is made within 20 days of
4 the date the vehicle is first operated, moved, or left standing on
5 the highway and the owner has obtained a letter of authorization
6 from the department prior to the date that the vehicle is first
7 operated, moved, or left standing on the highway.

8 *SEC. 597. Section 23112.5 of the Vehicle Code is amended to*
9 *read:*

10 23112.5. (a) Any person who dumps, spills, or causes the
11 release of hazardous material, as defined by Section 353, or
12 hazardous waste, as defined by Section 25117 of the Health and
13 Safety Code, upon any highway shall notify the Department of the
14 California Highway Patrol or the agency having traffic jurisdiction
15 for that highway of the dump, spill, or release, as soon as the person
16 has knowledge of the dump, spill, or release and notification is
17 possible. Upon receiving notification pursuant to this section, the
18 Department of the California Highway Patrol shall, as soon as
19 possible, notify the ~~California Emergency Management Agency~~
20 *Office of Emergency Services* of the dump, spill, or release, except
21 for petroleum spills of less than 42 gallons from vehicular fuel
22 tanks.

23 (b) Any person who is convicted of a violation of this section
24 shall be punished by a mandatory fine of not less than two thousand
25 dollars (\$2,000).

26 *SEC. 598. Section 34061 of the Vehicle Code is amended to*
27 *read:*

28 34061. The department shall compile data and annually publish
29 a report relating to the level of cargo tank and hazardous waste
30 transport vehicle and container inspections conducted during the
31 previous year. The data included in the report shall include, but
32 need not be limited to, all of the following:

33 (a) The number of inspections conducted.

34 (b) The number of violations recorded.

35 (c) The number of on-highway incidents involving cargo tanks
36 and hazardous waste transport vehicles and containers that were
37 reported to the ~~California Emergency Management Agency Office~~
38 *of Emergency Services* under Section 8574.17 of the Government
39 Code.

40 *SEC. 599. Section 128 of the Water Code is amended to read:*

1 128. (a) In times of extraordinary stress and of disaster,
2 resulting from storms and floods, or where damage to watershed
3 lands by forest fires has created an imminent threat of floods and
4 damage by water, mud, or debris upon the occurrence of storms,
5 the department may perform any work required or take any
6 remedial measures necessary to avert, alleviate, repair, or restore
7 damage or destruction to property having a general public and
8 state interest and to protect the health, safety, convenience, and
9 welfare of the general public of the state. In carrying out that work,
10 the department may perform the work itself or through or in
11 cooperation with any other state department or agency, the federal
12 government, or any political subdivision, city, or district.

13 (b) This section is intended to supplement the emergency
14 services of the state, and nothing in this section overrides or
15 supersedes the authority of the ~~Secretary of Emergency~~
16 ~~Management~~ *Director of Emergency Services* to coordinate and
17 supervise state action, upon a declaration of a state of emergency,
18 under the California Emergency Services Act (Chapter 7
19 (commencing with Section 8550) of Division 1 of Title 2 of the
20 Government Code) or the Disaster Assistance Act (Chapter 7.5
21 (commencing with Section 8680) of that division).

22 *SEC. 600. Section 6025.6 of the Water Code is amended to*
23 *read:*

24 6025.6. (a) An owner of a structure defined as a dam pursuant
25 to Section 6002, but excluded from that definition pursuant to
26 subdivision (d) of Section 6004 or otherwise exempted from the
27 requirements of this chapter pursuant to Section 6025.5, shall
28 comply with the requirements of Section 8589.5 of the Government
29 Code and shall employ a civil engineer who is registered in the
30 state to supervise the structure for the protection of life and
31 property for the full operating life of the structure.

32 (b) (1) The civil engineer supervising a dam pursuant to
33 subdivision (a) shall take into consideration, in determining
34 whether or not a dam constitutes, or would constitute, a danger to
35 life or property, the possibility that the dam might be endangered
36 by seepage, earth movement, or other conditions that exist, or
37 might occur, in any area in the vicinity of the dam.

38 (2) If the civil engineer determines that a dam under his or her
39 supervision constitutes, or would constitute, a danger to life or

1 property, the civil engineer shall notify the owner of the dam and
2 recommend appropriate action.

3 (c) The owner shall submit to the department the name, business
4 address, and telephone number of each supervising civil engineer.

5 (d) The department shall submit the information provided
6 pursuant to subdivision (c) to the ~~California Emergency~~
7 ~~Management Agency Office of Emergency Services~~ on or before
8 January 1, 1995, and on or before each January 1 thereafter. Any
9 change in the information shall be submitted to the department on
10 or before July 1 of each year.

11 *SEC. 601. Section 11910 of the Water Code is amended to*
12 *read:*

13 11910. There shall be incorporated in the planning and
14 construction of each project those features (including, but not
15 limited to, additional storage capacity) that the department, after
16 giving full consideration to any recommendations which may be
17 made by the Department of Fish and Game, the Department of
18 Parks and Recreation, ~~the Department of Boating and Waterways,~~
19 any federal agency, and any local governmental agency with
20 jurisdiction over the area involved, determines necessary or
21 desirable for the preservation of fish and wildlife, and necessary
22 or desirable to permit, on a year-round basis, full utilization of the
23 project for the enhancement of fish and wildlife and for recreational
24 purposes to the extent that those features are consistent with other
25 uses of the project, if any. It is the intent of the Legislature that
26 there shall be full and close coordination of all planning for the
27 preservation and enhancement of fish and wildlife and for
28 recreation in connection with state water projects by and between
29 the Department of Water Resources, the Department of Parks and
30 Recreation, ~~the Department of Boating and Waterways,~~ the
31 Department of Fish and ~~Game Wildlife~~, and all appropriate federal
32 and local agencies.

33 *SEC. 602. Section 11910.1 of the Water Code is amended to*
34 *read:*

35 11910.1. In furtherance of the policies specified in Section
36 11910, the Department of Fish and ~~Game Wildlife~~, the Department
37 of Parks and Recreation, ~~the Department of Boating and~~
38 ~~Waterways,~~ and other governmental agencies shall submit their
39 recommendations or comments on reconnaissance studies or
40 feasibility reports of the Department of Water Resources relating

1 to any project or feature of a project within 60 days following
2 receipt of a formal request for review from the Department of
3 Water Resources.

4 *SEC. 603. Section 12994 of the Water Code is amended to*
5 *read:*

6 12994. (a) The Legislature finds and declares all of the
7 following:

8 (1) The CALFED Bay-Delta Program has identified as a core
9 action the need for emergency levee management planning for
10 delta levees to improve system reliability.

11 (2) Even with active levee maintenance, the threat of delta levee
12 failures from earthquake, flood, or poor levee foundation, will
13 continue to exist.

14 (3) Because of this threat of failure, and the potential need to
15 mobilize people and equipment in an emergency to protect delta
16 levees and public benefits, the department needs authority that will
17 enable it to act quickly.

18 (b) The department may do all of the following:

19 (1) In an emergency, as defined by Section 21060.3 of the Public
20 Resources Code, that requires immediate levee work to protect
21 public benefits in the delta, the department may use funds pursuant
22 to this part without prior approval of a plan by the board or the
23 Department of Fish and ~~Game~~ *Wildlife*, in which case the
24 requirements of Sections 12314 and 12987, and the memorandum
25 of understanding pursuant to Section 12307, shall be carried out
26 as soon as possible.

27 (A) The amount of funds that may be expended each year on
28 emergency levee work under this section shall not be greater than
29 two hundred thousand dollars (\$200,000) and the amount that may
30 be expended per emergency levee site shall not be greater than
31 fifty thousand dollars (\$50,000). The local agency shall fund 25
32 percent of the total costs of the emergency repair at a site or shall
33 fund an appropriate share of the costs as approved by the board
34 and based upon information of the local agency's ability to pay
35 for the repairs.

36 (B) Department contracts executed for emergency levee work
37 under this section shall be exempted from Department of General
38 Services approval required under the Public Contract Code.

39 (C) As soon as feasible after the emergency repair, the
40 department shall submit a report to the board describing the levee

1 work, costs incurred, and plans for future work at the site, including
2 any necessary mitigation.

3 (D) This section is intended to supplement emergency services
4 provided by the state or the United States. Nothing in this section
5 overrides or supersedes the authority of the ~~Secretary of Emergency~~
6 ~~Management~~ *Director of Emergency Services* under the California
7 Emergency Services Act (Chapter 7 (commencing with Section
8 8550) of Division 1 of Title 2 of the Government Code) or the
9 Disaster Assistance Act (Chapter 7.5 (commencing with Section
10 8680) of Division 1 of Title 2 of the Government Code).

11 (2) Prepare and submit to the board for adoption a delta
12 emergency response plan for levee failures. The plan is exempt
13 from Chapter 3.5 (commencing with Section 11340) of Part 1 of
14 Division 3 of Title 2 of the Government Code. The plan may
15 include recommendations of the multiagency response team
16 established pursuant to paragraph (3) and may include, but not be
17 limited to, the following:

18 (A) Standardized contracts for emergency levee work to be
19 executed by the department, local agencies, or other appropriate
20 entities.

21 (B) Criteria for eligible emergency levee work.

22 (C) Definition of an emergency levee site.

23 (D) Documentation requirements.

24 (E) Proposals for complying with the federal Endangered
25 Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the
26 California Endangered Species Act (Chapter 1.5 (commencing
27 with Section 2050) of Division 3 of the Fish and Game Code) in
28 an emergency.

29 (F) Stages of emergency response that may occur in various
30 situations.

31 (3) Establish a multiagency emergency response team, consisting
32 of representatives from the department, the board, the Department
33 of Fish and ~~Game~~ *Wildlife*, the California Conservation Corps, the
34 ~~California Emergency Management Agency~~ *Office of Emergency*
35 *Services*, the Federal Emergency Management Agency, the United
36 States Army Corps of Engineers, and the United States Fish and
37 Wildlife Service to advise on methods to ensure that levee
38 emergencies will be resolved as quickly and safely as possible.

39 *SEC. 604. Section 13271 of the Water Code is amended to*
40 *read:*

1 13271. (a) (1) Except as provided by subdivision (b), any
2 person who, without regard to intent or negligence, causes or
3 permits any hazardous substance or sewage to be discharged in or
4 on any waters of the state, or discharged or deposited where it is,
5 or probably will be, discharged in or on any waters of the state,
6 shall, as soon as (A) that person has knowledge of the discharge,
7 (B) notification is possible, and (C) notification can be provided
8 without substantially impeding cleanup or other emergency
9 measures, immediately notify the ~~California Emergency~~
10 ~~Management Agency~~ *Office of Emergency Services* of the discharge
11 in accordance with the spill reporting provision of the state toxic
12 disaster contingency plan adopted pursuant to Article 3.7
13 (commencing with Section 8574.16) of Chapter 7 of Division 1
14 of Title 2 of the Government Code.

15 (2) The ~~California Emergency Management Agency~~ *Office of*
16 *Emergency Services* shall immediately notify the appropriate
17 regional board, the local health officer, and the director of
18 environmental health of the discharge. The regional board shall
19 notify the state board as appropriate.

20 (3) Upon receiving notification of a discharge pursuant to this
21 section, the local health officer and the director of environmental
22 health shall immediately determine whether notification of the
23 public is required to safeguard public health and safety. If so, the
24 local health officer and the director of environmental health shall
25 immediately notify the public of the discharge by posting notices
26 or other appropriate means. The notification shall describe
27 measures to be taken by the public to protect the public health.

28 (b) The notification required by this section shall not apply to
29 a discharge in compliance with waste discharge requirements or
30 other provisions of this division.

31 (c) Any person who fails to provide the notice required by this
32 section is guilty of a misdemeanor and shall be punished by a fine
33 of not more than twenty thousand dollars (\$20,000) or
34 imprisonment in a county jail for not more than one year, or both.
35 Except where a discharge to the waters of this state would have
36 occurred but for cleanup or emergency response by a public agency,
37 this subdivision shall not apply to any discharge to land which
38 does not result in a discharge to the waters of this state.

39 (d) Notification received pursuant to this section or information
40 obtained by use of that notification shall not be used against any

1 person providing the notification in any criminal case, except in
2 a prosecution for perjury or giving a false statement.

3 (e) For substances listed as hazardous wastes or hazardous
4 material pursuant to Section 25140 of the Health and Safety Code,
5 the state board, in consultation with the Department of Toxic
6 Substances Control, shall by regulation establish reportable
7 quantities for purposes of this section. The regulations shall be
8 based on what quantities should be reported because they may
9 pose a risk to public health or the environment if discharged to
10 groundwater or surface water. Regulations need not set reportable
11 quantities on all listed substances at the same time. Regulations
12 establishing reportable quantities shall not supersede waste
13 discharge requirements or water quality objectives adopted
14 pursuant to this division, and shall not supersede or affect in any
15 way the list, criteria, and guidelines for the identification of
16 hazardous wastes and extremely hazardous wastes adopted by the
17 Department of Toxic Substances Control pursuant to Chapter 6.5
18 (commencing with Section 25100) of Division 20 of the Health
19 and Safety Code. The regulations of the Environmental Protection
20 Agency for reportable quantities of hazardous substances for
21 purposes of the Comprehensive Environmental Response,
22 Compensation, and Liability Act of 1980, as amended (42 U.S.C.
23 Sec. 9601 et seq.) shall be in effect for purposes of the enforcement
24 of this section until the time that the regulations required by this
25 subdivision are adopted.

26 (f) (1) The state board shall adopt regulations establishing
27 reportable quantities of sewage for purposes of this section. The
28 regulations shall be based on the quantities that should be reported
29 because they may pose a risk to public health or the environment
30 if discharged to groundwater or surface water. Regulations
31 establishing reportable quantities shall not supersede waste
32 discharge requirements or water quality objectives adopted
33 pursuant to this division. For purposes of this section, “sewage”
34 means the effluent of a municipal wastewater treatment plant or a
35 private utility wastewater treatment plant, as those terms are
36 defined in Section 13625, except that sewage does not include
37 recycled water, as defined in subdivisions (c) and (d) of Section
38 13529.2.

39 (2) A collection system owner or operator, as defined in
40 paragraph (1) of subdivision (a) of Section 13193, in addition to

1 the reporting requirements set forth in this section, shall submit a
2 report pursuant to subdivision (c) of Section 13193.

3 (g) Except as otherwise provided in this section and Section
4 8589.7 of the Government Code, a notification made pursuant to
5 this section shall satisfy any immediate notification requirement
6 contained in any permit issued by a permitting agency. When
7 notifying the ~~California Emergency Management Agency Office~~
8 *of Emergency Services*, the person shall include all of the
9 notification information required in the permit.

10 (h) For the purposes of this section, the reportable quantity for
11 perchlorate shall be 10 pounds or more by discharge to the
12 receiving waters, unless a more restrictive reporting standard for
13 a particular body of water is adopted pursuant to subdivision (e).

14 (i) Notification under this section does not nullify a person's
15 responsibility to notify the local health officer or the director of
16 environmental health pursuant to Section 5411.5 of the Health and
17 Safety Code.

18 *SEC. 605. Section 13272 of the Water Code is amended to*
19 *read:*

20 13272. (a) Except as provided by subdivision (b), any person
21 who, without regard to intent or negligence, causes or permits any
22 oil or petroleum product to be discharged in or on any waters of
23 the state, or discharged or deposited where it is, or probably will
24 be, discharged in or on any waters of the state, shall, as soon as
25 (1) that person has knowledge of the discharge, (2) notification is
26 possible, and (3) notification can be provided without substantially
27 impeding cleanup or other emergency measures, immediately
28 notify the ~~California Emergency Management Agency Office~~
29 *of Emergency Services* of the discharge in accordance with the spill
30 reporting provision of the California oil spill contingency plan
31 adopted pursuant to Article 3.5 (commencing with Section 8574.1)
32 of Chapter 7 of Division 1 of Title 2 of the Government Code.
33 This section shall not apply to spills of oil into marine waters as
34 defined in subdivision (f) of Section 8670.3 of the Government
35 Code.

36 (b) The notification required by this section shall not apply to
37 a discharge in compliance with waste discharge requirements or
38 other provisions of this division.

39 (c) Any person who fails to provide the notice required by this
40 section is guilty of a misdemeanor and shall be punished by a fine

1 of not less than five hundred dollars (\$500) or more than five
2 thousand dollars (\$5,000) per day for each day of failure to notify,
3 or imprisonment of not more than one year, or both. Except where
4 a discharge to the waters of this state would have occurred but for
5 cleanup or emergency response by a public agency, this subdivision
6 shall not apply to any discharge to land which does not result in a
7 discharge to the waters of this state. This subdivision shall not
8 apply to any person who is fined by the federal government for a
9 failure to report a discharge of oil.

10 (d) Notification received pursuant to this section or information
11 obtained by use of that notification shall not be used against any
12 person providing the notification in any criminal case, except in
13 a prosecution for perjury or giving a false statement.

14 (e) Immediate notification to the appropriate regional board of
15 the discharge, in accordance with reporting requirements set under
16 Section 13267 or 13383, shall constitute compliance with the
17 requirements of subdivision (a).

18 (f) The reportable quantity for oil or petroleum products shall
19 be one barrel (42 gallons) or more, by direct discharge to the
20 receiving waters, unless a more restrictive reporting standard for
21 a particular body of water is adopted.

22 *SEC. 606. Section 79522 of the Water Code is amended to*
23 *read:*

24 79522. (a) Funds made available pursuant to Section 79520
25 shall be appropriated to the State Department of *Public Health*
26 *Services* to carry out this chapter consistent with the requirements
27 and for the purposes specified in Section 79520.

28 (b) In the development of priorities for expenditure of the funds
29 appropriated for the purposes of this section, the State Department
30 of *Public Health—Services* shall consult with the ~~California~~
31 ~~Emergency Management Agency, the state Office of Homeland~~
32 ~~Security, Office of Emergency Services~~ and local water agencies
33 to develop criteria for the department's programs.

34 (c) Funds allocated pursuant to this section shall not be available
35 for grants that reimburse project costs incurred prior to the adoption
36 of criteria for the grants provided in this section.

37 (d) No grant funds may be awarded to supplant funding for the
38 routine responsibilities or obligations of any state, local, or regional
39 drinking water system.

1 *SEC. 607. Section 1789 of the Welfare and Institutions Code*
2 *is amended to read:*

3 1789. (a) A Runaway Youth and Families in Crisis Project
4 shall be established in one or more counties in the San Joaquin
5 Central Valley, in one or more counties in the northern region of
6 California, and in one or more counties in the southern region of
7 California. Each project may have one central location, or more
8 than one site, in order to effectively serve the target population.

9 (b) ~~The California Emergency Management Agency Office of~~
10 *Emergency Services* shall prepare and disseminate a request for
11 proposals to prospective grantees under this chapter within four
12 months after this chapter has been approved and enacted by the
13 Legislature. ~~The California Emergency Management Agency Office~~
14 *of Emergency Services* shall enter into grant award agreements for
15 a period of no less than three years, and the operation of projects
16 shall begin no later than four months after grant award agreements
17 are entered into between the agency and the grantee. Grants shall
18 be awarded based on the quality of the proposal, the documented
19 need for services in regard to runaway youth, and to organizations,
20 as specified in subdivision (d) of this section, in localities that
21 receive a disproportionately low share of existing federal and state
22 support for youth shelter programs.

23 (c) ~~The California Emergency Management Agency Office of~~
24 *Emergency Services* shall require applicants to identify, in their
25 applications, measurable outcomes by which the agency will
26 measure the success of the applicant's project. These measurable
27 outcomes shall include, but not be limited to, the number of clients
28 served and the percentage of clients who are successfully returned
29 to the home of a parent or guardian or to an alternate living
30 condition when reunification is not possible.

31 (d) Only private, nonprofit organizations shall be eligible to
32 apply for funds under this chapter to operate a Runaway Youth
33 and Families in Crisis Project, and these organizations shall be
34 required to annually contribute a local match of at least 15 percent
35 in cash or in-kind contribution to the project during the term of
36 the grant award agreement. Preference shall be given to
37 organizations that demonstrate a record of providing effective
38 services to runaway youth or families in crisis for at least three
39 years, successfully operating a youth shelter for runaway and
40 homeless youth, or successfully operating a transitional living

1 facility for runaway and homeless youth who do not receive
2 transitional living services through the juvenile justice system.
3 Additional weight shall also be given to those organizations that
4 demonstrate a history of collaborating with other agencies and
5 individuals in providing such services. Priority shall be given to
6 organizations with existing facilities. Preference shall also be given
7 to organizations that demonstrate the ability to progressively
8 decrease their reliance on resources provided under this chapter
9 and to operate this project beyond the period that the organization
10 receives funds under this chapter.

11 *SEC. 608. Section 9101 of the Welfare and Institutions Code*
12 *is amended to read:*

13 9101. (a) The department shall consist of a director, and any
14 staff as may be necessary for proper administration.

15 (b) The department shall maintain its main office in Sacramento.

16 (c) The Governor, with the consent of the Senate, shall appoint
17 the director. The Governor shall consider, but not be limited to,
18 recommendations from the commission.

19 (d) The director shall have the powers of a head of a department
20 pursuant to Chapter 2 (commencing with Section 11150) of Part
21 1 of Division 3 of Title 2 of the Government Code, and shall
22 receive the salary provided for by Chapter 6 (commencing with
23 Section 11550) of Part 1 of Division 3 of Title 2 of the Government
24 Code.

25 (e) The director shall do all of the following:

26 (1) Be responsible for the management of the department and
27 achievement of its statewide goals.

28 (2) Assist the commission in carrying out its mandated duties
29 and responsibilities in accordance with Section 9202.

30 (f) The Secretary of California Health and Human Services shall
31 ensure effective coordination among departments of the agency
32 in carrying out the mandates of this division. For this purpose, the
33 secretary shall regularly convene meetings concerning services to
34 older individuals that shall include, but not be limited to, the State
35 Department of Health Care Services, the State Department of
36 Social Services, the State Department of Public Health, and the
37 department.

38 (g) The Secretary of California Health and Human Services
39 shall also encourage other state ~~departments~~ *entities* that have other
40 programs for older individuals to actively participate in periodic

1 joint meetings for the joint purpose of coordinating service
2 activities. These ~~departments~~ *entities* shall include, but ~~are~~ not *be*
3 limited to, the Department of Housing and Community
4 Development ~~and the Department of Transportation in the~~
5 ~~Business, Transportation and Housing Agency~~, the Department of
6 Parks and Recreation in the Natural Resources Agency, *the*
7 *Transportation Agency*, the California Arts Council, and the
8 Department of Veterans Affairs.

9 *SEC. 609. Section 9625 of the Welfare and Institutions Code*
10 *is amended to read:*

11 9625. (a) No later than June 30, 2007, each multipurpose senior
12 center and each senior center, as defined in subdivisions (j) and
13 (n) of Section 9591, shall develop and maintain a written
14 emergency operations plan. This emergency operations plan shall
15 include, but not be limited to, all of the following:

16 (1) Facility preparation procedures to identify the location of
17 first aid supplies, secure all furniture, appliances, and other
18 free-standing objects, and provide instructions for operating gas
19 and water shutoff valves.

20 (2) An inventory of neighborhood resources that shall include,
21 but not be limited to, the identification and location of all the
22 following nearby resources:

23 (A) Generators.

24 (B) Telephones.

25 (C) Hospitals and public health clinics.

26 (D) Fire stations and police stations.

27 (3) Evacuation procedures, including procedures to
28 accommodate those who will need assistance in evacuating the
29 center. This evacuation plan shall be located in an area that is
30 accessible to the public.

31 (4) Procedures to accommodate seniors, people with disabilities,
32 and other community members in need of shelter at the senior
33 center, in the event that other community facilities are inoperable.

34 (5) Personnel resources necessary for postdisaster response.

35 (6) Procedures for conducting periodic evacuation drills, fire
36 drills, and earthquake drills.

37 (7) Procedures to ensure service continuation after a disaster.

38 (8) Consideration of cultural and linguistic barriers in emergency
39 and evacuation plans, and ways to appropriately address those
40 barriers.

1 (b) In the development of the emergency operations plans
2 required by this chapter, multipurpose senior centers and senior
3 centers shall coordinate with the ~~California Emergency~~
4 ~~Management Agency~~ *Office of Emergency Services*, the local area
5 agency on aging, as defined in Section 9006, and other relevant
6 agencies and stakeholders.

7 *SEC. 610. Section 14085.54 of the Welfare and Institutions*
8 *Code is amended to read:*

9 14085.54. (a) The Los Angeles County University of Southern
10 California (LAC-USC) Medical Center may submit revised final
11 plans to the Office of Statewide Health Planning and Development
12 to replace the original capital expenditure project plans that met
13 the initial eligibility requirements provided for under Section
14 14085.5 if all of the following conditions are met:

15 (1) The revised capital expenditure project meets all other
16 requirements for eligibility as specified in Section 14085.5.

17 (2) The revised plans are submitted to the Office of Statewide
18 Health Planning and Development on or before December 31,
19 2002, except that, with respect to a facility in the San Gabriel
20 Valley of not less than 80 beds, the revised plans may be submitted
21 not later than December 31, 2003.

22 (3) The scope of the capital project shall consist of two facilities
23 with not less than a total of 680 beds.

24 (b) Funding under Section 14085.5 shall not be provided unless
25 all of the conditions specified in subdivision (a) are met.

26 (c) The revised plans for the LAC-USC Medical Center capital
27 expenditure project may provide for one or more of the following
28 variations from the original capital expenditure project plan
29 submission:

30 (1) Total revisions or reconfigurations, or reductions in size and
31 scope.

32 (2) Reduction in, or modification of, some or all inpatient project
33 components.

34 (3) Tenant interior improvements not specified in the original
35 capital expenditure project plan submission.

36 (4) Modifications to the foundation, structural frame, and
37 building exterior shell, commonly known as the shell and core.

38 (5) Modifications necessary to comply with current seismic
39 safety standards.

1 (6) Expansion of outpatient service facilities that operate under
2 the LAC-USC Medical Center license.

3 (d) The revised capital expenditure project may provide for an
4 additional inpatient service site to the current LAC-USC Medical
5 Center only if the additional inpatient service site meets both of
6 the following criteria:

7 (1) The San Gabriel Valley site is owned and operated by the
8 County of Los Angeles.

9 (2) The San Gabriel Valley site is consolidated under the
10 LAC-USC Medical Center license.

11 (e) (1) Supplemental reimbursement for the revised capital
12 expenditure project for LAC-USC Medical Center, as described
13 in this section, shall be calculated pursuant to subdivision (c) of
14 Section 14085.5, as authorized and limited by this section. The
15 initial Medi-Cal inpatient utilization rate for the LAC-USC Medical
16 Center, for purposes of calculating the supplemental
17 reimbursement, shall be that which was established at the point of
18 the original capital expenditure project plan submission. The
19 revised capital expenditure project costs, including project costs
20 related to the additional inpatient service site, eligible for
21 supplemental reimbursement under this section shall not exceed
22 85 percent of the project costs, including all eligible construction,
23 architectural and engineering, design, management and consultant
24 costs that would have qualified for supplemental reimbursement
25 under the original capital project. The Legislature finds that the
26 original qualifying amount was one billion two hundred sixty-nine
27 million seven hundred thirty-five thousand dollars
28 (\$1,269,735,000).

29 (2) Notwithstanding any other provision of this section, any
30 portion of the revised capital expenditure project for which the
31 County of Los Angeles is reimbursed by the Federal Emergency
32 Management Agency and the ~~California Emergency Management~~
33 ~~Agency~~ *Office of Emergency Services* shall not be considered
34 eligible project costs for purposes of determining supplemental
35 reimbursement under Section 14085.5.

36 (3) The department shall seek a Medicaid state plan amendment
37 in order to maximize federal financial participation. However, if
38 the department is unable to obtain federal financial participation
39 at the Medi-Cal inpatient adjustment rate as described in paragraph
40 (1), the state shall fully fund any amount that would otherwise be

1 funded under this section, but for which federal financial
2 participation cannot be obtained.

3 (f) The LAC-USC Medical Center shall provide written
4 notification to the department of the status of the project on or
5 before January 1 of each year, commencing January 1, 2002. This
6 notification shall, at a minimum, include a narrative description
7 of the project, identification of services to be provided,
8 documentation substantiating service needs, projected construction
9 timeframes, and total estimated revised capital project costs.

10 (g) The project, if eligible under the criteria set forth in this
11 section and Section 14085.5, shall commence construction at both
12 facilities referred to in subdivision (a) on or before January 1,
13 2004.

14 (h) In addition to the requirements of subdivision (f), the project
15 shall be licensed for operation and available for occupancy on or
16 before January 1, 2009.

17 (i) On or before August 15, 2001, the County of Los Angeles
18 may withdraw any revised final plans that are submitted pursuant
19 to this section prior to that date if the Board of Supervisors of Los
20 Angeles County finds that insufficient funds are available to carry
21 out the capital expenditure project described in this section.

22 *SEC. 611. Section 18275.5 of the Welfare and Institutions Code*
23 *is amended to read:*

24 18275.5. Unless the context requires otherwise, for purposes
25 of this chapter:

26 (a) ~~“Agency”~~ *“Director”* means the ~~California Emergency~~
27 ~~Management Agency~~ *Director of Emergency Services.*

28 (b) ~~“Secretary”~~ *“Office”* means the ~~Secretary of Emergency~~
29 ~~Management~~ *Office of Emergency Services.*

30 *SEC. 612. Section 18277 of the Welfare and Institutions Code*
31 *is amended to read:*

32 18277. The ~~secretary~~ *director* shall select two child sexual
33 abuse prevention training centers, one in northern California and
34 the other in southern California, which shall receive state funds
35 pursuant to this chapter. The ~~secretary~~ *director* shall give
36 consideration to existing demonstration programs relating to the
37 prevention of sexual abuse of children and may award grant awards
38 on a sole source basis to the two training centers which he or she
39 selects for funding. The ~~agency~~ *office* shall appraise the

1 performance of the training centers on an annual basis and
2 determine whether they shall receive continuation grants.

3 *SEC. 613. Section 18278 of the Welfare and Institutions Code*
4 *is amended to read:*

5 18278. (a) The ~~agency~~ office shall make grants to community
6 nonprofit child sexual abuse treatment programs that are unable
7 to meet the current demand for their services, pursuant to this
8 section.

9 (b) Programs seeking these grants shall apply to the Office of
10 Criminal Justice Planning in the manner prescribed by the ~~office~~
11 *Office of Criminal Justice*. Each award shall be limited to
12 twenty-five thousand dollars (\$25,000). Programs shall be selected
13 based, at a minimum, on the following criteria:

14 (1) The program's inability to meet the public demand for its
15 services.

16 (2) The program's use of the award to maximize the services
17 provided to clients who would not otherwise be served.

18 (3) The likelihood that the program will be able to maintain the
19 new level of service after the funds granted are depleted.

20 The awards shall be equitably distributed to programs in northern
21 and southern California. At least one-fourth of the funds shall be
22 distributed to rural programs.

23 (c) The ~~agency~~ office shall fund programs as expeditiously as
24 possible; program funding shall commence within 90 days after
25 the effective date of this chapter.

26 *SEC. 614. Section 18278.5 of the Welfare and Institutions Code*
27 *is amended to read:*

28 18278.5. The ~~agency~~ office shall enter into contracts with the
29 centers for the provision of services required by this chapter within
30 four months of the effective date of this chapter.

31 *SEC. 615. This act shall become operative on July 1, 2013,*
32 *except that Sections 57 and 58 of this act, amending Sections 5240*
33 *and 5400 of the Civil Code, respectively, shall become operative*
34 *on January 1, 2014.*

35 *SEC. 616. This act is an urgency statute necessary for the*
36 *immediate preservation of the public peace, health, or safety within*
37 *the meaning of Article IV of the Constitution and shall go into*
38 *immediate effect. The facts constituting the necessity are:*

39 *To allow the statutes to reflect the changes in law operative on*
40 *July 1, 2013, as a result of the effectiveness of the Governor's*

1 *Reorganization Plan No. 2, it is necessary that this act take effect*
2 *immediately.*
3 ~~SECTION 1. It is the intent of the Legislature to enact~~
4 ~~legislation to codify the provisions of the Governor's~~
5 ~~Reorganization Plan No. 2 of 2012 and make technical conforming~~
6 ~~changes.~~

O