

**OFFICE COPY**

Prepared By \_\_\_\_\_

Approved By \_\_\_\_\_

**STATUTORY PROVISIONS**

An act to amend Sections 100, 101, 130, 149, 205, 1000, 8501, 8502, 8520, 8520.2, 8525, 8674, 8676, 10004, 10005, 10050, 10053, 11301, 11302, 11310, 11313, 19404, 19601.01, 19613.05, 19826, 19861, 19864, 19872, 19881, 23050, and 23075 of, and to repeal Sections 11313.2 and 19881.5 of, the Business and Professions Code, to amend Sections 14060.6, 25005, 29503, and 31004 of, and to repeal Sections 25600, 25601, 25602, and 25603 of, the Corporations Code, to amend Section 22001 of the Education Code, to amend Sections 125, 300, 320, 4805.055, 5104, 5106, 12003, 14003, 14200.1, 14200.2, 17002, 18002, 18002.5, 22005, 30002, 31055, and 50003 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 and 2301 of the Fish and Game Code, to amend Sections 3806, 4101, 4101.3, 4101.4, 4102, 4104, 4105, 4106, 4108, and 58509 of, and to repeal Section 11451.5 of, the Food and

Agricultural Code, to amend Sections 179.7, 955.1, 3101, 3102, 6254, 6254.23, 6276.26, 6276.38, 8550, 8570.5, 8574.17, 8574.20, 8574.21, 8574.22, 8575, 8584.1, 8585, 8585.05, 8585.1, 8585.2, 8585.7, 8586, 8587.7, 8588, 8588.1, 8588.3, 8588.7, 8588.10, 8588.11, 8589, 8589.1, 8589.2, 8589.5, 8589.6, 8589.7, 8589.9, 8589.10, 8589.19, 8590.1, 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, 8610.5, 8612, 8613, 8614, 8649, 8651, 8657, 8657.5, 8670.20, 8670.25.5, 8670.26, 8670.64, 8682, 8682.9, 8685, 8687.7, 8692, 8840, 8841, 8844, 8870.1, 8870.2, 8870.4, 8870.7, 8870.71, 8871.3, 8871.4, 8876.7, 8878.52, 8879.23, 8879.50, 8879.53, 8879.57, 8879.58, 8879.59, 8879.60, 8879.61, 11340.2, 11532, 11534, 11535, 11537, 11538, 11540, 11541, 11542, 11543, 11544, 11545, 11546, 11546.1, 11546.2, 11546.3, 11546.4, 11546.5, 11546.6, 11549, 11549.3, 11550, 11552, 12012.90, 12800, 12804.5, 12804.7, 12805, 12855, 12856, 12901, 12944, 13901, 13903, 13978.6, 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, 14500, 14520, 14601, 14998.2, 15251, 15254, 15275, 15277, 15363.61, 15363.62, 15363.63, 15700, 16304.9, 18521, 20002, 53108.5, 53126.5, 63021, and 63021.5 of, to add Sections 12803.2, 12813.5, and 19815.25 to, to repeal Section

65037.1 of, to repeal Chapter 3.1 (commencing with Section 8240) of Division 1 of Title 2 of, and to repeal and add Sections 12804 and 13975 of, the Government Code, to amend Sections 32, 33, 50, 50.1, 50.2, 85.2, and 1150 of, to repeal Sections 31 and 65.4 of, and to repeal Chapter 3 (commencing with Section 80) of Division 1 of the Harbors and Navigation Code, to amend Sections 18901, 18917.5, 18920, 18922, 50400, 50900, 50901, 50913, and 51005 of, to repeal Article 11 (commencing with Section 25220) of Chapter 6.5 of, Article 6.5 (commencing with Section 25369) of Chapter 6.8 of, and Article 8 (commencing with Section 25395.1) of Chapter 6.8 of, and to repeal Chapter 6.82 (commencing with Section 25395.6), Chapter 6.85 (commencing with Section 25396), and Chapter 6.98 (commencing with Section 25570) of, Division 20 of, the Health and Safety Code, to amend Sections 326.3 and 326.5 of the Penal Code, to amend Sections 12101, 12103, 12104, 12105, 12120, and 12121 of the Public Contract Code, to amend Sections 5075.8, 5099.12, 10002, 30404, 36300, and 40400 of the Public Resources Code, to amend Sections 883, 2872.5, 2892, 2892.1, 7718, and 185020 of the Public Utilities Code, to amend Sections 41030, 41031, 41032, 41136.1, 41137, 41137.1, 41138, 41139, 41140, 41141 and 41142 of the Revenue and Taxation Code, to amend Sections 1500, 1505, 2100, 2109, 2901, and 2902 of the Vehicle Code, and to amend Sections 11910 and 11910.1 of the Water Code, relating to reorganization of the executive branch of state government.

SECTION 1. Section 100 of the Business and Professions Code is amended to read:

100. There is in the state government, in the ~~State Business~~ and Consumer Services Agency, a Department of Consumer Affairs.

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

101. The department is comprised of the following:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The Bureau of Barbering and Cosmetology.
- (i) The Board for Professional Engineers and Land Surveyors.
- (j) The Contractors' State License Board.
- (k) The Bureau for Private Postsecondary Education.
- (l) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.

- (q) The State Board of Guide Dogs for the Blind.
- (r) The Bureau of Security and Investigative Services.
- (s) The Court Reporters Board of California.
- (t) The Board of Vocational Nursing and Psychiatric Technicians.
- (u) The Landscape Architects Technical Committee.
- (v) The Division of Investigation.
- (w) The Bureau of Automotive Repair.
- (x) The Respiratory Care Board of California.
- (y) The Acupuncture Board.
- (z) The Board of Psychology.
- (aa) The California Board of Podiatric Medicine.
- (ab) The Physical Therapy Board of California.
- (ac) The Arbitration Review Program.
- (ad) The Physician Assistant Committee.
- (ae) The Speech-Language Pathology and Audiology Board.
- (af) The California Board of Occupational Therapy.
- (ag) The Osteopathic Medical Board of California.
- (ah) The Naturopathic Medicine Committee.
- (ai) The Dental Hygiene Committee of California.
- (aj) The Professional Fiduciaries Bureau.
- (ak) The State Board of Chiropractic Examiners.
- (al) The Bureau of Real Estate.
- (am) The Bureau of Real Estate Appraisers.

(an) The Structural Pest Control Board.

~~(ak)~~

(ao) Any other boards, offices, or officers subject to its jurisdiction by law.

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

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

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

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

- (16) The State Athletic Commission.
- (17) The Osteopathic Medical Board of California.
- (18) The Respiratory Care Board of California.
- (19) The Acupuncture Board.
- (20) The Board of Psychology.
- (21) The Structural Pest Control Board.

SEC. 4. Section 149 of the Business and Professions Code is amended to read:

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

- (1) Cease the unlawful advertising.
- (2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

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

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the

agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

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

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

- (1) The Bureau of Barbering and Cosmetology.
- (2) The Cemetery and Funeral Bureau.
- (3) The Veterinary Medical Board.
- (4) The Landscape Architects Technical Committee.
- (5) The California Board of Podiatric Medicine.
- (6) The Respiratory Care Board of California.
- (7) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (8) The Bureau of Security and Investigative Services.
- (9) The Bureau of Automotive Repair.
- (10) The California Architects Board.
- (11) The Speech-Language Pathology and Audiology Board.
- (12) The Board for Professional Engineers and Land Surveyors.

(13) The Board of Behavioral Sciences.

(14) The Structural Pest Control Board ~~within the Department of Pesticide Regulation.~~

(15) The Acupuncture Board.

(16) The Board of Psychology.

(17) The California Board of Accountancy.

(18) The Naturopathic Medicine Committee.

(19) The Physical Therapy Board of California.

(20) The Bureau for Private Postsecondary Education.

SEC. 5. Section 205 of the Business and Professions Code is amended to read:

205. (a) There is in the State Treasury the Professions and Vocations Fund.

The fund shall consist of the following special funds:

(1) Accountancy Fund.

(2) California Architects Board Fund.

(3) Athletic Commission Fund.

(4) Barbering and Cosmetology Contingent Fund.

(5) Cemetery Fund.

(6) Contractors' License Fund.

(7) State Dentistry Fund.

(8) State Funeral Directors and Embalmers Fund.

(9) Guide Dogs for the Blind Fund.

(10) Home Furnishings and Thermal Insulation Fund.

(11) California Architects Board-Landscape Architects Fund.

- (12) Contingent Fund of the Medical Board of California.
- (13) Optometry Fund.
- (14) Pharmacy Board Contingent Fund.
- (15) Physical Therapy Fund.
- (16) Private Investigator Fund.
- (17) Professional Engineer's and Land Surveyor's Fund.
- (18) Consumer Affairs Fund.
- (19) Behavioral Sciences Fund.
- (20) Licensed Midwifery Fund.
- (21) Court Reporters' Fund.
- (22) Veterinary Medical Board Contingent Fund.
- (23) Vocational Nurses Account of the Vocational Nursing and Psychiatric Technicians Fund.
- (24) Electronic and Appliance Repair Fund.
- (25) Geology and Geophysics Account of the Professional Engineer's and Land Surveyor's Fund.
- (26) Dispensing Opticians Fund.
- (27) Acupuncture Fund.
- (28) Physician Assistant Fund.
- (29) Board of Podiatric Medicine Fund.
- (30) Psychology Fund.
- (31) Respiratory Care Fund.

(32) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund.

(33) Board of Registered Nursing Fund.

(34) Psychiatric Technician Examiners Account of the Vocational Nursing and Psychiatric Technicians Fund.

(35) Animal Health Technician Examining Committee Fund.

(36) State Dental Hygiene Fund.

(37) State Dental Assistant Fund.

(38) Structural Pest Control Fund.

(39) Structural Pest Control Eradication and Enforcement Fund.

(40) Structural Pest Control Research Fund.

(b) For accounting and recordkeeping purposes, the Professions and Vocations Fund shall be deemed to be a single special fund, and each of the several special funds therein shall constitute and be deemed to be a separate account in the Professions and Vocations Fund. Each account or fund shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

SEC. 6. Section 1000 of the Business and Professions Code is amended to read:

1000. (a) The law governing practitioners of chiropractic is found in an initiative act entitled “An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith,” adopted by the electors November 7, 1922.

(b) The State Board of Chiropractic Examiners is within the Department of Consumer Affairs.

SEC. 7. Section 8501 of the Business and Professions Code is amended to read:

8501. "Director" refers to the Director of ~~Pesticide Regulation~~ Consumer Affairs.

SEC. 8. Section 8502 of the Business and Professions Code is amended to read:

8502. "Board" refers to the Structural Pest Control Board within the Department of ~~Pesticide Regulation~~ Consumer Affairs.

SEC. 9. Section 8520 of the Business and Professions Code is amended to read:

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

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

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

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

SEC. 10. Section 8520.2 of the Business and Professions Code is amended to read:

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

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

(c) The members appointed to the board while under the jurisdiction of the Department of ~~Consumer Affairs~~ Pesticide Regulation shall remain as members of the board under the jurisdiction of the Department of ~~Pesticide Regulation~~ Consumer Affairs.

(d) All employees of the board under the jurisdiction of the Department of ~~Consumer Affairs~~ Pesticide Regulation are hereby transferred to the board under the jurisdiction of the Department of ~~Pesticide Regulation~~ Consumer Affairs.

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

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

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

SEC. 11. Section 8525 of the Business and Professions Code is amended to read:

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

(b) The board shall consult with the Department of Pesticide Regulation when developing or adopting regulations that may affect the Department of Pesticide Regulation or a county agricultural commissioner's responsibilities pursuant to Division 7 (commencing with Section 12501) of the Food and Agricultural Code.

SEC. 12. Section 8674 of the Business and Professions Code is amended to read:

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

- (a) A duplicate license fee of not more than two dollars (\$2).
- (b) A fee for filing a change of name of a licensee of not more than two dollars (\$2).
- (c) An operator's examination fee of not more than twenty-five dollars (\$25).
- (d) An operator's license fee of not more than one hundred fifty dollars (\$150).

(e) An operator's license renewal fee of not more than one hundred fifty dollars (\$150).

(f) A company registration fee of not more than one hundred twenty dollars (\$120).

(g) A branch office registration fee of not more than sixty dollars (\$60).

(h) A field representative's examination fee of not more than fifteen dollars (\$15).

(i) A field representative's license fee of not more than forty-five dollars (\$45).

(j) A field representative's license renewal fee of not more than forty-five dollars (\$45).

(k) An applicator's examination fee of not more than fifteen dollars (\$15).

(l) An applicator's license fee of not more than fifty dollars (\$50).

(m) An applicator's license renewal fee of not more than fifty dollars (\$50).

(n) An activity form fee, per property address, of not more than three dollars (\$3).

(o) A fee for certifying a copy of an activity form of not more than three dollars (\$3).

(p) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars (\$25) for each change.

(q) A fee for approval of continuing education providers of not more than fifty dollars (\$50).

(r) A pesticide use report filing fee of not more than five dollars (\$5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.

(s) A fee for approval of continuing education courses of not more than twenty-five dollars (\$25).

(t) (1) Any person who pays a fee pursuant to subdivision (r) shall, in addition, pay a fee of two dollars (\$2) for each pesticide use stamp purchased from the board. Notwithstanding any other provision of law, the fee established pursuant to this subdivision shall be deposited with a bank or other depository approved by the Department of Finance and designated by the Research Advisory Panel or into the Structural Pest Control Research Fund that is hereby continued in existence and continuously appropriated to be used only for structural pest control research. If the Research Advisory Panel designates that the fees be deposited in an account other than the Structural Pest Control Research Fund, any moneys in the fund shall be transferred to the designated account.

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

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

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

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

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

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

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

(4) The board shall, by regulation, establish a five-member research advisory panel including, but not limited to, representatives from each of the following: (A) the Structural Pest Control Board, (B) the structural pest control industry, (C) the Department of Pesticide Regulation, and (D) the University of California. The panel, or other entity designated by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be accepted upon a two-thirds vote

of the board. The board shall direct the panel, or other entity designated by the board, to prepare and issue the research contracts and authorize the transfer of funds from the Structural Pest Control Research Fund to the applicants whose proposals were accepted by the board.

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

SEC. 13. Section 8676 of the Business and Professions Code is amended to read:

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

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

SEC. 14. Section 10004 of the Business and Professions Code is amended to read:

10004. "~~Department~~" "Bureau" means the ~~Department~~ Bureau of Real Estate in the ~~Business, Transportation and Housing Agency~~ Department of Consumer Affairs.

SEC. 15. Section 10005 of the Business and Professions Code is amended to read:

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

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

SEC. 16. Section 10050 of the Business and Professions Code is amended to read:

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

It

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

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

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

10053. The commissioner shall receive an annual salary as provided in Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government

Code, to be paid monthly out of the State Treasury upon a warrant of the Controller, and shall be allowed his or her actual and necessary expenses in the discharge of his or her duties.

SEC. 18. Section 11301 of the Business and Professions Code is amended to read:

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

(b) Whenever the term "Office of Real Estate Appraisers" appears in any other law, it means the "Bureau of Real Estate Appraisers."

SEC. 19. Section 11302 of the Business and Professions Code is amended to read:

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

(a) ~~"Agency" means the Business, Transportation and Housing Agency.~~  
"Department" means the Department of Consumer Affairs.

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

The term "appraisal" does not include an opinion given by a real estate licensee or engineer or land surveyor in the ordinary course of his or her business in connection with a function for which a license is required under Chapter 7 (commencing with

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

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

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

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

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

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

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

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

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

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

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

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

(e) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(f) "Controlling person" means one or more of the following:

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

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

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

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

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

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

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

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

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

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

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

~~(o) "Secretary" means the Secretary of Business, Transportation and Housing.~~

~~(p)~~

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

~~(q)~~

(p) "Uniform Standards of Professional Appraisal Practice" are the standards of professional appraisal practice established by the Appraisal Foundation.

~~(r)~~

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

SEC. 20. Section 11310 of the Business and Professions Code is amended to read:

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

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

(b) The ~~director~~ chief shall not be actively engaged in the appraisal business or any other affected industry for the term of appointment, and thereafter the ~~director~~ commissioner shall be subject to Section 87406 of the Government Code.

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

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

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

SEC. 21. Section 11313 of the Business and Professions Code is amended to read:

11313. The ~~office~~ bureau is under the supervision and control of the ~~secretary~~ Director of Consumer Affairs. The duty of enforcing and administering this part is vested in the ~~director~~ chief, and he or she is responsible to the ~~secretary~~ Director of

Consumer Affairs therefor. The ~~director~~ chief shall adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of this part. Those rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Regulations adopted by the former Director of the Office of Real Estate Appraisers shall continue to apply to the bureau and its licensees.

SEC. 22. Section 11313.2 of the Business and Professions Code is repealed.

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

~~(b) Notwithstanding any other provision of law, on and after January 1, 2015, the office shall be subject to review by the appropriate policy committees of the Legislature. The review shall include, but shall not be limited to, the recommendations of the secretary regarding the office.~~

SEC. 23. Section 19404 of the Business and Professions Code is amended to read:

19404. "Board" means the California Horse Racing Board within the Business and Consumer Services Agency.

SEC. 24. Section 19601.01 of the Business and Professions Code is amended to read:

19601.01. (a) Notwithstanding any other provision of law, a thoroughbred association or fair, upon the filing of a written notice with, and approval by, the board specifying the percentage to be deducted, may deduct from the total amount handled in the parimutuel pool for any type of wager an amount of not less than 10 percent nor more than 25 percent. The written notice shall include the written agreement of the thoroughbred association or fair and the horsemen's organization for the meeting of the thoroughbred association or fair accepting the wager. The established percentage to be deducted shall remain in effect until the filing of a subsequent notice with, and approval by, the board, unless otherwise specified in the notice. The amount deducted shall be distributed as prescribed in this chapter. However, any such distribution, except for amounts payable for the support of the board and the equine drug testing program pursuant to subdivision (a) of Section 19616.51, may be modified or redirected upon the filing with, and approval by, the board of a written notice that is authorized and signed by the organization representing each entity affected by the modification or redirection, including, but not limited to, horsemen's organizations, racing associations, and fairs. If the proposed distribution modification or redirection increases or would increase the financial burden of any other organization or entity, the consent of that organization or entity shall also be obtained. This organization or entity consent provision for a distribution modification or redirection applies even if the percentage deduction is not increased pursuant to this subdivision.

(b) A notice filed with the board to modify or redirect a distribution pursuant to subdivision (a) shall be accompanied by a report detailing all receipts and expenditures

over the two prior fiscal years of the funds and accounts proposed to be affected by the notice.

(c) Initial approval of a distribution modification or redirection pursuant to this section shall be limited to a one-year period. An approval may be extended in subsequent years contingent upon annual receipt of the report described in subdivision (e) and a determination by the board that the extension is in the economic interest of thoroughbred racing. However, in order for an initial approval of a distribution modification or redirection to be extended beyond the first year, the consent of each organization and entity that gave its consent to that initial distribution modification or redirection shall also be obtained for the extension. In the absence of the consent of all of these organizations and entities, the board shall not approve the extension.

(d) A thoroughbred association or fair whose written notice for a percentage deduction pursuant to subdivision (a) has been approved by the board shall provide subsequent quarterly reports of receipts and expenditures of the affected funds if requested by the board.

(e) A thoroughbred association or fair whose written notice for a percentage deduction pursuant to subdivision (a) has been approved by the board shall file a report with the board and the respective fiscal committees and Committees on Governmental Organization of the Senate and the Assembly accounting for all receipts and expenditures in any of the affected funds. This report shall be filed within one year of initial board approval and annually thereafter if the approval is extended by the board.

SEC. 25. Section 19613.05 of the Business and Professions Code is amended to read:

19613.05. (a) Any association, including a fair, that conducts thoroughbred racing shall pay to the owners' organization, contracting with the association with respect to the conduct of thoroughbred racing, an additional  $1\frac{3}{4}$  percent of the portion required by Section 19613 for a national marketing program. These funds shall be used exclusively for the promotion of thoroughbred racing in conjunction with a national thoroughbred racing marketing program. Funds that may not be needed for this effort shall be returned to the purse pool at the racing associations where these funds were raised in direct proportion to the amount in which they were initially raised. The owners' organization shall file a report with the board and the respective Committees on Governmental Organization of the Senate and Assembly, accounting for the receipt and expenditure of these funds on an annual basis. The board of directors of the owners' organization shall have the discretion to select the national marketing organization that shall be the recipient of these funds. If the board of directors of the owners' organization decides at any time not to contribute to the national marketing organization, notice shall be given promptly to the respective racing association or associations and the  $1\frac{3}{4}$  percent deduction shall cease until the owners' organization decides otherwise.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 26. Section 19826 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

SEC. 27. Section 19861 of the Business and Professions Code is amended to read:

19861. Notwithstanding subdivision (i) of Section 19801, the commission shall not deny a license to a gambling establishment solely because it is not open to the public, provided that all of the following are true: (a) the gambling establishment is situated in a local jurisdiction that has an ordinance allowing only private clubs, and the gambling establishment was in operation as a private club under that ordinance on December 31, 1997, and met all applicable state and local gaming registration requirements; (b) the gambling establishment consists of no more than five gaming tables; (c) video recordings of the entrance to the gambling room or rooms and all tables situated therein are made during all hours of operation by means of closed-circuit

television cameras, and these recordings are retained for a period of 30 days and are made available for review by the department ~~or commission~~ upon request; and (d) the gambling establishment is open to members of the private club and their spouses in accordance with membership criteria in effect as of December 31, 1997.

A gambling establishment meeting these criteria, in addition to the other requirements of this chapter, may be licensed to operate as a private club gambling establishment until November 30, 2003, or until the ownership or operation of the gambling establishment changes from the ownership or operation as of January 1, 1998, whichever occurs first. Operation of the gambling establishments after this date shall only be permitted if the local jurisdiction approves an ordinance, pursuant to Sections 19961 and 19962, authorizing the operation of gambling establishments that are open to the public. The commission shall adopt regulations implementing this section. Prior to the commission's issuance of a license to a private club, the department shall ensure that the ownership of the gambling establishment has remained constant since January 1, 1998, and the operation of the gambling establishment has not been leased to any third party.

SEC. 28. Section 19864 of the Business and Professions Code is amended to read:

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

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

- (1) The name of the proposed licensee.
- (2) The name and location of the proposed gambling establishment.

- (3) The gambling games proposed to be conducted.
- (4) The names of all persons directly or indirectly interested in the business and the nature of the interest.
- (5) A description of the proposed gambling establishment and operation.
- (6) Any other information and details the commission may require in order to discharge its ~~duty~~ duties properly.

SEC. 29. Section 19872 of the Business and Professions Code is amended to read:

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

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

(c) No employee or agent of the department, applicant, or any agent, representative, or person acting on behalf of an applicant, and no person who has a direct or indirect interest in the outcome of a proceeding to consider an application for a license, permit, registration, or approval may communicate ex parte, directly or

indirectly, with any member of the commission, upon the merits of the application, while the application is pending disposition before the commission.

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

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

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

SEC. 30. Section 19881 of the Business and Professions Code is amended to read:

19881. (a) No corporation is eligible to receive a license to own a gambling enterprise unless the conduct of controlled gambling is among the purposes stated in its articles of incorporation and the articles of incorporation have been submitted to and approved by the ~~commission~~ department.

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

SEC. 31. Section 19881.5 of the Business and Professions Code is repealed.

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

SEC. 32. Section 23050 of the Business and Professions Code is amended to read:

23050. There is in the ~~State Government~~ state government, in the Business and Consumer Services Agency a Department of Alcoholic Beverage Control. The department shall be administered through a civil executive officer who shall be known as the Director of Alcoholic Beverage Control. The director shall be appointed and shall serve as provided in Section 22 of Article XX of the Constitution and shall receive an annual salary as provided for by Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 33. Section 23075 of the Business and Professions Code is amended to read:

23075. There is in the state government, in the Business and Consumer Services Agency, an Alcoholic Beverage Control Appeals Board the members of which shall be appointed and shall serve as provided in Section 22 of Article XX of the Constitution, and shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 34. Section 14060.6 of the Corporations Code is amended to read:

14060.6. (a) The Small Business Loan Guarantee Program exists in the Governor's Office of Business and Economic Development.

(a)

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

(b)

(c) Notwithstanding Section 14060.5, the ~~Business, Transportation and Housing Agency~~ Governor's Office of Business and Economic Development shall establish new small business financial development corporations pursuant to the procedures otherwise established by this chapter in the following areas:

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

(e)

(d) Upon an appropriation in the annual Budget Act for this purpose, the ~~Secretary of Business, Transportation and Housing~~ Governor's Office of Business and Economic

Development shall establish a small business financial development corporation in southeast Los Angeles.

(d)

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

SEC. 35. Section 25005 of the Corporations Code is amended to read:

25005. "Commissioner" means the Commissioner of ~~Corporations~~ Business Oversight.

SEC. 36. Section 25600 of the Corporations Code is repealed.

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

~~Whenever the term "Division of Corporations" is used in the law, it means the Department of Corporations.~~

SEC. 37. Section 25601 of the Corporations Code is repealed.

~~25601. The commissioner shall have his principal office in the City of Sacramento, and may establish branch offices in the City and County of San Francisco,~~

~~in the City of Los Angeles and in the City of San Diego. The commissioner shall from time to time obtain the necessary furniture, stationery, fuel, light, and other proper conveniences for the transaction of the business of the Department of Corporations.~~

SEC. 38. Section 25602 of the Corporations Code is repealed.

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

SEC. 39. Section 25603 of the Corporations Code is repealed.

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

SEC. 40. Section 29503 of the Corporations Code is amended to read:

29503. “Commissioner” means the ~~Commissioner of Corporations~~ Deputy Commissioner of Business Oversight for the Division of Corporations.

SEC. 41. Section 31004 of the Corporations Code is amended to read:

31004. “Commissioner” means the ~~Commissioner of Corporations~~ Deputy Commissioner of Business Oversight for the Division of Corporations.

SEC. 42. Section 22001 of the Education Code is amended to read:

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

SEC. 43. Section 125 of the Financial Code is amended to read:

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

SEC. 44. The heading of Chapter 3 (commencing with Section 300) of Division 1 of the Financial Code is amended to read:

CHAPTER 3. DEPARTMENT OF ~~FINANCIAL INSTITUTIONS~~ BUSINESS OVERSIGHT

SEC. 45. Section 300 of the Financial Code is amended to read:

300. (a) In this section:

(1) “Business and industrial development corporation” means a corporation licensed under Division 15 (commencing with Section 31000).

(2) “Payment instrument” has the same meaning as set forth in Section 33059.

(3) “Traveler’s check” has the same meaning as set forth in Section 1803.

(b) There is in the state government, in the ~~Business, Transportation and Housing~~ Business and Consumer Services Agency, a Department of ~~Financial Institutions~~ Business Oversight which has charge of the execution of, among other laws, the laws of this state relating to any of the following: (1) banks or trust companies or the banking or trust business; (2) savings associations or the savings association business; (3) credit unions or the credit union business; (4) persons who engage in the business of receiving money for transmission to foreign nations or such business; (5) issuers of traveler’s checks or the traveler’s check business; (6) issuers of payment instruments or the payment instrument business; (7) business and industrial development corporations or the business and industrial development corporation business, or (8) insurance premium finance agencies or the insurance premium finance business.

SEC. 46. The heading of Article 2 (commencing with Section 320) of Chapter 3 of Division 1 of the Financial Code is amended to read:

Article 2. Commissioner of ~~Financial Institutions~~ Business Oversight

SEC. 47. Section 320 of the Financial Code is amended to read:

320. The chief officer of the Department of ~~Financial Institutions~~ Business Oversight is the Commissioner of ~~Financial Institutions~~ Business Oversight. The

Commissioner of ~~Financial Institutions~~ Business Oversight is the head of the department with the authority and responsibility over all officers, employees, and activities in the department and, except as otherwise provided in this code, is subject to the provisions of the Government Code relating to department heads, but need not reside in Sacramento.

SEC. 48. Section 321 of the Financial Code is repealed.

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

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

~~(b) The office of the Superintendent of Banks and the State Banking Department are abolished. All powers, duties, responsibilities, and functions of the Superintendent of Banks and the State Banking Department are transferred to the Commissioner of Financial Institutions and the Department of Financial Institutions, respectively. The Commissioner of Financial Institutions and the Department of Financial Institutions succeed to all the rights and property of the Superintendent of Banks and the State Banking Department, respectively; the Commissioner of Financial Institutions and the Department of Financial Institutions are subject to all the debts and liabilities of the Superintendent of Banks and the State Banking Department, respectively, as if the Commissioner of Financial Institutions and the Department of Financial Institutions had incurred them. Any action or proceeding by or against the Superintendent of Banks or the State Banking Department may be prosecuted to judgment, which shall bind the Commissioner of Financial Institutions or the Department of Financial Institutions,~~

~~respectively, or the Commissioner of Financial Institutions or the Department of Financial Institutions may be proceeded against or substituted in place of the Superintendent of Banks or the State Banking Department, respectively. References in the Constitution of the State of California or in any statute or regulation to the Superintendent of Banks or to the State Banking Department mean the Commissioner of Financial Institutions or the Department of Financial Institutions, respectively. All agreements entered into with, and orders and regulations issued by, the Superintendent of Banks or the State Banking Department shall continue in effect as if the agreements were entered into with, and the orders and regulations were issued by, the Commissioner of Financial Institutions or the Department of Financial Institutions, respectively.~~

(c) ~~The office of the Savings and Loan Commissioner and the Department of Savings and Loan are abolished. All powers, duties, responsibilities, and functions of the Savings and Loan Commissioner and the Department of Savings and Loan are transferred to the Commissioner of Financial Institutions and the Department of Financial Institutions, respectively. The Commissioner of Financial Institutions and the Department of Financial Institutions succeed to all the rights and property of the Savings and Loan Commissioner and the Department of Savings and Loan, respectively; the Commissioner of Financial Institutions and the Department of Financial Institutions are subject to all the debts and liabilities of the Savings and Loan Commissioner and the Department of Savings and Loan, respectively, as if the Commissioner of Financial Institutions and the Department of Financial Institutions had incurred them. Any action or proceeding by or against the Savings and Loan Commissioner or the Department of Savings and Loan may be prosecuted to judgment, which shall bind the Commissioner~~

~~of Financial Institutions or the Department of Financial Institutions, respectively, or the Commissioner of Financial Institutions or the Department of Financial Institutions may be proceeded against or substituted in place of the Savings and Loan Commissioner or the Department of Savings and Loan, respectively. References in the Constitution of the State of California or in any statute or regulation to the Savings and Loan Commissioner or to the Department of Savings and Loan mean the Commissioner of Financial Institutions or the Department of Financial Institutions, respectively. All agreements entered into with, and orders and regulations issued by, the Savings and Loan Commissioner or the Department of Savings and Loan shall continue in effect as if the agreements were entered into with, and the orders and regulations were issued by, the Commissioner of Financial Institutions or the Department of Financial Institutions.~~

(d) ~~All powers, duties, responsibilities, and functions of the Commissioner of Corporations and the Department of Corporations with respect to credit unions, the credit union business, industrial loan companies, or the industrial loan business are transferred to the Commissioner of Financial Institutions and the Department of Financial Institutions, respectively. The Commissioner of Financial Institutions and the Department of Financial Institutions succeed to all the rights and property of the Commissioner of Corporations and the Department of Corporations, respectively, with respect to credit unions, the credit union business, industrial loan companies, or the industrial loan business; the Commissioner of Financial Institutions and the Department of Financial Institutions are subject to all the debts and liabilities of the Commissioner of Corporations and the Department of Corporations, respectively, with respect to~~

~~credit unions, the credit union business, industrial loan companies, or the industrial loan business, as if the Commissioner of Financial Institutions and the Department of Financial Institutions had incurred them. Any action or proceeding by or against the Commissioner of Corporations or the Department of Corporations with respect to credit unions, the credit union business, industrial loan companies, or the industrial loan business may be prosecuted to judgment, which shall bind the Commissioner of Financial Institutions or the Department of Financial Institutions, respectively, or the Commissioner of Financial Institutions or the Department of Financial Institutions may be proceeded against or substituted in place of the Commissioner of Corporations or the Department of Corporations, respectively. References in the Constitution of the State of California or any statute or regulation to the Commissioner of Corporations or to the Department of Corporations with respect to credit unions, the credit union business, industrial loan companies, or the industrial loan business mean the Commissioner of Financial Institutions or the Department of Financial Institutions, respectively. All agreements entered into with, and orders and regulations issued by, the Commissioner of Corporations or the Department of Corporations in the exercise of authority under any law relating to credit unions, the credit union business, industrial loan companies, or the industrial loan business, shall continue in effect as if the agreements were entered into with, and the orders and regulations were issued by, the Commissioner of Financial Institutions or the Department of Financial Institutions.~~

SEC. 49. Section 321 is added to the Financial Code, to read:

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

(b) The office of the Commissioner of Financial Institutions and the Department of Financial Institutions are abolished. All powers, duties, responsibilities, and functions of the Commissioner of Financial Institutions and the Department of Financial Institutions are transferred to the Commissioner of Business Oversight and the Department of Business Oversight, respectively. The Commissioner of Business Oversight and the Department of Business Oversight succeed to all of the rights and property of the Commissioner of Financial Institutions and Department of Financial Institutions, respectively; the Commissioner of Business Oversight and the Department of Business Oversight are subject to all the debts and liabilities of the Commissioner of Financial Institutions and the Department of Financial Institutions, respectively, as if the Commissioner of Business Oversight and the Department of Business Oversight had incurred them. Any action or proceeding by or against the Commissioner of Financial Institutions or the Department of Financial Institutions may be prosecuted to judgment, which shall bind the Commissioner of Business Oversight or the Department of Business Oversight, respectively, or the Commissioner of Business Oversight or the Department of Business Oversight may be proceeded against or substituted in place of the Commissioner of Financial Institutions or the Department of Financial Institutions, respectively. References in the Constitution of the State of California or in any statute or regulation to the Superintendent of Banks or the Commissioner of Financial Institutions or to the State Banking Department or the

Department of Financial Institutions mean the Commissioner of Business Oversight or the Department of Business Oversight, respectively. All agreements entered into with, and orders and regulations issued by, the Commissioner of Financial Institutions or the Department of Financial Institutions shall continue in effect as if the agreements were entered into with, and the orders and regulations were issued by, the Commissioner of Business Oversight or the Department of Business Oversight, respectively.

(c) The office of the Commissioner of Corporations and the Department of Corporations are abolished. All powers, duties, responsibilities, and functions of the Commissioner of Corporations and the Department of Corporations are transferred to the Commissioner of Business Oversight and the Department of Business Oversight, respectively. The Commissioner of Business Oversight and the Department of Business Oversight succeed to all of the rights and property of the Commissioner of Corporations and Department of Corporations, respectively; the Commissioner of Business Oversight and the Department of Business Oversight are subject to all the debts and liabilities of the Commissioner of Corporations and the Department of Corporations, respectively, as if the Commissioner of Business Oversight and the Department of Business Oversight had incurred them. Any action or proceeding by or against the Commissioner of Corporations or the Department of Corporations may be prosecuted to judgment, which shall bind the Commissioner of Business Oversight or the Department of Business Oversight, respectively, or the Commissioner of Business Oversight or the Department of Business Oversight may be proceeded against or substituted in place of the Commissioner of Corporations or the Department of Corporations, respectively. References in the Constitution of the State of California or in any statute or regulation

to the Commissioner of Corporations or the Department of Corporations mean the Commissioner of Business Oversight or the Department of Business Oversight, respectively. All agreements entered into with, and orders and regulations issued by, the Commissioner of Corporations or the Department of Corporations shall continue in effect as if the agreements were entered into with, and the orders and regulations were issued by, the Commissioner of Business Oversight or the Department of Business Oversight, respectively.

SEC. 50. Section 351 of the Financial Code is repealed.

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

SEC. 51. Section 351 is added to the Financial Code, to read:

351. (a) The chief officer of the Division of Corporations is the Deputy Commissioner of Business Oversight for the Division of Corporations. The Deputy Commissioner of Business Oversight for the Division of Corporations shall, under the direction of the commissioner, administer the laws of this state that were, prior to July 1, 2013, under the charge of the Department of Corporations. The Deputy Commissioner of Business Oversight for the Division of Corporations shall be appointed by the

Governor and shall hold office at the pleasure of the Governor. The Deputy Commissioner of Business Oversight for the Division of Corporations shall receive an annual salary as fixed by the Governor.

(b) The chief officer of the Division of Financial Institutions is the Deputy Commissioner of Business Oversight for the Division of Financial Institutions. The Deputy Commissioner of Business Oversight for the Division of Financial Institutions shall, under the direction of the commissioner, administer the laws of this state that were, prior to July 1, 2013, under the charge of the Department of Financial Institutions. The Deputy Commissioner of Business Oversight for the Division of Financial Institutions shall be appointed by the Governor and shall hold office at the pleasure of the Governor. The Deputy Commissioner of Business Oversight for the Division of Financial Institutions shall receive an annual salary as fixed by the Governor.

SEC. 52. Section 371 of the Financial Code is repealed.

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

SEC. 53. Section 371 is added to the Financial Code, to read:

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

(b) There is in the Department of Business Oversight, the Division of Financial Institutions. The Division of Financial Institutions has charge of the execution of the

laws of the state that were, prior to July 1, 2013, under the charge of the Department of Financial Institutions.

SEC. 54. Section 4805.055 of the Financial Code is amended to read:

4805.055. "Commissioner" means the Deputy Commissioner of Business Oversight for the Division of Financial Institutions.

SEC. 55. Section 5104 of the Financial Code is amended to read:

5104. "Commissioner" means the Deputy Commissioner of Business Oversight for the Division of Financial Institutions.

SEC. 56. Section 5106 of the Financial Code is amended to read:

5106. "Department" means the ~~Department~~ Division of Financial Institutions in the Department of Business Oversight.

SEC. 57. Section 12003 of the Financial Code is amended to read:

12003. "Commissioner" means the Deputy Commissioner of ~~Corporations of the State of California~~ Business Oversight for the Division of Corporations, or any deputy, investigator, auditor, or any other person employed by him or her.

SEC. 58. Section 14003 of the Financial Code is amended to read:

14003. "Commissioner" means the Deputy Commissioner of Business Oversight for the Division of Financial Institutions ~~of the State of California~~.

SEC. 59. Section 14200.1 of the Financial Code is amended to read:

14200.1. There is in the ~~Department~~ Division of Financial Institutions, the ~~Division Office~~ Office of Credit Unions. The ~~Division Office~~ Office of Credit Unions has charge of the execution of the laws of this state relating to credit unions or to the credit union business.

SEC. 60. Section 14200.2 of the Financial Code is amended to read:

14200.2. ~~The Chief Officer~~ chief officer of the ~~Division Office~~ of Credit Unions is the ~~Deputy Commissioner of Financial Institutions for the Division~~ Chief of the Office of Credit Unions. ~~The Deputy Commissioner of Financial Institutions for the Division~~ Chief of the Office of Credit Unions shall, under the direction and on behalf of the Deputy Commissioner of Business Oversight for the Division of Financial Institutions, administer the laws of this state relating to credit unions or the credit union business ~~under the direction of and on behalf of the commissioner~~. ~~The Deputy Commissioner of Financial Institutions for the Division~~ Chief of the Office of Credit Unions shall be appointed by the Governor and shall hold office at the pleasure of the Governor. ~~The Deputy Commissioner of Financial Institutions~~ Chief of the Office of Credit Unions shall receive an annual salary as fixed by the Governor.

SEC. 61. Section 17002 of the Financial Code is amended to read:

17002. "Commissioner" means the Deputy Commissioner of Business Oversight for the Division of Corporations.

SEC. 62. Section 18002 of the Financial Code is amended to read:

18002. "Commissioner" means the Deputy Commissioner of Business Oversight for the Division of Financial Institutions ~~of the State of California~~.

SEC. 63. Section 18002.5 of the Financial Code is amended to read:

18002.5. "Department" means the ~~Department~~ Division of Financial Institutions in the Department of Business Oversight.

SEC. 64. Section 22005 of the Financial Code is amended to read:

22005. “Commissioner” means the Deputy Commissioner of Corporations Business Oversight for the Division of Corporations.

SEC. 65. Section 30002 of the Financial Code is amended to read:

30002. “Commissioner” means the ~~Commissioner of Corporations~~ Deputy Commissioner of Business Oversight for the Division of Corporations.

SEC. 66. Section 31055 of the Financial Code is amended to read:

31055. “Commissioner” means the ~~Commissioner of~~ Deputy Commissioner of Business Oversight for the Division of Financial Institutions or any person to whom the ~~Commissioner of Financial Institutions~~ deputy commissioner delegates the authority to act for him or her in the particular matter.

SEC. 67. Section 50003 of the Financial Code is amended to read:

50003. (a) “Annual audit” means a certified audit of the licensee’s books, records, and systems of internal control performed by an independent certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards.

(b) “Borrower” means the loan applicant.

(c) “Buy” includes exchange, offer to buy, or solicitation to buy.

(d) “Commissioner” means the ~~Commissioner~~ Deputy Commissioner of Business Oversight for the Division of Corporations.

(e) “Control” means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management and policies of a licensee under this division, whether through voting or through the ownership of voting power of an entity that possesses voting power of the licensee, or otherwise. Control is presumed to exist if a

person, directly or indirectly, owns, controls, or holds 10 percent or more of the voting power of a licensee or of an entity that owns, controls, or holds, with power to vote, 10 percent or more of the voting power of a licensee. No person shall be deemed to control a licensee solely by reason of his or her status as an officer or director of the licensee.

(f) “Depository institution” has the same meaning as in Section 3 of the Federal Deposit Insurance Act, and includes any credit union.

(g) “Engage in the business” means the dissemination to the public, or any part of the public, by means of written, printed, or electronic communication or any communication by means of recorded telephone messages or spoken on radio, television, or similar communications media, of any information relating to the making of residential mortgage loans, the servicing of residential mortgage loans, or both. “Engage in the business” also means, without limitation, making residential mortgage loans or servicing residential mortgage loans, or both.

(h) “Federal banking agencies” means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(i) “In this state” includes any activity of a person relating to making or servicing a residential mortgage loan that originates from this state and is directed to persons outside this state, or that originates from outside this state and is directed to persons inside this state, or that originates inside this state and is directed to persons inside this state, or that leads to the formation of a contract and the offer or acceptance thereof is

directed to a person in this state (whether from inside or outside this state and whether the offer was made inside or outside the state).

(j) “Institutional investor” means the following:

(1) The United States or any state, district, territory, or commonwealth thereof, or any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state, district, territory, or commonwealth of the United States, or any agency or other instrumentality of any one or more of the foregoing, including, by way of example, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) Any bank, trust company, savings bank or savings and loan association, credit union, industrial bank or industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurance company, or subsidiary or affiliate of one of the preceding entities, doing business under the authority of or in accordance with a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(3) Trustees of pension, profit-sharing, or welfare funds, if the pension, profit-sharing, or welfare fund has a net worth of not less than fifteen million dollars (\$15,000,000), except pension, profit-sharing, or welfare funds of a licensee or its affiliate, self-employed individual retirement plans, or individual retirement accounts.

(4) A corporation or other entity with outstanding securities registered under Section 12 of the federal Securities Exchange Act of 1934 or a wholly owned subsidiary of that corporation or entity, provided that the purchaser represents either of the following:

(A) That it is purchasing for its own account for investment and not with a view to, or for sale in connection with, any distribution of a promissory note.

(B) That it is purchasing for resale pursuant to an exemption under Rule 144A (17 C.F.R. 230.144A) of the Securities and Exchange Commission.

(5) An investment company registered under the Investment Company Act of 1940; or a wholly owned and controlled subsidiary of that company, provided that the purchaser makes either of the representations provided in paragraph (4).

(6) A residential mortgage lender or servicer licensed to make residential mortgage loans under this law or an affiliate or subsidiary of that person.

(7) Any person who is licensed as a securities broker or securities dealer under any law of this state, or of the United States, or any employee, officer or agent of that person, if that person is acting within the scope of authority granted by that license or an affiliate or subsidiary controlled by that broker or dealer, in connection with a transaction involving the offer, sale, purchase, or exchange of one or more promissory notes secured directly or indirectly by liens on real property or a security representing an ownership interest in a pool of promissory notes secured directly or indirectly by liens on real property, and the offer and sale of those securities is qualified under the California Corporate Securities Law of 1968 or registered under federal securities laws, or exempt from qualification or registration.

(8) A licensed real estate broker selling the loan to an institutional investor specified in paragraphs (1) to (7), inclusive, or paragraph (9) or (10).

(9) A business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 or a Small Business Investment Company licensed

by the United States Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958.

(10) A syndication or other combination of any of the foregoing entities that is organized to purchase a promissory note.

(11) A trust or other business entity established by an institutional investor for the purpose of issuing or facilitating the issuance of securities representing undivided interests in, or rights to receive payments from or to receive payments primarily from, a pool of financial assets held by the trust or business entity, provided that all of the following apply:

(A) The business entity is not a sole proprietorship.

(B) The pool of assets consists of one or more of the following:

(i) Interest-bearing obligations.

(ii) Other contractual obligations representing the right to receive payments from the assets.

(iii) Surety bonds, insurance policies, letters of credit, or other instruments providing credit enhancement for the assets.

(C) The securities will be either one of the following:

(i) Rated as “investment grade” by Standard and Poor’s Corporation or Moody’s Investors Service, Inc. “Investment grade” means that the securities will be rated by Standard and Poor’s Corporation as AAA, AA, A, or BBB or by Moody’s Investors Service, Inc. as Aaa, Aa, A, or Baa, including any of those ratings with “+” or “—” designation or other variations that occur within those ratings.

(ii) Sold to an institutional investor.

(D) The offer and sale of the securities is qualified under the California Corporate Securities Law of 1968 or registered under federal securities laws, or exempt from qualification or registration.

(k) “Institutional lender” means the following:

(1) The United States or any state, district, territory, or commonwealth thereof, or any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state, district, territory, or commonwealth of the United States, or any agency or other instrumentality of any one or more of the foregoing, including, by way of example, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) Any bank, trust company, savings bank or savings and loan association, credit union, industrial loan company, or insurance company, or service or investment company that is wholly owned and controlled by one of the preceding entities, doing business under the authority of and in accordance with a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(3) Any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of that corporation.

(4) A residential mortgage lender or servicer licensed to make residential mortgage loans under this law.

(l) “Law” means the California Residential Mortgage Lending Act.

(m) “Lender” means a person that (1) is an approved lender for the Federal Housing Administration, Veterans Administration, Farmers Home Administration,

Government National Mortgage Association, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, (2) directly makes residential mortgage loans, and (3) makes the credit decision in the loan transactions.

(n) "Licensee" means, depending on the context, a person licensed under Chapter 2 (commencing with Section 50120), Chapter 3 (commencing with Section 50130), or Chapter 3.5 (commencing with Section 50140).

(o) "Makes or making residential mortgage loans" or "mortgage lending" means processing, underwriting, or as a lender using or advancing one's own funds, or making a commitment to advance one's own funds, to a loan applicant for a residential mortgage loan.

(p) "Mortgage loan," "residential mortgage loan," or "home mortgage loan" means a federally related mortgage loan as defined in Section 3500.2 of Title 24 of the Code of Federal Regulations, or a loan made to finance construction of a one-to-four family dwelling.

(q) "Mortgage servicer" or "residential mortgage loan servicer" means a person that (1) is an approved servicer for the Federal Housing Administration, Veterans Administration, Farmers Home Administration, Government National Mortgage Association, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, and (2) directly services or offers to service mortgage loans.

(r) "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators.

(s) “Net worth” has the meaning set forth in Section 50201.

(t) “Own funds” means (1) cash, corporate capital, or warehouse credit lines at commercial banks, savings banks, savings and loan associations, industrial loan companies, or other sources that are liability items on a lender’s financial statements, whether secured or unsecured, or (2) a lender’s affiliate’s cash, corporate capital, or warehouse credit lines at commercial banks or other sources that are liability items on the affiliate’s financial statements, whether secured or unsecured. “Own funds” does not include funds provided by a third party to fund a loan on condition that the third party will subsequently purchase or accept an assignment of that loan.

(u) “Person” means a natural person, a sole proprietorship, a corporation, a partnership, a limited liability company, an association, a trust, a joint venture, an unincorporated organization, a joint stock company, a government or a political subdivision of a government, and any other entity.

(v) “Residential real property” or “residential real estate” means real property located in this state that is improved by a one-to-four family dwelling.

(w) “SAFE Act” means the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Public Law 110-289).

(x) “Service” or “servicing” means receiving more than three installment payments of principal, interest, or other amounts placed in escrow, pursuant to the terms of a mortgage loan and performing services by a licensee relating to that receipt or the enforcement of its receipt, on behalf of the holder of the note evidencing that loan.

(y) “Sell” includes exchange, offer to sell, or solicitation to sell.

(z) “Unique identifier” means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

(aa) For purposes of Sections 50142, 50143, and 50145, “nontraditional mortgage product” means any mortgage product other than a 30-year fixed rate mortgage.

SEC. 68. Section 1389 of the Fish and Game Code is amended to read:

1389. The preservation and enhancement of riparian habitat shall be a primary concern of the Wildlife Conservation Board and the department, and of all state agencies whose activities impact riparian habitat, including the Department of Conservation, ~~the Department of Boating and Waterways~~, the Department of Parks and Recreation, the Department of Water Resources, the Department of Forestry and Fire Protection, the State Coastal Conservancy, the California Conservation Corps, the California Tahoe Conservancy, the Santa Monica Mountains Conservancy, the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, and the State Lands Commission.

SEC. 69. Section 2301 of the Fish and Game Code is amended to read:

2301. (a) (1) Except as authorized by the department, a person shall not possess, import, ship, or transport in the state, or place, plant, or cause to be placed or planted in any water within the state, dreissenid mussels.

(2) The director or his or her designee may do all of the following:

(A) Conduct inspections of conveyances, which include vehicles, boats and other watercraft, containers, and trailers, that may carry or contain adult or larval dreissenid mussels. Included as part of this authority to conduct inspections is the authority to

temporarily stop conveyances that may carry or contain adult or larval dreissenid mussels on any roadway or waterway in order to conduct inspections.

(B) Order that areas in a conveyance that contain water be drained, dried, or decontaminated pursuant to procedures approved by the department.

(C) Impound or quarantine conveyances in locations designated by the department for up to five days or the period of time necessary to ensure that dreissenid mussels can no longer live on or in the conveyance.

(D) (i) Conduct inspections of waters of the state and facilities located within waters of the state that may contain dreissenid mussels. If dreissenid mussels are detected or may be present, the director or his or her designee may order the affected waters or facilities closed to conveyances or otherwise restrict access to the affected waters or facilities, and shall order that conveyances removed from, or introduced to, the affected waters or facilities be inspected, quarantined, or disinfected in a manner and for a duration necessary to detect and prevent the spread of dreissenid mussels within the state.

(ii) For the purpose of implementing clause (i), the director or his or her designee shall order the closure or quarantine of, or restrict access to, these waters, areas, or facilities in a manner and duration necessary to detect and prevent the spread of dreissenid mussels within the state. No closure, quarantine, or restriction shall be authorized by the director or his or her designee without the concurrence of the Secretary of the Natural Resources Agency. If a closure lasts longer than seven days, the department shall update the operator of the affected facility every 10 days on efforts to address the dreissenid infestation. The department shall provide these updates in

writing and also post these updates on the department's Internet Web site in an easily accessible manner.

(iii) The department shall develop procedures to ensure proper notification of affected local and federal agencies, and, as appropriate, ~~the Department of Boating and Waterways,~~ the Department of Water Resources, the Department of Parks and Recreation, and the State Lands Commission in the event of a decision to close, quarantine, or restrict a facility pursuant to this paragraph. These procedures shall include the reasons for the closure, quarantine, or restriction, and methods for providing updated information to those affected. These procedures shall also include protocols for the posting of the notifications on the department's Internet Web site required by clause (ii).

(iv) When deciding the scope, duration, level, and type of restrictions, and specific location of a closure or quarantine, the director shall consult with the agency, entity, owner, or operator with jurisdiction, control, or management responsibility over the marina, boat launch facility, or other facility, in order to focus the closure or quarantine to specific areas and facilities so as to avoid or minimize disruption of economic or recreational activity in the vicinity.

(b) (1) Upon a determination by the director that it would further the purposes of this section, other state agencies, including, but not limited to, the Department of Parks and Recreation, the Department of Water Resources, the Department of Food and Agriculture, and the State Lands Commission, may exercise the authority granted to the department in subdivision (a).

(2) A determination made pursuant to paragraph (1) shall be in writing and shall remain in effect until withdrawn, in writing, by the director.

(c) (1) Except as provided in paragraph (2), Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the implementation of this section.

(2) An action undertaken pursuant to subparagraph (B) of paragraph (2) of subdivision (a) involving the use of chemicals other than salt or hot water to decontaminate a conveyance or a facility is subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) (1) A public or private agency that operates a water supply system shall cooperate with the department to implement measures to avoid infestation by dreissenid mussels and to control or eradicate any infestation that may occur in a water supply system. If dreissenid mussels are detected, the operator of the water supply system, in cooperation with the department, shall prepare and implement a plan to control or eradicate dreissenid mussels within the system. The approved plan shall contain the following minimum elements:

(A) Methods for delineation of infestation, including both adult mussels and veligers.

(B) Methods for control or eradication of adult mussels and decontamination of water containing larval mussels.

(C) A systematic monitoring program to determine any changes in conditions.

(D) The requirement that the operator of the water supply system permit inspections by the department as well as cooperate with the department to update or

revise control or eradication measures in the approved plan to address scientific advances in the methods of controlling or eradicating mussels and veligers.

(2) If the operator of water delivery and storage facilities for public water supply purposes has prepared, initiated, and is in compliance with all the elements of an approved plan to control or eradicate dreissenid mussels in accordance with paragraph (1), the requirements of subdivision (a) do not apply to the operation of those water delivery and storage facilities, and the operator is not subject to any civil or criminal liability for the introduction of dreissenid mussel species as a result of those operations. The department may require the operator of a facility to update its plan, and if the plan is not updated or revised as described in subparagraph (D) of paragraph (1), subdivision (a) shall apply to the operation of the water delivery and storage facilities covered by the plan until the operator updates or revises the plan and initiates and complies with all of the elements of the updated or revised plan.

(e) Any entity that discovers dreissenid mussels within this state shall immediately report the discovery to the department.

(f) (1) In addition to any other penalty provided by law, any person who violates this section, violates any verbal or written order or regulation adopted pursuant to this section, or who resists, delays, obstructs, or interferes with the implementation of this section, is subject to a penalty, in an amount not to exceed one thousand dollars (\$1,000), that is imposed administratively by the department.

(2) A penalty shall not be imposed pursuant to paragraph (1) unless the department has adopted regulations specifying the amount of the penalty and the procedure for imposing and appealing the penalty.

(g) The department may adopt regulations to carry out this section.

(h) Pursuant to Section 818.4 of the Government Code, the department and any other state agency exercising authority under this section shall not be liable with regard to any determination or authorization made pursuant to this section.

(i) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

SEC. 70. Section 3806 of the Food and Agricultural Code is amended to read:

3806. For the purposes of Article 1 (commencing with Section 4101) of Chapter 6 of this part, "agency" means the ~~State and Consumer Services~~ Natural Resources Agency.

SEC. 71. Section 4101 of the Food and Agricultural Code is amended to read:

4101. The Sixth District Agricultural Association shall be known as the California Science Center Office of Exposition Park, which shall include the California Science Center, the African American Museum, and the Exposition Park Manager. It is in the ~~State and Consumer Services~~ Natural Resources Agency and is deemed to be a tax-exempt organization as an instrumentality of this state in accordance with Section 23706 of the Revenue and Taxation Code.

SEC. 72. Section 4101.3 of the Food and Agricultural Code is amended to read:

4101.3. (a) Notwithstanding any other provision of law, the California Science Center is hereby authorized to enter into a site lease with the California Science Center Foundation, a California Nonprofit Corporation, with the approval of the ~~State and Consumer Services~~ Natural Resources Agency, the Department of Finance, and the

Department of General Services, for the purpose of the foundation developing, constructing, equipping, furnishing, and funding the project known as Phase II of the California Science Center. The overall construction cost and scope shall be consistent with the amount authorized in 2002 Budget Act, provided that nothing in this section shall prevent the foundation from expending additional nonstate funds to complete Phase II provided that the additional expenditures do not result in additional state operation and maintenance costs. Any additional expenditure of nonstate funds by the foundation shall not increase the state's contribution.

(b) For the purpose of carrying out subdivision (a), all of the following shall apply:

(1) In connection with the development described in subdivision (a), above, the foundation may, in its determination, select the most qualified construction manager/general contractor to oversee and manage the work and prepare the competitive bid packages for all major subcontractors to be engaged in the construction of Phase II Project. Any construction manager/general contractor selected shall be required to have a California general contractor's license.

(2) Prior to commencement of construction of the Phase II Project, the California Science Center shall enter into a lease-purchase agreement upon approval by the Department of Finance with the foundation on terms that are compatible with the Phase I Project financing. The term of the lease-purchase agreement shall be a term not to exceed 25 years. Lease payments on behalf of the state shall be commensurate with the twenty-two million nine hundred forty-five thousand two hundred sixty-three dollars (\$22,945,263), (nineteen million one hundred thirty-seven thousand dollars

(\$19,137,000) plus 19.9 percent augmentation authority) construction cost allocation of the state. Lease payments may also include any cost of financing that the foundation may incur related to tax exempt financing. The California Science Center shall be authorized to direct the ~~State Controller's Office~~ Controller to send the rental payments under the lease-purchase agreement directly to the foundation's bond trustee.

(3) The foundation shall ensure that the Phase II Project is inspected during construction by the state in the manner consistent with state infrastructure projects. The foundation shall also indemnify and defend and save harmless the Department of General Services for any and all claims and losses accruing and resulting from or arising out of the foundation's use of the state's plans and specifications. The foundation and the California Science Center, upon consultation with the Director of ~~the Department of General Services~~ and the Department of Finance shall agree on a reasonable level of state oversight throughout the construction of the Phase II Project in order to assist the foundation in the completion of the project within the intended scope and cost.

(4) At the end of the term of the site lease and the lease-purchase agreement unencumbered title to the land and improvements shall return to the ~~State of California~~ state with jurisdiction held by the California Science Center.

SEC. 73. Section 4101.4 of the Food and Agricultural Code is amended to read:

4101.4. (a) The Legislature finds and declares that the operation of the California Science Center may require individual skills not generally available in state civil service to support specialized functions, such as exhibit maintenance, and educational and guest services programs, including animal care and horticulture.

(b) Notwithstanding any other provision of law, the California Science Center may enter into a personal services contract or contracts with the California Science Center Foundation without a competitive bidding process. These contracts shall be subject to approval by the ~~State and Consumer Services~~ Natural Resources Agency and the Department of General Services and be subject to all state audit requirements.

SEC. 74. Section 4102 of the Food and Agricultural Code is amended to read:

4102. ~~The California Science Center~~ Office of Exposition Park, with the approval of the ~~State and Consumer Services~~ Natural Resources Agency, may build, construct, and maintain and operate a stadium or any arena, pavilion, or other building that is to be used for the holding of sports events, athletic contests, contests of skill, exhibitions, spectacles, and other public meetings. It may lease, let, or grant licenses for the use of that stadium, arena, pavilion, or other building, with the approval of the agency.

SEC. 75. Section 4104 of the Food and Agricultural Code is amended to read:

4104. (a) The Legislature hereby finds and declares that there is a need for a state repository dedicated to the diverse contributions of African-Americans to the history and culture of this state and the nation.

(b) ~~The California African-American Museum is a part of, and coexists with, the California Science Center program within the Office of Exposition Park.~~

(c) The California African-American Museum is governed by a seven-member board of directors. The Governor shall appoint the seven members, at least four of whom shall reside within the boundaries of the 6th Agricultural District. In addition, the Senator representing the Senate district in which the California African-American

Museum is located and the Assembly Member representing the Assembly district in which the museum is located shall be ex officio nonvoting members of the board. The two legislative ex officio nonvoting members of the board shall participate in the activities of the board to the extent that their participation is not incompatible with their respective positions as Members of the Legislature. The appointees of the Governor shall be appointed to four-year terms with the initial terms of appointment expiring as follows: one term expiring January 1, 1984, one term expiring January 1, 1985, one term expiring January 1, 1986, and one term expiring January 1, 1987. The person appointed to the Advisory Board of the California Museum of African-American History and Culture by the Board of Directors of the California Science Center prior to the amendments made to this section by Chapter 1439 of the Statutes of 1987 shall serve on the Board of Directors of the California African-American Museum until the Governor makes the fifth appointment authorized pursuant to those amendments. The fifth appointment made to the board shall serve a term expiring on January 1, 1990, the sixth appointment shall serve a term expiring on January 1, 1991, and the seventh appointment shall serve a term expiring on January 1, 1992.

(d) The Board of Directors of the California African-American Museum shall have the sole authority, subject to existing state laws, regulations, and procedures, to determine how funds that have been appropriated and duly allocated by the Legislature and the Governor for support of the museum shall be expended. The board also shall have the sole authority, subject to existing state laws, regulations, and procedures, to contract with any state agency, institution, independent contractor, or private nonprofit organization that the board determines to be appropriate and qualified to assist in the

operation of the museum. The board shall further have authority to establish the operations, programs, activities, and exhibitions of the California African-American Museum. The Board of Directors of the California African-American Museum shall be solely responsible for the actions taken and the expenditures made by the staff of the California African-American Museum in the scope and course of their employment.

(e) The Board of Directors of the California African-American Museum shall appoint an executive director, who shall be exempt from civil service, and any necessary staff to carry out the provisions of this section, who shall be subject to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code). The California African-American Museum shall submit its annual budget request directly to the ~~State and Consumer Services~~ Natural Resources Agency. The California African-American Museum may accept grants, contributions, and appropriations from federal, state, local, and private sources for its operation.

(f) The California African-American Museum shall preserve, collect, and display samples of African-American contributions to the arts, sciences, religion, education, literature, entertainment, politics, sports, and history of the state and the nation. The enrichment and historical perspective of that collection shall be made available for public use and enjoyment.

(g) The California African-American Museum shall use stationery and other supplies of the former museum and shall phase in the name change with existing resources.

SEC. 76. Section 4105 of the Food and Agricultural Code is amended to read:

4105. Notwithstanding any other provision of law, from December 14 to December 21, inclusive, of any year, the ~~California Science Center~~ Office of Exposition Park may not charge parking fees for the parking facilities surrounding the Los Angeles Memorial Coliseum when an event is being held at the facilities of the museum by a private nonprofit charitable organization for the purpose of collection and distribution of toys and food.

SEC. 77. Section 4106 of the Food and Agricultural Code is amended to read:

4106. (a) The ~~California Science Center~~ Office of Exposition Park shall work with the Los Angeles Memorial Coliseum Commission, the City of Los Angeles, and the County of Los Angeles to develop additional parking facilities in Exposition Park to the extent necessary to allow for expansion of the park.

(b) The ~~California Science Center~~ Office of Exposition Park shall manage or operate its parking facilities in a manner that preserves and protects the interests of ~~itself~~ the California Science Center and the California African-American Museum and recognizes the cultural and educational character of Exposition Park.

(c) The Exposition Park Improvement Fund is hereby created in the State Treasury. All revenues received by the ~~California Science Center~~ Office of Exposition Park management from its parking facilities, from rental of museum facilities, or from other business activities shall be deposited in the Exposition Park Improvement Fund.

(d) The moneys in the Exposition Park Improvement Fund may only be used, upon appropriation by the Legislature, for improvements to Exposition Park, including, but not limited to, maintenance of existing parking and museum facilities, replacement of museum equipment, supplies and wages expended to generate revenues from rental

of museum facilities, development of new parking facilities, and acquisition of land within or adjacent to Exposition Park.

(e) The Legislature hereby finds and declares that there is a need for development of additional park, recreation, museum, and parking facilities in Exposition Park. The Legislature recognizes that the provision of these needed improvements as identified in the California Science Center Exposition Park Master Plan may require the use of funds provided by other governmental agencies or private donors.

The California Science Center may accept funds from other governmental agencies or private contributions for the purpose of implementation of the California Science Center Exposition Park Master Plan. The private contributions and funds from governmental agencies other than state governmental agencies shall be deposited in the Exposition Park Improvement Fund in the State Treasury and shall be available for expenditure without regard to fiscal years by the California Science Center for implementation of the California Science Center Exposition Park Master Plan. Funds from other state governmental agencies shall be deposited in the Exposition Park Improvement Fund and shall be available for expenditure, upon appropriation, by the California Science Center for implementation of the California Science Center Exposition Park Master Plan. However, any expenditure is not authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time as the chairperson of the joint committee, or his or her designee, may in each instance determine. Neither the City of Los Angeles nor the County of Los Angeles shall impose

any tax upon tickets purchased authorizing the use of parking facilities owned by the ~~California Science Center~~ Office of Exposition Park.

SEC. 78. Section 4108 of the Food and Agricultural Code is amended to read:

4108. ~~The California Science Center shall establish the position of Exposition Park Manager to~~ within the Office of Exposition Park is hereby established and shall be filled by a person appointed by the Governor for the purpose of managing, scheduling, and administering all park-related events, including oversight for the police and security services of the park.

(a) The Exposition Park Manager may appoint the following persons:

(1) The chief and assistant chief of museum security and safety who shall have the powers of peace officers as specified in Section 830.3 of the Penal Code.

(2) Other safety officers who shall have the powers of arrest as specified in Section 830.7 of the Penal Code.

(b) The officers appointed pursuant to subdivision (a) shall provide police and security services to keep order and to preserve the peace and safety of persons and property at the California Science Center and at Exposition Park on a year-round basis.

SEC. 79. Section 11451.5 of the Food and Agricultural Code is repealed.

~~11451.5.—The Department of Pesticide Regulation shall have jurisdiction over the Structural Pest Control Board as established under the Structural Pest Control Act (Chapter 14 (commencing with Section 8500) of Division 3 of the Business and Professions Code).~~

SEC. 80. Section 58509 of the Food and Agricultural Code is amended to read:

58509. (a) The Secretary of the ~~State and Consumer Services~~ Natural Resources Agency shall consult with four food bank representatives, two from the northern portion of the state, all of whom have been active members of a nationwide network of food banks for a minimum of two years immediately prior to appointment, and two from the southern portion of the state, all of whom have been active members of a nationwide network of food banks for a minimum of two years immediately prior to appointment, and two food industry representatives, one wholesaler and one manufacturer, all of whom shall be selected by the Governor and referred to as the Food Bank Advisory Committee.

(b) Members of the committee who are not state employees shall be paid per diem for their actual expenses in attending committee meetings.

(c) The committee shall do all of the following:

(1) Advise the ~~State and Consumer Services~~ Natural Resources Agency in the establishment of new food banks.

(2) Advise in the adequate and efficient distribution of surplus food commodities to all areas of the state.

SEC. 81. Section 179.7 of the Government Code is amended to read:

179.7. (a) Notwithstanding Article 6 of the Emergency Management Assistance Compact, as set forth in Section 179.5, the state shall indemnify and make whole any officer or employee who is a resident of California, or his or her heirs, if the officer or employee is injured or killed in another state when rendering aid pursuant to the compact, as if the act or acts occurred in California, less any recovery obtained under the provisions of Article 6 of the Emergency Management Assistance Compact.

(b) Local government or special district personnel who are officially deployed under the provisions of the Emergency Management Assistance Compact pursuant to an assignment of the ~~California Office of Emergency Management Agency Services~~ shall be defended by the Attorney General or other legal counsel provided by the state, and shall be indemnified subject to the same conditions and limitations applicable to state employees.

SEC. 82. Section 955.1 of the Government Code is amended to read:

955.1. (a) The science of earthquake prediction is developing rapidly and, although still largely in a research stage, ~~such~~ these predictions are now being initiated and are certain to continue into the future. Administrative procedures exist within the ~~California Office of Emergency Management Agency Services~~ to advise the Governor on the validity of earthquake predictions. Numerous important actions can be taken by state and local governments and special districts to protect life and property in response to earthquake predictions and associated warnings. It is the intent of this legislation to ensure that ~~such~~ those actions are taken in the public interest by government agencies acting in a responsible manner without fear of consequent financial liabilities.

(b) The Governor may, at his or her discretion, issue a warning as to the existence of an earthquake or volcanic prediction determined to have scientific validity. The state and its agencies and employees shall not be liable for any injury resulting from the issuance or nonissuance of a warning pursuant to this subdivision or for any acts or omissions in fact gathering, evaluation, or other activities leading up to the issuance or nonissuance of a warning.

(c) Public entities and public employees may, on the basis of a warning issued pursuant to subdivision (b), take, or fail or refuse to take, any action or execute or fail or refuse to execute any earthquake or volcanic prediction response plan with relation to the warning which is otherwise authorized by law. In taking, or failing or refusing to take, such action, neither public entities nor public employees shall be liable for any injuries caused thereby or for any injuries resulting from the preparation of, or failure or refusal to prepare, any earthquake hazard or damage prediction maps, plans for evacuation of endangered areas, and other plan elements.

(d) An earthquake or volcanic warning issued by the Governor pursuant to subdivision (b) is a sufficient basis for a declaration of a state of emergency or local emergency as defined by Section 8558. Public entities and public employees shall be immune from liability in accordance with all immunity provisions applicable during such state of emergency or local emergency.

SEC. 83. Section 3101 of the Government Code is amended to read:

3101. For the purpose of this chapter the term “disaster service worker” includes all public employees and all volunteers in any disaster council or emergency organization accredited by the ~~California Office of Emergency Management Agency Services~~. The term “public employees” includes all persons employed by the state or any county, city, city and county, state agency or public district, excluding aliens legally employed.

SEC. 84. Section 3102 of the Government Code is amended to read:

3102. (a) All disaster service workers shall, before they enter upon the duties of their employment, take and subscribe to the oath or affirmation required by this chapter.

(b) In the case of intermittent, temporary, emergency or successive employments, then in the discretion of the employing agency, an oath taken and subscribed as required by this chapter shall be effective for the purposes of this chapter for all successive periods of employment which commence within one calendar year from the date of that subscription.

(c) Notwithstanding subdivision (b), the oath taken and subscribed by a person who is a member of an emergency organization sanctioned by a state agency or an accredited disaster council, whose members are duly enrolled or registered with the California Office of Emergency Management Agency Services, or any accredited disaster council of any political subdivision, shall be effective for the period the person remains a member with that organization.

SEC. 85. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the ~~California Office of Emergency Management Agency Services~~, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or

licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this subdivision may be deleted at the request

of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph may not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. Nothing in this paragraph shall be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except

as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary. However, public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public database maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed

to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) (1) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

(2) Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. If a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

(3) Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other ~~provision of law~~, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst's Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates

when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.3 (commencing with Section 12695), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), and Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.3 (commencing with Section 12695), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after their effective dates.

(B) If a contract that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (3).

(w) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board

is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, shall be open to inspection one year after their effective dates.

(B) If a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations,

impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff shall also apply to the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (f) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

(ab) Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the California Office of Emergency Management Agency Services for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, "voluntarily submitted" means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency.

(ac) All information provided to the Secretary of State by a person for the purpose of registration in the Advance Health Care Directive Registry, except that those records shall be released at the request of a health care provider, a public guardian, or the registrant's legal representative.

(ad) The following records of the State Compensation Insurance Fund:

(1) Records related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) Records related to the discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the fund, and any related deliberations.

(3) Records related to the impressions, opinions, recommendations, meeting minutes of meetings or sessions that are lawfully closed to the public, research, work product, theories, or strategy of the fund or its staff, on the development of rates, contracting strategy, underwriting, or competitive strategy pursuant to the powers granted to the fund in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

(4) Records obtained to provide workers' compensation insurance under Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, including, but not limited to, any medical claims information, policyholder information provided that nothing in this paragraph shall be interpreted to prevent an insurance agent or broker from obtaining proprietary information or other information authorized by law to be obtained by the agent or broker, and information on rates, pricing, and claims handling received from brokers.

(5) (A) Records that are trade secrets pursuant to Section 6276.44, or Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, including without limitation, instructions, advice, or training provided by the State

Compensation Insurance Fund to its board members, officers, and employees regarding the fund's special investigation unit, internal audit unit, and informational security, marketing, rating, pricing, underwriting, claims handling, audits, and collections.

(B) Notwithstanding subparagraph (A), the portions of records containing trade secrets shall be available for review by the Joint Legislative Audit Committee, the Bureau of State Audits, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(6) (A) Internal audits containing proprietary information and the following records that are related to an internal audit:

(i) Personal papers and correspondence of any person providing assistance to the fund when that person has requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon order of the fund.

(ii) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed or an internal audit that contains proprietary information.

(B) Notwithstanding subparagraph (A), the portions of records containing proprietary information, or any information specified in subparagraph (A) shall be available for review by the Joint Legislative Audit Committee, the Bureau of State Audits, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(7) (A) Except as provided in subparagraph (C), contracts entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code shall be open to inspection one year after the contract has been fully executed.

(B) If a contract entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(C) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(D) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to this paragraph.

(E) Nothing in this paragraph is intended to apply to documents related to contracts with public entities that are not otherwise expressly confidential as to that public entity.

(F) For purposes of this paragraph, “fully executed” means the point in time when all of the necessary parties to the contract have signed the contract.

Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act (29 U.S.C. Sec. 158).

SEC. 86. Section 6254.23 of the Government Code is amended to read:

6254.23. Nothing in this chapter or any other provision of law shall require the disclosure of a risk assessment or railroad infrastructure protection program filed with the Public Utilities Commission, the Director of Homeland Security, and the ~~California Office of Emergency Management Agency Services~~ pursuant to Article 7.3 (commencing with Section 7665) of Chapter 1 of Division 4 of the Public Utilities Code.

SEC. 87. Section 6276.26 of the Government Code is amended to read:

6276.26. Improper governmental activities reporting, confidentiality of identity of person providing information, Section 8547.5.

Improper governmental activities reporting, disclosure of information, Section 8547.6.

Industrial loan companies, confidentiality of financial information, Section 18496, Financial Code.

Industrial loan companies, confidentiality of investigation and examination reports, Section 18394, Financial Code.

Influenza vaccine, trade secret information and information relating to recipient of vaccine, Section 120155, Health and Safety Code.

In forma pauperis litigant, rules governing confidentiality of financial information, Section 68511.3.

Infrastructure information, exemption from disclosure for information voluntarily submitted to the ~~California Office of Emergency Management Agency Services~~, subdivision (ab), Section 6254.

In-Home Supportive Services Program, exemption from disclosure for information regarding persons paid by the state to provide in-home supportive services, Section 6253.2.

Initiative, referendum, recall, and other petitions, confidentiality of names of signers, Section 6253.5.

Insurance claims analysis, confidentiality of information, Section 1875.16, Insurance Code.

Insurance Commissioner, confidential information, Sections 735.5, 1067.11, 1077.3, and 12919, Insurance Code.

Insurance Commissioner, informal conciliation of complaints, confidential communications, Section 1858.02, Insurance Code.

Insurance Commissioner, information from examination or investigation, confidentiality of, Sections 1215.7, 1433, and 1759.3, Insurance Code.

Insurance Commissioner, writings filed with nondisclosure, Section 855, Insurance Code.

Insurance fraud reporting, information acquired not part of public record, Section 1873.1, Insurance Code.

Insurance licensee, confidential information, Section 1666.5, Insurance Code.

Insurer application information, confidentiality of, Section 925.3, Insurance Code.

Insurer financial analysis ratios and examination synopses, confidentiality of, Section 933, Insurance Code.

~~Integrated Waste Management Board~~ Department of Resources Recycling and Recovery information, prohibition against disclosure, Section 45982, Revenue and Taxation Code.

International wills, confidentiality of registration information filed with the Secretary of State, Section 6389, Probate Code.

Intervention in regulatory and ratemaking proceedings, audit of customer seeking and award, Section 1804, Public Utilities Code.

Investigation and security records, exemption from disclosure for records of the Attorney General, the Department of Justice, the ~~California Office of Emergency Management Agency Services~~, and state and local police agencies, subdivision (f), Section 6254.

Investigative consumer reporting agency, limitations on furnishing an investigative consumer report, Section 1786.12, Civil Code.

SEC. 88. Section 6276.38 of the Government Code is amended to read:

6276.38. Radioactive materials, dissemination of information about transportation of, Section 33002, Vehicle Code.

Railroad infrastructure protection program, disclosure not required for risk assessments filed with the Public Utilities Commission, the ~~Secretary~~ Director of ~~California Emergency Management Agency Services~~, or the ~~California Office of Emergency Management Agency Services~~, Section 6254.23.

Real estate broker, annual report to ~~Department~~ Bureau of Real Estate of financial information, confidentiality of, Section 10232.2, Business and Professions Code.

Real property, acquisition by state or local government, information relating to feasibility, subdivision (h), Section 6254.

Real property, change in ownership statement, confidentiality of, Section 27280.

Records of contract purchasers, inspection by public prohibited, Section 85, Military and Veterans Code.

Registered public obligations, inspection of records of security interests in, Section 5060.

Registration of exempt vehicles, nondisclosure of name of person involved in alleged violation, Section 5003, Vehicle Code.

Rehabilitation, Department of, confidential information, Section 19016, Welfare and Institutions Code.

Reinsurance intermediary-broker license information, confidentiality of, Section 1781.3, Insurance Code.

Relocation assistance, confidential records submitted to a public entity by a business or farm operation, Section 7262.

Rent control ordinance, confidentiality of information concerning accommodations sought to be withdrawn from, Section 7060.4.

Report of probation officer, inspection, copies, Section 1203.05, Penal Code.

Repossession agency licensee application, confidentiality of information, Sections 7503, 7504, and 7506.5, Business and Professions Code.

Reproductive health facilities, disclosure not required for personal information regarding employees, volunteers, board members, owners, partners, officers, and contractors of a reproductive health services facility who have provided requisite notification, Section 6254.18.

Residence address in any record of Department of Housing and Community Development, confidentiality of, Section 6254.1.

Residence address in any record of Department of Motor Vehicles, confidentiality of, Section 6254.1, Government Code, and Section 1808.21, Vehicle Code.

Residence and mailing addresses in records of Department of Motor Vehicles, confidentiality of, Section 1810.7, Vehicle Code.

Residential care facilities, confidentiality of resident information, Section 1568.08, Health and Safety Code.

Residential care facilities for the elderly, confidentiality of client information, Section 1569.315, Health and Safety Code.

Respiratory care practitioner, professional competency examination reports, confidentiality of, Section 3756, Business and Professions Code.

Restraint of trade, civil action by district attorney, confidential memorandum, Section 16750, Business and Professions Code.

Reward by governor for information leading to arrest and conviction, confidentiality of person supplying information, Section 1547, Penal Code.

Safe surrender site, confidentiality of information pertaining to a parent or individual surrendering a child, Section 1255.7, Health and Safety Code.

SEC. 89. Chapter 3.1 (commencing with Section 8240) of Division 1 of Title 2 of the Government Code is repealed.

SEC. 90. Section 8550 of the Government Code is amended to read:

8550. The state has long recognized its responsibility to mitigate the effects of natural, manmade, or war-caused emergencies ~~which~~ that result in conditions of disaster or in extreme peril to life, property, and the resources of the state, and generally to protect the health and safety and preserve the lives and property of the people of the state. To ensure that preparations within the state will be adequate to deal with such emergencies, it is hereby found and declared to be necessary:

(a) To confer upon the Governor and upon the chief executives and governing bodies of political subdivisions of this state the emergency powers provided herein; and to provide for state assistance in the organization and maintenance of the emergency programs of such political subdivisions.

(b) To provide for a state ~~agency office~~ to be known and referred to as the California Office of Emergency Management Agency (Cal-EMA) Services, within the office of the Governor, and to prescribe the powers and duties of the ~~secretary~~ director of that ~~agency office~~.

(c) To provide for the assignment of functions to state ~~agencies~~ entities to be performed during an emergency and for the coordination and direction of the emergency actions of ~~such agencies~~ those entities.

(d) To provide for the rendering of mutual aid by the state government and all its departments and agencies and by the political subdivisions of this state in carrying out the purposes of this chapter.

(e) To authorize the establishment of such organizations and the taking of such actions as are necessary and proper to carry out the provisions of this chapter.

It is further declared to be the purpose of this chapter and the policy of this state that all emergency services functions of this state be coordinated as far as possible with the comparable functions of its political subdivisions, of the federal government including its various departments and agencies, of other states, and of private agencies of every type, to the end that the most effective use may be made of all manpower, resources, and facilities for dealing with any emergency that may occur.

SEC. 91. Section 8570.5 of the Government Code is amended to read:

8570.5. The California Office of Emergency Management Agency Services shall develop a guidance document to the state emergency plan to specify the response of the state and its political subdivisions to agriculture-related disasters. This document shall be completed by January 2002, and updated by January 2009, and shall include, but not be limited to, all of the following:

- (a) The roles and responsibilities of the county agricultural commissioners.
- (b) The roles and responsibilities of the Department of Agriculture and other relevant state agencies that are involved in the response to agriculture-related disasters.
- (c) Coordination of initial and ongoing crop damage assessments.
- (d) Disaster assistance between the time of the request for a federal disaster declaration and issuance of a federal declaration.
- (e) State assistance available if a requested federal declaration is not issued.
- (f) State assistance under a United States Department of Agriculture designation rather than a federal declaration.

(g) State assistance for long-term unemployment in areas with high unemployment rates prior to an emergency.

(h) Provision for the removal and elimination of extraordinary numbers of dead livestock for purposes of protecting public health and safety.

(i) Strategies to assist in the development of an integrated and coordinated response by community-based organizations to the victims of agriculture-related disasters.

(j) Procedures for the decontamination of individuals who have been or may have been exposed to hazardous materials, which may vary depending on the hazards posed by a particular hazardous material. The report shall specify that individuals shall be assisted in a humanitarian manner.

(k) Integration of various local and state emergency response plans, including, but not limited to, plans that relate to hazardous materials, oil spills, public health emergencies, and general disasters.

SEC. 92. Section 8574.17 of the Government Code is amended to read:

8574.17. (a) (1) A state toxic disaster contingency plan established pursuant to this article shall provide for an integrated and effective state procedure to respond to the occurrence of toxic disasters within the state. The plan shall provide for the designation of a lead agency to direct strategy to ameliorate the effects of a toxic disaster, for specified state agencies to implement the plan, for interagency coordination of the training conducted by state agencies pursuant to the plan, and for on-scene coordination of response actions.

(2) Notwithstanding any provision of the plan, the authority for the management of the scene of an on-highway toxic spill or disaster shall be vested in the appropriate law enforcement agency having primary traffic investigative authority on the highway where the incident occurs or in a local fire protection agency as provided by Section 2454 of the Vehicle Code. During the preparation of the toxic disaster contingency plan, the ~~California Office of Emergency Management Agency Services~~ shall adopt the recommendations of the Department of the California Highway Patrol in developing response and on-scene procedures for toxic disasters which occur upon the highways, based upon previous studies for such procedures, insofar as the procedures are not inconsistent with the overall plan for initial notification of toxic disasters by public agencies and for after-incident evaluation and reporting.

(b) The ~~California Office of Emergency Management Agency Services~~ shall establish a central notification and reporting system to facilitate operation of the state toxic disaster response procedures designated by the toxic disaster contingency plan.

SEC. 93. Section 8574.20 of the Government Code is amended to read:

8574.20. The ~~California Office of Emergency Management Agency Services~~ shall manage the California Hazardous Substances Incident Response Training and Education Program to provide approved classes in hazardous substance response, taught by trained instructors, and to certify students who have completed these classes. To carry out this program, the ~~California Office of Emergency Management Agency Services~~ shall do all of the following:

(a) Adopt regulations necessary to implement the program.

(b) Establish a training and education program by developing the curriculum to be used in the program in colleges, academies, the California Specialized Training Institute, and other educational institutions, as specified in Section 8574.21.

(c) Establish recommended minimum standards for training emergency response personnel and instructors, including, but not limited to, fire, police, and environmental health personnel.

(d) Make available a training and education program in the use of hazardous substances emergency rescue, safety, and monitoring equipment, on a voluntary basis, at the California Specialized Training Institute.

(e) Train and certify instructors at the California Specialized Training Institute according to standards and procedures developed by the curriculum development advisory committee, as specified in Section 8588.10.

(f) Approve classes, as meeting the requirements of the program, if the classes meet the curriculum developed by the ~~California Office of Emergency Management Agency Services~~ pursuant to Section 8574.21 and the instructor received training and certification at the California Specialized Training Institute, as specified in subdivision (e).

(g) Certify students who have successfully completed a class approved as meeting the requirements of the program.

(h) Review and revise, as necessary, the program.

(i) Establish and collect admission fees and other fees that may be necessary to be charged for advanced or specialized training given at the California Specialized

Training Institute. These fees shall be used to offset costs incurred pursuant to this article.

SEC. 94. Section 8574.21 of the Government Code is amended to read:

8574.21. (a) ~~The California Office of Emergency Management Agency Services~~ shall develop the curriculum to be used in classes that meet the program requirements and shall adopt standards and procedures for training instructors at the California Specialized Training Institute.

(b) The curriculum for the training and education program established pursuant to this article shall include all of the following aspects of hazardous substance incident response actions:

- (1) First responder training.
- (2) On-scene manager training.
- (3) Hazardous substance incident response training for management personnel.
- (4) Hazardous materials specialist training that equals or exceeds the standards of the National Fire Protection Association.

(5) Environmental monitoring.

(6) Hazardous substance release investigations.

(7) Hazardous substance incident response activities at ports.

(c) The curriculum development advisory committee described in Section 8588.10 shall advise the ~~California Office of Emergency Management Agency Services~~ on the development of course curricula and the standards and procedures specified in subdivision (a). In advising the ~~California Office of Emergency Management Agency Services~~, the committee shall do the following:

(1) Assist, and cooperate with, representatives of the Board of Governors of the California Community Colleges in developing the course curricula.

(2) Ensure that the curriculum developed pursuant to this section is accredited by the State Board of Fire Services.

(3) Define equivalent training and experience considered as meeting the initial training requirements as specified in subdivision (a) that existing employees might have already received from actual experience or formal education undertaken, and which would qualify as meeting the requirements established pursuant to this article.

(d) This article does not affect the authority of the State Fire Marshal granted pursuant to Section 13142.4 or 13159 of the Health and Safety Code.

(e) Upon completion of instructor training and certification pursuant to subdivision (e) of Section 8574.20 by any employee of the Department of the California Highway Patrol, the Commissioner of the California Highway Patrol may deem any training programs taught by that employee to be equivalent to any training program meeting the requirements established pursuant to this article.

SEC. 95. Section 8574.22 of the Government Code is amended to read:

8574.22. ~~The California Office of Emergency Management Agency Services~~ may hire professional and clerical staff pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2). However, any person employed pursuant to this section shall be employed only at the California Specialized Training Institute.

SEC. 96. Section 8575 of the Government Code is amended to read:

8575. For the purposes of the California Disaster and Civil Defense Master Mutual Aid Agreement, the ~~California Office of Emergency Management Agency Services~~ will serve as the State Disaster Council.

SEC. 97. Section 8584.1 of the Government Code is amended to read:

8584.1. (a) It is the intent of the Legislature that the state have an urban heavy rescue capability in the event of a major earthquake. It is also the intent of the Legislature that the ~~California Office of Emergency Management Agency Services~~ and the State Fire Marshal's Office pursue the necessary funding to carry out this article through the normal budget process.

(b) The Fire and Rescue Division of the ~~California Office of Emergency Management Agency Services~~ shall acquire and maintain urban heavy rescue units and transportable caches of search and rescue gear, including hand tools and protective gear. The division shall position the units and caches to ensure a rapid response of personnel and equipment anywhere in the state, and ensure that a unit will be available on the scene within one hour of a major earthquake.

(c) The State Fire Marshal's Office shall coordinate the training of personnel in the use of the units and equipment in cooperation with the ~~California Office of Emergency Management Agency Services~~.

SEC. 98. Section 8585 of the Government Code is amended to read:

8585. (a) (1) There is in state government, within the office of the Governor, the ~~California Office of Emergency Management Agency Services~~. The ~~California Office of Emergency Management Agency Services~~ shall be under the supervision of the ~~Secretary~~ Director of the ~~Emergency Management Agency Services~~, who shall

have all rights and powers of a head of an agency office as provided by this code, and shall be referred to as the Secretary Director of Emergency Management Services.

(2) Unless the context clearly requires otherwise, whenever the term “Office of California Emergency Services Management Agency” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the California Office of Emergency Management Agency Services, and whenever the term “Director Secretary of Emergency Services Management” or the “Director Secretary of the Office of Emergency Services Management Agency” appears in statute, regulation, or contract, or in any other code, it shall be construed to refer to the Secretary Director of Emergency Management Services.

(3) Unless the context clearly requires otherwise, whenever the term “Director of Homeland Security” or “Office of Homeland Security” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the California Office of Emergency Management Agency Services, and whenever the term “Director of Homeland Security” or “Director of the Office of Homeland Security” appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Secretary Director of Emergency Management Services.

(b) (1) The California Office of Emergency Management Agency Services and the Secretary Director of Emergency Management Services shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Office of California Emergency Services Management Agency and the Director Secretary of the Office of Emergency Services Management, respectively.

(2) The ~~California Office of Emergency Management Agency Services~~ and the ~~Secretary Director of Emergency Management Services~~ shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Office of Homeland Security and the Director of Homeland Security, respectively.

(c) The ~~California Office of Emergency Management Agency Services~~ shall be considered a law enforcement organization as required for receipt of criminal intelligence information pursuant to subdivision (f) of Section 6254 of the Government Code by persons employed within the ~~agency office~~ whose duties and responsibilities require the authority to access criminal intelligence information.

(d) Persons employed by the ~~California Office of Emergency Management Agency Services~~ whose duties and responsibilities require the authority to access criminal intelligence information shall be furnished state summary criminal history information as described in Section 11105 of the Penal Code, if needed in the course of their duties.

(e) The ~~California Office of Emergency Management Agency Services~~ shall be responsible for the state's emergency and disaster response services for natural, technological, or manmade disasters and emergencies, including responsibility for activities necessary to prevent, respond to, recover from, and mitigate the effects of emergencies and disasters to people and property.

(f) Notwithstanding any other ~~provision of law~~, nothing in this section shall authorize an employee of the ~~California Office of Emergency Management Agency Services~~ to access criminal intelligence information under subdivision (c) or (d) for

the purpose of determining eligibility for, or providing access to, disaster-related assistance and services.

SEC. 99. Section 8585.05 of the Government Code is amended to read:

8585.05. Unless the context otherwise requires, for purpose of this article, the following definitions apply:

(a) “Agency” or “office” means the ~~California Office of Emergency Management Agency Services.~~ California Office of Emergency Management Agency Services.

(b) “Secretary” means ~~“California Emergency Management Agency”~~ “California Office of Emergency Management Agency” means the Office of Emergency Services.

(c) “Director” or “secretary” means ~~the Secretary~~ the Director of Emergency Management Services.

SEC. 100. Section 8585.1 of the Government Code is amended to read:

8585.1. (a) The ~~secretary~~ director shall be appointed by, and hold office at the pleasure of, the Governor. The appointment of the ~~secretary~~ director is subject to confirmation by the Senate. The ~~secretary~~ director shall coordinate all state disaster response, emergency planning, emergency preparedness, disaster recovery, disaster mitigation, and homeland security activities.

(b) The ~~secretary~~ director shall receive an annual salary as set forth in Section ~~11550~~ 11552.

(c) The Governor may appoint ~~an undersecretary~~ a deputy director of the ~~agency~~ office. The ~~undersecretary~~ deputy director shall hold office at the pleasure of the Governor.

(d) All positions exempt from civil service that existed in the predecessor agencies shall be transferred to the agency office.

(e) Neither state nor federal funds may be expended to pay the salary or benefits of any deputy or employee who may be appointed by the secretary director or undersecretary deputy director pursuant to Section 4 of Article VII of the California Constitution.

SEC. 101. Section 8585.2 of the Government Code is amended to read:

8585.2. (a) All employees serving in state civil service, other than temporary employees, who are engaged in the performance of functions transferred to the agency office or engaged in the administration of law, the administration of which is transferred to was vested in the agency former California Emergency Management Agency, are transferred to the agency office. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service. The personnel records of all transferred employees shall be transferred to the agency office.

(b) The property of any agency or department related to functions formerly transferred to, or vested in the California Emergency Management Agency, is transferred to the agency office. If any doubt arises as to where that property is transferred, the Department of General Services shall determine where the property is transferred.

(c) All unexpended balances of appropriations and other funds available for use in connection with any function or the administration of any law formerly transferred

to the ~~agency~~ California Emergency Management Agency shall be transferred to the ~~agency~~ office for use for the purpose for which the appropriation was originally made or the funds were originally available. If there is any doubt as to where those balances and funds are transferred, the Department of Finance shall determine where the balances and funds are transferred.

SEC. 102. Section 8585.7 of the Government Code is amended to read:

8585.7. The ~~agency~~ office may certify the accredited status of local disaster councils, subject to the requirements of Section 8612.

SEC. 103. Section 8586 of the Government Code is amended to read:

8586. The Governor shall assign all or part of his or her powers and duties under this chapter to the ~~California Office of Emergency Management Agency Services~~.

SEC. 104. Section 8587.7 of the Government Code is amended to read:

8587.7. (a) The ~~California Office of Emergency Management Agency Services~~, in cooperation with the State Department of Education, the Department of General Services, and the Seismic Safety Commission, shall develop an educational pamphlet for use by grades Kindergarten to 14 personnel to identify and mitigate the risks posed by nonstructural earthquake hazards.

(b) The ~~agency~~ office shall print and distribute the pamphlet to the governing board of each school district and community college district in the state, along with a copy of the current edition of the ~~agency's~~ office's school emergency response publication. The ~~agency~~ office shall also make the pamphlet or the current edition of the ~~agency's~~ office's school emergency response publication available to a private elementary or secondary school upon request.

(c) The agency office, as soon as feasible, shall make the pamphlet and the current edition of the agency's office's school emergency response publication available by electronic means, including, but not limited to, the Internet.

SEC. 105. Section 8588 of the Government Code is amended to read:

8588. Whenever conditions exist within any region or regions of the state ~~which~~ that warrant the proclamation by the Governor of a state of emergency and the Governor has not acted under the provisions of Section 8625, by reason of the fact that the Governor has been inaccessible, the secretary director may proclaim the existence of a state of emergency in the name of the Governor as to any region or regions of the state. Whenever the secretary director has so proclaimed a state of emergency, that action shall be ratified by the Governor as soon as the Governor becomes accessible, and in the event the Governor does not ratify the action, the Governor shall immediately terminate the state of emergency as proclaimed by the secretary director.

SEC. 106. Section 8588.1 of the Government Code is amended to read:

8588.1. (a) The Legislature finds and declares that this state can only truly be prepared for the next disaster if the public and private sector collaborate.

(b) The agency office may, as appropriate, include private businesses and nonprofit organizations within its responsibilities to prepare the state for disasters under this chapter. All participation by businesses and nonprofit associations in this program shall be voluntary.

(c) The agency office may do any of the following:

(1) Provide guidance to business and nonprofit organizations representing business interests on how to integrate private sector emergency preparedness measures into governmental disaster planning programs.

(2) Conduct outreach programs to encourage business to work with governments and community associations to better prepare the community and their employees to survive and recover from disasters.

(3) Develop systems so that government, businesses, and employees can exchange information during disasters to protect themselves and their families.

(4) Develop programs so that businesses and government can work cooperatively to advance technology that will protect the public during disasters.

(d) The agency office may share facilities and systems for the purposes of subdivision (b) with the private sector to the extent the costs for their use are reimbursed by the private sector.

(e) Proprietary information or information protected by state or federal privacy laws shall not be disclosed under this program.

(f) Notwithstanding Section 11005, donations and private grants may be accepted by the agency office and shall not be subject to Section 11005.

(g) The Disaster Resistant Communities Fund is hereby created in the State Treasury. Upon appropriation by the Legislature, the secretary office may expend the money in the account for the costs associated within this section.

(h) This section shall be implemented only to the extent that in-kind contributions or donations are received from the private sector, or grant funds are received from the federal government, for these purposes.

SEC. 107. Section 8588.3 of the Government Code is amended to read:

8588.3. (a) The Legislature finds and declares that it is the responsibility of the State of California to protect and preserve the right of its citizens to a safe and peaceful existence. To accomplish this goal and to minimize the destructive impact of disasters and other massive emergencies, the actions of numerous public agencies must be coordinated to effectively manage all four phases of emergency activity: preparedness, mitigation, response, and recovery. In order to ensure that the state's response to disasters or massive emergencies is effective, specialized training is necessary.

(b) The California Specialized Training Institute of the office of the Adjutant General is hereby transferred to the ~~agency~~ Office of Emergency Services. The institute shall assist the Governor in providing, pursuant to subdivision (f) of Section 8570, training to state agencies, cities, and counties in their planning and preparation for disasters.

(c) The ~~secretary~~ director may solicit, receive, and administer funds or property from federal, state, or other public agency sources for the support and operation of the institute.

(d) The ~~secretary~~ director may solicit and receive firearms, other weaponry, explosive materials, chemical agents, and other items confiscated by or otherwise in the possession of law enforcement officers as donations to the institute if he or she deems them to be appropriate for the institute's training purposes.

(e) Any moneys received by the ~~secretary~~ director from charges or fees imposed in connection with the operation of the institute shall be deposited in the General Fund.

SEC. 108. Section 8588.7 of the Government Code is amended to read:

8588.7. (a) ~~The California Office of Emergency Management Agency Services~~ shall procure mobile communication translators to enable mutual-aid emergency response agencies to communicate effectively while operating on incompatible frequencies.

(b) Translators shall be located in the San Francisco Bay Area and the Los Angeles metropolitan area, made ready for use by local public safety officials by the ~~California Office of Emergency Management Agency Services~~, and provided to the appropriate state-established mutual-aid region pursuant to Section 8600.

(c) ~~The California Office of Emergency Management Agency Services~~ shall implement this section only to the extent that funds are appropriated to the ~~agency office~~ for this purpose in the Budget Act or in other legislation.

SEC. 109. Section 8588.10 of the Government Code is amended to read:

8588.10. (a) ~~The secretary director~~ shall establish a Curriculum Development Advisory Committee to advise the ~~agency office~~ on the development of course curricula, as specified by the ~~secretary director~~.

(b) The committee shall be chaired by the ~~secretary director~~, who will appoint members as appropriate. In appointing members to the committee, the ~~secretary director~~ shall include representatives from the following:

(1) State public safety, health, first responder, and emergency services departments or agencies, as deemed appropriate by the ~~secretary director~~.

(2) Local first responder agencies.

(3) Local public safety agencies.

(4) Nonprofit organizations, as deemed appropriate by the ~~secretary director~~.

(5) Any other state, local, tribal, or nongovernmental organization determined by the ~~secretary~~ director to be appropriate.

SEC. 110. Section 8588.11 of the Government Code is amended to read:

8588.11. (a) The ~~agency~~ office shall contract with the California Fire Fighter Joint Apprenticeship Program to develop a fire service specific course of instruction on the responsibilities of first responders to terrorism incidents. The course shall include the criteria for the curriculum content recommended by the Curriculum Development Advisory Committee established pursuant to Section 8588.10 to address the training needs of both of the following:

(1) Firefighters in conformance with the standards established by the State Fire Marshal.

(2) Paramedics and other emergency medical services fire personnel in conformance with the standards established by the ~~State~~ Emergency Medical Services Authority.

(b) The course of instruction shall be developed in consultation with individuals knowledgeable about consequence management that addresses the topics of containing and mitigating the impact of a terrorist incident, including, but not limited to, a terrorist act using hazardous materials, as well as weapons of mass destruction, including any chemical warfare agent, weaponized biological agent, or nuclear or radiological agent, as those terms are defined in Section 11417 of the Penal Code, by techniques including, but not limited to, rescue, firefighting, casualty treatment, and hazardous materials response and recovery.

(c) The contract shall provide for the delivery of training by the California Fire Fighter Joint Apprenticeship Program through reimbursement contracts with the state, local, and regional fire agencies who may, in turn, contract with educational institutions.

(d) To maximize the availability and delivery of training, the California Fire Fighter Joint Apprenticeship Program shall develop a course of instruction to train the trainers in the presentation of the first responder training of consequence management for fire service personnel.

SEC. 111. Section 8589 of the Government Code is amended to read:

8589. ~~The California Office of Emergency Management Agency Services~~ shall be permitted ~~such~~ the use of all state and local fair properties as conditions require.

SEC. 112. Section 8589.1 of the Government Code is amended to read:

8589.1. (a) ~~The California Office of Emergency Management Agency Services~~ shall plan to establish the State Computer Emergency Data Exchange Program (SCEDEP), which shall be responsible for collection and dissemination of essential data for emergency management.

(b) Participating agencies in SCEDEP shall include the Department of Water Resources, Department of Forestry and Fire Protection, Department of the California Highway Patrol, Department of Transportation, Emergency Medical Services Authority, the State Fire Marshal, State Department of Public Health, and any other state agency that collects critical data and information that affects emergency response.

(c) It is the intent of the Legislature that the State Computer Emergency Data Exchange Program facilitate communication between state agencies and that emergency information be readily accessible to city and county emergency services offices. The

~~California Office of Emergency Management Agency Services~~ shall develop policies and procedures governing the collection and dissemination of emergency information and shall recommend or design the appropriate software and programs necessary for emergency communications with city and county emergency services offices.

SEC. 113. Section 8589.2 of the Government Code is amended to read:

8589.2. (a) ~~The California Office of Emergency Management Agency Services~~, in consultation with the California Highway Patrol and other state and local agencies, shall establish a statewide plan for the delivery of hazardous material mutual aid.

(b) Within 180 days of the adoption of a plan by the ~~California Office of Emergency Management Agency Services~~, an entity shall only be considered a candidate for training or equipment funds provided by the state for hazardous material emergency response when that entity is a signatory to the plan established under this section.

(1) For the purpose of this chapter “hazardous material emergency response” includes, but is not limited to, assessment, isolation, stabilization, containment, removal, evacuation, neutralization, transportation, rescue procedures, or other activities necessary to ensure the public safety during a hazardous materials emergency.

(2) For the purpose of this chapter, “hazardous material” is defined as in Section 25501 of the Health and Safety Code.

(c) Entities providing hazardous material emergency response services under this chapter shall be exempt from the fee restriction of Section 6103.

SEC. 114. Section 8589.5 of the Government Code is amended to read:

8589.5. (a) Inundation maps showing the areas of potential flooding in the event of sudden or total failure of any dam, the partial or total failure of which the ~~California~~

Office of Emergency Management Agency Services determines, after consultation with the Department of Water Resources, would result in death or personal injury, shall be prepared and submitted as provided in this subdivision within six months after the effective date of this section, unless previously submitted or unless the time for submission of those maps is extended for reasonable cause by the ~~California Office of Emergency Management Agency Services~~. The local governmental organization, utility, or other public or private owner of any dam so designated shall submit to the ~~California Office of Emergency Management Agency Services~~ one map that shall delineate potential flood zones that could result in the event of dam failure when the reservoir is at full capacity, or if the local governmental organization, utility, or other public or private owner of any dam shall determine it to be desirable, he or she shall submit three maps that shall delineate potential flood zones that could result in the event of dam failure when the reservoir is at full capacity, at median-storage level, and at normally low-storage level. After submission of copies of the map or maps, the ~~California Office of Emergency Management Agency Services~~ shall review the map or maps, and shall return any map or maps that do not meet the requirements of this subdivision, together with recommendations relative to conforming to the requirements. Maps rejected by the ~~California Office of Emergency Management Agency Services~~ shall be revised to conform to those recommendations and resubmitted. The ~~California Office of Emergency Management Agency Services~~ shall keep on file those maps that conform to the provisions of this subdivision. Maps approved pursuant to this subdivision shall also be kept on file with the Department of Water Resources. The owner of a dam shall submit final copies of those maps to the ~~California Office of~~

Emergency Management Agency Services that shall immediately submit identical copies to the appropriate public safety agency of any city, county, or city and county likely to be affected.

(b) (1) Based upon a review of inundation maps submitted pursuant to subdivision (a) or based upon information gained by an onsite inspection and consultation with the affected local jurisdiction when the requirement for an inundation map is waived pursuant to subdivision (d), the California Office of Emergency Management Agency Services shall designate areas within which death or personal injury would, in its determination, result from the partial or total failure of a dam. The appropriate public safety agencies of any city, county, or city and county, the territory of which includes any of those areas, may adopt emergency procedures for the evacuation and control of populated areas below those dams. The California Office of Emergency Management Agency Services shall review the procedures to determine whether adequate public safety measures exist for the evacuation and control of populated areas below the dams, and shall make recommendations with regard to the adequacy of those procedures to the concerned public safety agency. In conducting the review, the California Office of Emergency Management Agency Services shall consult with appropriate state and local agencies.

(2) Emergency procedures specified in this subdivision shall conform to local needs, and may be required to include any of the following elements or any other appropriate element, in the discretion of the California Office of Emergency Management Agency Services:

(A) Delineation of the area to be evacuated.

- (B) Routes to be used.
  - (C) Traffic control measures.
  - (D) Shelters to be activated for the care of the evacuees.
  - (E) Methods for the movement of people without their own transportation.
  - (F) Identification of particular areas or facilities in the flood zones that will not require evacuation because of their location on high ground or similar circumstances.
  - (G) Identification and development of special procedures for the evacuation and care of people from unique institutions.
  - (H) Procedures for the perimeter and interior security of the area, including such things as passes, identification requirements, and antilooting patrols.
  - (I) Procedures for the lifting of the evacuation and reentry of the area.
  - (J) Details as to which organizations are responsible for the functions described in this paragraph and the material and personnel resources required.
- (3) It is the intent of the Legislature to encourage each agency that prepares emergency procedures to establish a procedure for their review every two years.
- (c) "Dam," as used in this section, has the same meaning as specified in Sections 6002, 6003, and 6004 of the Water Code.
- (d) Where both of the following conditions exist, the ~~California~~ Office of Emergency Management Agency Services may waive the requirement for an inundation map:
- (1) Where the effects of potential inundation in terms of death or personal injury, as determined through onsite inspection by the ~~California~~ Office of Emergency

Management Agency Services in consultation with the affected local jurisdictions, can be ascertained without an inundation map.

(2) Where adequate evacuation procedures can be developed without benefit of an inundation map.

(e) If development should occur in any exempted area after a waiver has been granted, the local jurisdiction shall notify the ~~California Office of Emergency Management Agency Services~~ of that development. All waivers shall be reevaluated every two years by the ~~California Office of Emergency Management Agency Services~~.

(f) A notice may be posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map, and of any information received by the county subsequent to the receipt of the map regarding changes to inundation areas within the county.

SEC. 115. Section 8589.6 of the Government Code is amended to read:

8589.6. (a) The ~~California Office of Emergency Management Agency Services~~ shall develop model guidelines for local government agencies and community-based organizations planning to develop a disaster registry program. Adoption of the model guidelines shall be voluntary. Local governmental agencies or community-based organizations wishing to establish a disaster registry program may consult with the ~~California Office of Emergency Management Agency Services~~ for further guidance.

(b) The guidelines required by subdivision (a) shall address, at a minimum, all of the following issues:

(1) A purpose statement specifying that the intent of the registry is not to provide immediate assistance during a local, state, or national disaster, to those who are

registered, but to encourage that those registered will receive a telephone call or visit from neighborhood disaster volunteers or other organizations specified in the final local plan as soon as possible after the disaster in order to check on their well-being and ask if they need assistance. This statement shall also specify that persons registered should be prepared to be self-sufficient for at least 72 hours.

(2) A list of persons eligible for the registry. This list shall include, but not be limited to, disabled persons, including those with developmental disabilities, the elderly, those for whom English is not a first language, persons who are unskilled or deficient in the English language, long-term health care facilities, residential community care facilities, and residential care facilities for the elderly.

(3) A statement specifying that the party responsible for responding to those registered will not be held liable for not responding.

(4) A plan for ensuring that hard data is available if computers shut down.

(5) A recommendation for those persons or organizations that would be appropriate to respond to persons on the disaster registry, and a plan for training the responsible party.

(6) A plan for community outreach to encourage those eligible to participate.

(7) A plan for distribution of preparedness materials to those eligible to participate in the disaster registry.

(8) Recommendations and assistance for obtaining federal and state moneys to establish a disaster registry.

(9) A recommendation that organizations currently providing services to persons who are eligible for the disaster registry program be encouraged to alter their information

form to include a space on the form where the person has the option of registering for the program. By checking the box and giving approval to be registered for the program the person waives confidentiality rights. Despite this waiver of confidentiality rights, local government agencies and community-based organizations planning to develop a disaster registry are encouraged to do everything possible to maintain the confidentiality of their registries. Organizations that currently have lists of people who would be eligible to register for the program should be encouraged to share this information with persons establishing a disaster registry.

SEC. 116. Section 8589.7 of the Government Code is amended to read:

8589.7. (a) In carrying out its responsibilities pursuant to subdivision (b) of Section 8574.17, the California Office of Emergency Management Agency Services shall serve as the central point in state government for the emergency reporting of spills, unauthorized releases, or other accidental releases of hazardous materials and shall coordinate the notification of the appropriate state and local administering agencies that may be required to respond to those spills, unauthorized releases, or other accidental releases. The California Office of Emergency Management Agency Services is the only state agency entity required to make the notification required by subdivision (b).

(b) Upon receipt of a report concerning a spill, unauthorized release, or other accidental release involving hazardous materials, as defined in Section 25501 of the Health and Safety Code, or concerning a rupture of, or an explosion or fire involving, a pipeline reportable pursuant to Section 51018, the California Office of Emergency Management Agency Services shall immediately inform the following agencies of the incident:

(1) For an oil spill reportable pursuant to Section 8670.25.5, the ~~California Office of Emergency Management Agency Services~~ shall inform the administrator for oil spill response, the State Lands Commission, the California Coastal Commission, and the California regional water quality control board having jurisdiction over the location of the discharged oil.

(2) For a rupture, explosion, or fire involving a pipeline reportable pursuant to Section 51018, the ~~California Office of Emergency Management Agency Services~~ shall inform the State Fire Marshal.

(3) For a discharge in or on any waters of the state of a hazardous substance or sewage reportable pursuant to Section 13271 of the Water Code, the ~~California Office of Emergency Management Agency Services~~ shall inform the appropriate California regional water quality control board.

(4) For a spill or other release of petroleum reportable pursuant to Section 25270.8 of the Health and Safety Code, the ~~California Office of Emergency Management Agency Services~~ shall inform the local administering agency that has jurisdiction over the spill or release.

(5) For a crude oil spill reportable pursuant to Section 3233 of the Public Resources Code, the ~~California Office of Emergency Management Agency Services~~ shall inform the Division of Oil, Gas, and Geothermal Resources and the appropriate California regional water quality control board.

(c) This section does not relieve a person who is responsible for an incident specified in subdivision (b) from the duty to make an emergency notification to a local agency, or the 911 emergency system, under any other law.

(d) A person who is subject to Section 25507 of the Health and Safety Code shall immediately report all releases or threatened releases pursuant to that section to the appropriate local administering agency and each local administering agency shall notify the ~~California Office of Emergency Management Agency Services~~ and businesses in their jurisdiction of the appropriate emergency telephone number that can be used for emergency notification to the administering agency on a 24-hour basis. The administering agency shall notify other local agencies of releases or threatened releases within their jurisdiction, as appropriate.

(e) No facility, owner, operator, or other person required to report an incident specified in subdivision (b) to the ~~California Office of Emergency Management Agency Services~~ shall be liable for any failure of the ~~California Office of Emergency Management Agency Services~~ to make a notification required by this section or to accurately transmit the information reported.

SEC. 117. Section 8589.9 of the Government Code is amended to read:

8589.9. (a) The Legislature finds and declares that there is a growing need to find new ways to acquire firefighting apparatus and equipment for use by local agencies. Local agencies, particularly those that serve rural areas, have had, and are likely to continue to have, difficulty acquiring firefighting apparatus and equipment. The Legislature further finds and declares that this situation presents a statewide problem for the protection of the public safety.

(b) In enacting this article, the Legislature intends to create new ways for the ~~California Office of Emergency Management Agency Services~~ to help local agencies acquire firefighting apparatus and equipment. Through the identification of available

apparatus and equipment, the acquisition of new and used apparatus and equipment, the refurbishing and resale of used apparatus and equipment, and assisting the financing of resales, the California Office of Emergency Management Agency Services will help local agencies meet public safety needs.

SEC. 118. Section 8589.10 of the Government Code is amended to read:

8589.10. As used in this article:

(a) “Acquire” means acquisition by purchase, grant, gift, or any other lawful means.

(b) “~~Agency~~” “Office” means the California Office of Emergency Management Agency Services.

(c) “Firefighting apparatus and equipment” means any vehicle and its associated equipment ~~which~~ that is designed and intended for use primarily for firefighting. “Firefighting apparatus and equipment” does not include vehicles that are designed and intended for use primarily for emergency medical services, rescue services, communications and command operations, or hazardous materials operations.

(d) “Indirect expenses” means those items that are identified as indirect costs in the federal Office of Management and Budget, Circular A-87 on January 1, 1985.

(e) “Local agency” means any city, county, special district, or any joint powers agency composed exclusively of those agencies, that provides fire suppression services. “Local agency” also includes a fire company organized pursuant to Part 4 (commencing with Section 14825) of Division 12 of the Health and Safety Code.

(f) “Rural area” means territory that is outside of any urbanized area designated by the United States Census Bureau from the 1980 federal census.

(g) ~~“Secretary”~~ “Director” means the ~~Secretary~~ Director of Emergency Management Services.

SEC. 119. Section 8589.19 of the Government Code is amended to read:

8589.19. (a) After consultation with the California Emergency Management Agency Fire Advisory Committee, hereafter to be referred as the Office of Emergency Services Fire Advisory Committee, ~~the secretary~~ director shall adopt rules and regulations governing the operation of the programs created by this article pursuant to the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3.

(b) The rules and regulations adopted pursuant to subdivision (a) shall include, but not be limited to, all of the following:

(1) The specific types of firefighting apparatus and equipment which may be acquired, rehabilitated, and resold.

(2) The amount and terms of resale contracts.

(3) The time, format, and manner in which local agencies may apply for resale contracts.

(4) Priorities for assisting local agencies, which shall give preference to local agencies which meet all of the following:

(A) Demonstrated need for primary response firefighting apparatus and equipment.

(B) Will be adequately able to operate and maintain the firefighting apparatus and equipment.

(C) Have already used other means of financing the firefighting apparatus and equipment.

SEC. 120. Section 8590.1 of the Government Code is amended to read:

8590.1. As used in this article, the following terms have the following meanings:

(a) “Agency” or “office” means the ~~California Office of Emergency Management Agency Services~~.

(b) “Local agency” means any city, county, city and county, fire district, special district, or joint powers agency that provides fire suppression services. “Local agency” also includes a fire company organized pursuant to Part 4 (commencing with Section 14825) of Division 12 of the Health and Safety Code.

(c) “Secretary” or “director” means the ~~Secretary~~ Director of Emergency ~~Management Services~~.

(d) “State agency” means any state agency providing residential or institutional fire protection, including, but not limited to, the Department of Forestry and Fire Protection.

SEC. 121. Section 8590.3 of the Government Code is amended to read:

8590.3. In administering the purchasing program, the ~~secretary~~ director shall do all of the following:

(a) No later than 45 days after the effective date of this article, establish an advisory committee, which shall be comprised of representatives of organizations including, but not limited to, the California Fire Chiefs Association, the Fire Districts Association of California, the California Professional Firefighters, the CDF Firefighters,

and the California State Firefighters Association, Inc. The committee shall meet no later than 30 days after all members are appointed.

(b) Consult with the advisory committee regarding equipment specifications and other matters relating to the acquisition of thermal imaging equipment, and require the advisory committee to formulate specifications no later than 120 days after its initial meeting.

(c) Notify all local and state agencies about the purchasing program, including the opportunity to purchase additional units at the contract price, and determine whether those agencies are interested in obtaining thermal imaging equipment.

(d) Purchase thermal imaging equipment at the lowest possible price from a reliable vendor that meets specified requirements. It is the intent of the Legislature that the director enter into a multiyear contract for this purpose no later than 180 days after the committee formulates specifications pursuant to subdivision (b).

(e) Include a provision in the vendor contract allowing any local or state agency to purchase additional units directly from the vendor at the contract price.

(f) Any local agency that elects to participate in the thermal imaging equipment purchasing program shall pay one-half of the contract price for each piece of equipment purchased on its behalf by the state.

SEC. 122. Section 8590.4 of the Government Code is amended to read:

8590.4. (a) The ~~secretary~~ director shall seek funding for the program from the private sector, grant programs, and other appropriate sources.

(b) ~~The secretary, director,~~ after consultation with the advisory commission, shall distribute equipment purchased under the program in order to maximize its utilization by firefighters based on consideration of the following factors:

- (1) Ability to share or move the equipment to fire locations.
- (2) Availability of existing thermal imaging equipment.
- (3) Geography.
- (4) Need based on frequency of fires.

SEC. 123. Section 8591 of the Government Code is amended to read:

8591. Nothing in this chapter shall operate to prevent the Governor or the Office of Emergency Management Services from formally recognizing committees or boards established by or with segments of the private sector, public agencies, or both the private sector and public agencies, that control facilities, resources, or the provision of services essential to the mitigation of the effects of an emergency or recovery therefrom, or from assigning administrative authority or responsibility to those committees or boards or to members thereof with respect to the provision and effective utilization of those resources to meet needs resulting from an emergency.

SEC. 124. Section 8592.1 of the Government Code is amended to read:

8592.1. For purposes of this article, the following terms have the following meanings:

(a) “Backward compatibility” means that the equipment is able to function with older, existing equipment.

(b) “Committee” means the Public Safety Radio Strategic Planning Committee, that was established in December 1994 in recognition of the need to improve existing

public radio systems and to develop interoperability among public safety departments and between state public safety departments and local or federal entities, and that consists of representatives of the following state entities:

(1) The California Office of Emergency Management Agency Services, ~~who~~  
whose director or his or her representative shall serve as chairperson.

(2) The Department of the California Highway Patrol.

(3) The Department of Transportation.

(4) The Department of Corrections and Rehabilitation.

(5) The Department of Parks and Recreation.

(6) The Department of Fish and Game.

(7) The Department of Forestry and Fire Protection.

(8) The Department of Justice.

(9) The Department of Water Resources.

(10) The State Department of Public Health.

(11) The Emergency Medical Services Authority.

(12) The California Department of Technology Agency.

(13) The Military Department.

(14) The Department of Finance.

(c) "First response agencies" means public agencies that, in the early stages of an incident, are responsible for, among other things, the protection and preservation of life, property, evidence, and the environment, including, but not limited to, state fire agencies, state and local emergency medical services agencies, local sheriffs'

departments, municipal police departments, county and city fire departments, and police and fire protection districts.

(d) “Nonproprietary equipment or systems” means equipment or systems that are able to function with another manufacturer’s equipment or system regardless of type or design.

(e) “Open architecture” means a system that can accommodate equipment from various vendors because it is not a proprietary system.

(f) “Public safety radio subscriber” means the ultimate end user. Subscribers include individuals or organizations, including, for example, local police departments, fire departments, and other operators of a public safety radio system. Typical subscriber equipment includes end instruments, including mobile radios, hand-held radios, mobile repeaters, fixed repeaters, transmitters, or receivers that are interconnected to utilize assigned public safety communications frequencies.

(g) “Public safety spectrum” means the spectrum allocated by the Federal Communications Commission for operation of interoperable and general use radio communication systems for public safety purposes within the state.

SEC. 125. Section 8592.5 of the Government Code is amended to read:

8592.5. (a) Except as provided in subdivision (c), a state department that purchases public safety radio communication equipment shall ensure that the equipment purchased complies with applicable provisions of the following:

(1) The common system standards for digital public safety radio communications commonly referred to as the “Project 25 Standard,” as that standard may be amended, revised, or added to in the future jointly by the Association of Public-Safety

Communications Officials, Inc., National Association of State Telecommunications Directors, and agencies of the federal government, commonly referred to as “APCO/NASTD/FED.”

(2) The operational and functional requirements delineated in the Statement of Requirements for Public Safety Wireless Communications and Interoperability developed by the SAFECOM Program under the United States Department of Homeland Security.

(b) Except as provided in subdivision (c), a local first response agency that purchases public safety radio communication equipment, in whole or in part, with state funds or federal funds administered by the state, shall ensure that the equipment purchased complies with paragraphs (1) and (2) of subdivision (a).

(c) Subdivision (a) or (b) shall not apply to either of the following:

(1) Purchases of equipment to operate with existing state or local communications systems where the latest applicable standard will not be compatible, as verified by the California Department of Technology Agency.

(2) Purchases of equipment for existing statewide low-band public safety communications systems.

(d) This section may not be construed to require an affected state or local governmental agency to compromise its immediate mission or ability to function and carry out its existing responsibilities.

SEC. 126. Section 8592.7 of the Government Code is amended to read:

8592.7. (a) A budget proposal submitted by a state agency for support of a new or modified radio system shall be accompanied by a technical project plan that includes all of the following:

- (1) The scope of the project.
- (2) Alternatives considered.
- (3) Justification for the proposed solution.
- (4) A project implementation plan.
- (5) A proposed timeline.
- (6) Estimated costs by fiscal year.

(b) The committee shall review the plans submitted pursuant to subdivision (a) for consistency with the statewide integrated public safety communication strategic plan included in the annual report required pursuant to Section 8592.6.

(c) The ~~California Department of Technology Agency~~ shall review the plans submitted pursuant to subdivision (a) for consistency with the technical requirements of the statewide integrated public safety communication strategic plan included in the annual report required pursuant to Section 8592.6.

SEC. 127. Section 8593 of the Government Code is amended to read:

8593. The ~~California Office of Emergency Management Agency Services~~ shall work with advocacy groups representing the deaf and hearing impaired, including, but not limited to, the California Association of the Deaf and the Coalition of Deaf Access Providers, California television broadcasters, city and county emergency services coordinators, and, as appropriate, the Federal Emergency Management Agency and the Federal Communications Commission, to improve communication with deaf and

hearing-impaired persons during emergencies, including the use of open captioning by California television broadcasters when transmitting emergency information.

SEC. 128. Section 8593.1 of the Government Code is amended to read:

8593.1. ~~The California Office of Emergency Management Agency Services~~ shall investigate the feasibility of, and the funding requirements for, establishing a “Digital Emergency Broadcast System” network, to be used by local and state government agencies for the provision of warnings and instructions in digital or printed form to California broadcast outlets for relay to the public both orally and visually, through television, and orally, through radio, during emergencies.

SEC. 129. Section 8593.2 of the Government Code is amended to read:

8593.2. ~~The California Office of Emergency Management Agency Services~~ shall investigate the feasibility of establishing a toll-free 800 telephone hotline, including TDD (telecommunications device for the deaf) accessibility, which would be accessible to the public, including deaf, hearing-impaired, and non-English speaking persons, for use during nonemergency and emergency periods to respond to inquiries about emergency preparedness and disaster status.

SEC. 130. Section 8593.6 of the Government Code is amended to read:

8593.6. (a) No later than six months after securing funding for the purposes of this section, the ~~Secretary~~ Director of ~~Emergency Management Services~~ shall convene a working group for the purpose of assessing existing and future technologies available in the public and private sectors for the expansion of transmission of emergency alerts to the public through a public-private partnership. The working group shall advise the

secretary and assist in the development of policies, procedures, and protocols that will lay the framework for an improved warning system for the public.

(b) (1) The working group shall consist of the following membership, to be appointed by the ~~secretary~~ director:

(A) A representative of the ~~California Office of Emergency Management Agency Services~~.

(B) A representative of the Attorney General's office.

(C) A representative of the State Department of Public Health.

(D) A representative of the State Emergency Communications Committee.

(E) A representative of the Los Angeles County Office of Emergency Management, at the option of that agency.

(F) A representative or representatives of local government, at the option of the local government or governments.

(G) Representatives of the private sector who possess technology, experience, or insight that will aid in the development of a public-private partnership to expand an alert system to the public, including, but not limited to, representatives of providers of mass communication systems, first responders, and broadcasters.

(H) Additional representatives of any public or private entity as deemed appropriate by the ~~Secretary of Emergency Management~~ director.

(2) In performing its duties, the working group shall consult with the Federal Communications Commission, and with respect to grants and fiscal matters, the ~~California Office of Emergency Management Agency Services~~.

(c) The working group shall consider and make recommendations with respect to all of the following:

(1) Private and public programs, including pilot projects that attempt to integrate a public-private partnership to expand an alert system.

(2) Protocols, including formats, source or originator identification, threat severity, hazard description, and response requirements or recommendations, for alerts to be transmitted via an alert system that ensures that alerts are capable of being utilized across the broadest variety of communication technologies, at state and local levels.

(3) Protocols and guidelines to prioritize assurance of the greatest level of interoperability for first responders and families of first responders.

(4) Procedures for verifying, initiating, modifying, and canceling alerts transmitted via an alert system.

(5) Guidelines for the technical capabilities of an alert system.

(6) Guidelines for technical capability that provides for the priority transmission of alerts.

(7) Guidelines for other capabilities of an alert system.

(8) Standards for equipment and technologies used by an alert system.

(9) Cost estimates.

(10) Standards and protocols in accordance with, or in anticipation of, Federal Communications Commission requirements and federal statutes or regulations.

(11) Liability issues.

(d) The ~~secretary~~ director may accept private monetary or in-kind donations for the purposes of this section.

SEC. 131. Section 8596 of the Government Code is amended to read:

8596. (a) Each department, division, bureau, board, commission, officer, and employee of this state shall render all possible assistance to the Governor and to the ~~Secretary~~ Director of Emergency Management in carrying out ~~the provisions of this~~ chapter.

(b) In providing that assistance, state agencies shall cooperate to the fullest possible extent with each other and with political subdivisions, relief agencies, and the American National Red Cross, but nothing contained in this chapter shall be construed to limit or in any way affect the responsibilities of the American National Red Cross under the federal act approved January 5, 1905 (33 Stat. 599), as amended.

(c) Entities providing disaster-related services and assistance shall strive to ensure that all victims receive the assistance that they need and for which they are eligible. Public employees shall assist evacuees and other individuals in securing disaster-related assistance and services without eliciting any information or document that is not strictly necessary to determine eligibility under state and federal laws. Nothing in this subdivision shall prevent public employees from taking reasonable steps to protect the health or safety of evacuees and other individuals during an emergency.

(d) State personnel, equipment, and facilities may be used to clear and dispose of debris on private property only after the Governor finds: (1) that the use is for a state purpose; (2) that the use is in the public interest, serving the general welfare of the state; and (3) that the personnel, equipment, and facilities are already in the emergency area.

SEC. 132. Section 8599 of the Government Code is amended to read:

8599. The ~~California Office of Emergency Management Agency Services~~ shall develop a plan for state and local governmental agencies to utilize volunteer resources during a state of emergency proclaimed by the Governor. The ~~agency office~~ shall consult with appropriate state and local governmental agencies and volunteer organizations in the development of this plan.

SEC. 133. Section 8600 of the Government Code is amended to read:

8600. The Governor with the advice of the ~~California Office of Emergency Management Agency Services~~ is hereby authorized and empowered to divide the state into mutual aid regions for the more effective application, administration, and coordination of mutual aid and other emergency-related activities.

SEC. 134. Section 8607 of the Government Code is amended to read:

8607. (a) The ~~California Office of Emergency Management Agency Services~~, in coordination with all interested state agencies with designated response roles in the state emergency plan and interested local emergency management agencies shall jointly establish by regulation a standardized emergency management system for use by all emergency response agencies. The public water systems identified in Section 8607.2 may review and comment on these regulations prior to adoption. This system shall be applicable, but not limited to, those emergencies or disasters referenced in the state emergency plan. The standardized emergency management system shall include all of the following systems as a framework for responding to and managing emergencies and disasters involving multiple jurisdictions or multiple agency responses:

(1) The Incident Command Systems adapted from the systems originally developed by the FIRESCOPE Program, including those currently in use by state agencies.

(2) The multiagency coordination system as developed by the FIRESCOPE Program.

(3) The mutual aid agreement, as defined in Section 8561, and related mutual aid systems such as those used in law enforcement, fire service, and coroners operations.

(4) The operational area concept, as defined in Section 8559.

(b) Individual agencies' roles and responsibilities agreed upon and contained in existing laws or the state emergency plan are not superseded by this article.

(c) ~~The California Office of Emergency Management Agency Services~~, in coordination with the State Fire Marshal's office, the Department of the California Highway Patrol, the Commission on Peace Officer Standards and Training, the Emergency Medical Services Authority, and all other interested state agencies with designated response roles in the state emergency plan, shall jointly develop an approved course of instruction for use in training all emergency response personnel, consisting of the concepts and procedures associated with the standardized emergency management system described in subdivision (a).

(d) All state agencies shall use the standardized emergency management system as adopted pursuant to subdivision (a), to coordinate multiple jurisdiction or multiple agency emergency and disaster operations.

(e) (1) Each local agency, in order to be eligible for any funding of response-related costs under disaster assistance programs, shall use the standardized

emergency management system as adopted pursuant to subdivision (a) to coordinate multiple jurisdiction or multiple agency operations.

(2) Notwithstanding paragraph (1), local agencies shall be eligible for repair, renovation, or any other nonpersonnel costs resulting from an emergency.

(f) ~~The California Office of Emergency Management Agency Services~~ shall, in cooperation with involved state and local agencies, complete an after-action report within 120 days after each declared disaster. This report shall review public safety response and disaster recovery activities and shall be made available to all interested public safety and emergency management organizations.

SEC. 135. Section 8607.2 of the Government Code is amended to read:

8607.2. (a) All public water systems, as defined in subdivision (f) of Section 116275 of the Health and Safety Code, with 10,000 or more service connections shall review and revise their disaster preparedness plans in conjunction with related agencies, including, but not limited to, local fire departments and the ~~California Office of Emergency Management Agency Services~~ to ensure that the plans are sufficient to address possible disaster scenarios. These plans should examine and review pumping station and distribution facility operations during an emergency, water pressure at both pumping stations and hydrants, and whether there is sufficient water reserve levels and alternative emergency power, including, but not limited to, onsite backup generators and portable generators.

(b) All public water systems, as defined in subdivision (f) of Section 116275 of the Health and Safety Code, with 10,000 or more service connections following a declared state of emergency shall furnish an assessment of their emergency response

and recommendations to the Legislature within six months after each disaster, as well as implementing the recommendations in a timely manner.

(c) ~~The California Office of Emergency Management Agency Services~~ shall establish appropriate and insofar as practical, emergency response and recovery plans, including mutual aid plans, in coordination with public water systems, as defined in subdivision (f) of Section 116275 of the Health and Safety Code, with 10,000 or more service connections.

SEC. 136. Section 8608 of the Government Code is amended to read:

8608. ~~The California Office of Emergency Management Agency Services~~ shall approve and adopt, and incorporate the California Animal Response Emergency System (CARES) program developed under the oversight of the Department of Food and Agriculture into the standardized emergency management system established pursuant to subdivision (a) of Section 8607.

SEC. 137. Section 8610 of the Government Code is amended to read:

8610. Counties, cities and counties, and cities may create disaster councils by ordinance. A disaster council shall develop plans for meeting any condition constituting a local emergency or state of emergency, including, but not limited to, earthquakes, natural or manmade disasters specific to that jurisdiction, or state of war emergency; those plans shall provide for the effective mobilization of all of the resources within the political subdivision, both public and private. The disaster council shall supply a copy of any plans developed pursuant to this section to the ~~California Office of Emergency Management Agency Services~~. The governing body of a county, city and county, or city may, in the ordinance or by resolution adopted pursuant to the ordinance,

provide for the organization, powers and duties, divisions, services, and staff of the emergency organization. The governing body of a county, city and county, or city may, by ordinance or resolution, authorize public officers, employees, and registered volunteers to command the aid of citizens when necessary in the execution of their duties during a state of war emergency, a state of emergency, or a local emergency.

Counties, cities and counties, and cities may enact ordinances and resolutions and either establish rules and regulations or authorize disaster councils to recommend to the director of the local emergency organization rules and regulations for dealing with local emergencies that can be adequately dealt with locally; and further may act to carry out mutual aid on a voluntary basis and, to this end, may enter into agreements.

SEC. 138. Section 8610.5 of the Government Code is amended to read:

8610.5. (a) For purposes of this section, the following definitions shall apply:

(1) “Agency” or “office” means the California Office of Emergency Management Agency Services.

(2) “Previous fiscal year” means the fiscal year immediately prior to the current fiscal year.

(3) “Utility” means an “electrical corporation” as defined in Section 218 of the Public Utilities Code, and “utilities” means more than one electrical corporation.

(b) (1) State and local costs to carry out activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code that are not reimbursed by federal funds shall be borne by utilities operating nuclear powerplants with a generating capacity of 50 megawatts or more.

(2) The Public Utilities Commission shall develop and transmit to the ~~agency office~~ office an equitable method of assessing the utilities operating the powerplants for their reasonable pro rata share of state agency costs specified in paragraph (1).

(3) Each local government involved shall submit a statement of its costs specified in paragraph (1), as required, to the ~~agency office~~ office.

(4) Upon each utility's notification by the ~~agency office~~ office, from time to time, of the amount of its share of the actual or anticipated state and local agency costs, the utility shall pay this amount to the Controller for deposit in the Nuclear Planning Assessment Special Account, which is continued in existence, for allocation by the Controller, upon appropriation by the Legislature, to carry out activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The Controller shall pay from this account the state and local costs relative to carrying out this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, upon certification thereof by the ~~agency office~~ office.

(5) Upon appropriation by the Legislature, the Controller may disburse up to 80 percent of a fiscal year allocation from the Nuclear Planning Assessment Special Account, in advance, for anticipated local expenses, as certified by the agency pursuant to paragraph (4). The ~~agency office~~ office shall review program expenditures related to the balance of funds in the account and the Controller shall pay the portion, or the entire balance, of the account, based upon those approved expenditures.

(c) (1) The total annual disbursement of state costs from the utilities operating the nuclear powerplants within the state for activities pursuant to this section and

Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, shall not exceed the lesser of the actual costs or the maximum funding levels established in this section, subject to subdivisions (e) and (f), to be shared equally among the utilities.

(2) Of the annual amount of two million forty-seven thousand dollars (\$2,047,000) for the 2009–10 fiscal year, the sum of one million ninety-four thousand dollars (\$1,094,000) shall be for support of the ~~agency~~ office for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, and the sum of nine hundred fifty-three thousand dollars (\$953,000) shall be for support of the State Department of Public Health for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code.

(d) (1) The total annual disbursement for each fiscal year, commencing July 1, 2009, of local costs from the utilities shall not exceed the lesser of the actual costs or the maximum funding levels established in this section, in support of activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The maximum annual amount available for disbursement for local costs, subject to subdivisions (e) and (f), shall, for the fiscal year beginning July 1, 2009, be one million seven hundred thirty-two thousand dollars (\$1,732,000) for the Diablo Canyon site and one million six hundred thousand dollars (\$1,600,000) for the San Onofre site.

(2) The amounts paid by the utilities under this section shall be allowed for ratemaking purposes by the Public Utilities Commission.

(e) (1) Except as provided in paragraph (2), the amounts available for disbursement for state and local costs as specified in this section shall be adjusted and compounded each fiscal year by the percentage increase in the California Consumer Price Index of the previous fiscal year.

(2) For the Diablo Canyon site, the amounts available for disbursement for state and local costs as specified in this section shall be adjusted and compounded each fiscal year by the larger of the percentage change in the prevailing wage for San Luis Obispo County employees, not to exceed 5 percent, or the percentage increase in the California Consumer Price Index from the previous fiscal year.

(f) Through the inoperative date specified in subdivision (g), the amounts available for disbursement for state and local costs as specified in this section shall be cumulative biennially. Any unexpended funds from a year shall be carried over for one year. The funds carried over from the previous year may be expended when the current year's funding cap is exceeded.

(g) This section shall become inoperative on July 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, which becomes effective on or before July 1, 2019, deletes or extends the dates on which it becomes inoperative and is repealed.

(h) Upon inoperation of this section, any amounts remaining in the special account shall be refunded pro rata to the utilities contributing thereto, to be credited to the utility's ratepayers.

SEC. 139. Section 8612 of the Government Code is amended to read:

8612. Any disaster council that both agrees to follow the rules and regulations established by the ~~California Office of Emergency Management Agency Services~~ pursuant to Section 8585.5 and substantially complies with those rules and regulations shall be certified by the ~~agency office~~. Upon that certification, and not before, the disaster council becomes an accredited disaster council.

SEC. 140. Section 8613 of the Government Code is amended to read:

8613. Should an accredited disaster council fail to comply with the rules and regulations of the ~~California Office of Emergency Management Agency Services~~ in any material degree, the ~~agency office~~ may revoke its certification and, upon the act of revocation, the disaster council shall lose its accredited status. It may again become an accredited disaster council in the same manner as is provided for a disaster council that has not previously been accredited.

SEC. 141. Section 8614 of the Government Code is amended to read:

8614. (a) Each department, division, bureau, board, commission, officer, and employee of each political subdivision of the state shall render all possible assistance to the Governor and to the ~~Secretary~~ Director of ~~Emergency Management Services~~ in carrying out ~~the provisions of~~ this chapter.

(b) The emergency power that may be vested in a local public official during a state of war emergency or a state of emergency shall be subject or subordinate to the powers vested in the Governor under this chapter when exercised by the Governor.

(c) Ordinances, orders, and regulations of a political subdivision shall continue in effect during a state of war emergency or a state of emergency, except as to any provision suspended or superseded by an order or regulation issued by the Governor.

SEC. 142. Section 8649 of the Government Code is amended to read:

8649. Subject to the approval of the Department of Finance, any state agency may use its personnel, property, equipment, and appropriations for carrying out the purposes of this chapter, and in that connection may loan personnel to the ~~California Office of Emergency Management Agency Services~~. The Department of Finance shall determine whether reimbursement shall be made to any state agency for expenditures heretofore or hereafter made or incurred for those purposes from any appropriation available for the ~~California Office of Emergency Management Agency Services~~, except that as to any expenditure made or incurred by any state agency the funds of which are subject to constitutional restriction that would prohibit their use for those purposes, that reimbursement shall be provided and the original expenditure shall be considered a temporary loan to the General Fund.

SEC. 143. Section 8651 of the Government Code is amended to read:

8651. The ~~Secretary~~ Director of ~~Emergency Management Services~~ may procure from the federal government or any of its agencies such surplus equipment, apparatus, supplies, and storage facilities therefor as may be necessary to accomplish the purposes of this chapter.

SEC. 144. Section 8657 of the Government Code is amended to read:

8657. (a) Volunteers duly enrolled or registered with the ~~California Office of Emergency Management Agency Services~~ or any disaster council of any political subdivision, or unregistered persons duly impressed into service during a state of war emergency, a state of emergency, or a local emergency, in carrying out, complying with, or attempting to comply with, any order or regulation issued or promulgated

pursuant to the provisions of this chapter or any local ordinance, or performing any of their authorized functions or duties or training for the performance of their authorized functions or duties, shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of the state and its political subdivisions performing similar work for their respective entities.

(b) No political subdivision or other public agency under any circumstances, nor the officers, employees, agents, or duly enrolled or registered volunteers thereof, or unregistered persons duly impressed into service during a state of war emergency, a state of emergency, or a local emergency, acting within the scope of their official duties under this chapter or any local ordinance shall be liable for personal injury or property damage sustained by any duly enrolled or registered volunteer engaged in or training for emergency preparedness or relief activity, or by any unregistered person duly impressed into service during a state of war emergency, a state of emergency, or a local emergency and engaged in such service. The foregoing shall not affect the right of any such person to receive benefits or compensation which may be specifically provided by the provisions of any federal or state statute nor shall it affect the right of any person to recover under the terms of any policy of insurance.

(c) The California Earthquake Prediction Evaluation Council, an advisory committee established pursuant to Section 8590 of this chapter, may advise the Governor of the existence of an earthquake or volcanic prediction having scientific validity. In its review, hearings, deliberations, or other validation procedures, members of the council, jointly and severally, shall have the same degree of responsibility for their actions and enjoy the same immunities as officers and employees of the state and its

political subdivisions engaged in similar work in their respective entities. Any person making a presentation to the council as part of the council's validation process, including presentation of a prediction for validation, shall be deemed a member of the council until the council has found the prediction to have or not have scientific validity.

SEC. 145. Section 8657.5 of the Government Code is amended to read:

8657.5. (a) (1) A private business included on the statewide registry pursuant to Section 8588.2 that voluntarily and without expectation and receipt of compensation donates services, goods, labor, equipment, resources, or dispensaries or other facilities, in compliance with Section 8588.2, during a declared state of war, state of emergency, or state of local emergency shall not be civilly liable for a death, injury, illness, or other damage to a person or property caused by the private business's donation of services, goods, labor, equipment, resources, or dispensaries or other facilities.

(2) A private business included on the statewide registry that voluntarily and without expectation and receipt of compensation donates services, goods, labor, equipment, resources, or dispensaries or other facilities, in compliance with Section 8588.2, during an emergency medical services training program conducted by the California Office of Emergency Management Agency Services and a city, a county, or a city and county shall not be civilly liable for damages alleged to have resulted from those training programs, as described in Section 1799.100 of the Health and Safety Code.

(b) (1) A nonprofit organization included on the statewide registry pursuant to Section 8588.2 that voluntarily and without expectation and receipt of compensation from victims of emergencies and disasters donates services, goods, labor, equipment,

resources, or dispensaries or other facilities, in compliance with Section 8588.2, during a declared state of war, state of emergency, or state of local emergency shall not be civilly liable for a death, injury, illness, or other damage to a person or property caused by the nonprofit organization's donation of services, goods, labor, equipment, resources, or dispensaries or other facilities.

(2) A nonprofit organization included on the statewide registry that voluntarily and without expectation and receipt of compensation donates services, goods, labor, equipment, resources, or dispensaries or other facilities, in compliance with Section 8588.2, during an emergency medical services training program conducted by the California Office of Emergency Management Agency Services and a city, a county, or a city and county, shall not be civilly liable for damages alleged to have resulted from those training programs, as described in Section 1799.100 of the Health and Safety Code.

(c) A private business or nonprofit organization that discriminates against a victim of an emergency or disaster based on a protected classification under federal or state law shall not be entitled to the protections in subdivision (a) or (b).

(d) This section shall not relieve a private business or nonprofit organization from liability caused by its grossly negligent act or omission, or willful or wanton misconduct.

SEC. 146. Section 8670.20 of the Government Code is amended to read:

8670.20. (a) For the purposes of this section, "vessel" means a vessel, as defined in Section 21 of the Harbors and Navigation Code, of 300 gross registered tons or more.

(b) Any party responsible for a vessel shall notify the Coast Guard within one hour of a disability if the disabled vessel is within 12 miles of the shore of this state. The administrator and the ~~California Office of Emergency Management Agency Services~~ shall request the Coast Guard to notify the ~~California Office of Emergency Management Agency Services~~ as soon as possible after the Coast Guard receives notice of a disabled vessel within 12 miles of the shore of this state. The administrator shall attempt to negotiate an agreement with the Coast Guard governing procedures for Coast Guard notification to the state regarding disabled vessels.

(c) Whenever the ~~California Office of Emergency Management Agency Services~~ receives notice of a disabled vessel, the office shall immediately notify the administrator. If the administrator receives notice from any other source regarding the presence of a disabled vessel within 12 miles of the shore of this state, the administrator shall immediately notify the ~~California Office of Emergency Management Agency Services~~.

(d) For the purposes of this section, a vessel shall be considered disabled if any of the following occurs:

(1) Any accidental or intentional grounding that creates a hazard to the environment or the safety of the vessel.

(2) Loss of main propulsion or primary steering or any component or control system that causes a reduction in the maneuvering capabilities of the vessel. For the purposes of this paragraph, "loss" means that any system, component, part, subsystem, or control system does not perform the specified or required function.

(3) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service, including, but not limited to, fire, flooding, or collision with another vessel.

(4) Any occurrence not meeting the above criteria, but that creates the serious possibility of an oil spill or an occurrence that may result in an oil spill.

(e) For the purposes of this section, a tank barge shall be considered disabled if any of the following occur:

(1) The towing mechanism becomes disabled.

(2) The tugboat towing the tank barge becomes disabled through occurrences specified in subdivision (d).

SEC. 147. Section 8670.25.5 of the Government Code is amended to read:

8670.25.5. (a) (1) Without regard to intent or negligence, any party responsible for the discharge or threatened discharge of oil in marine waters shall report the discharge immediately to the California Office of Emergency Management Agency Services pursuant to Section 25507 of the Health and Safety Code.

(2) If the information initially reported pursuant to paragraph (1) was inaccurate or incomplete, or if the quantity of oil discharged has changed, any party responsible for the discharge or threatened discharge of oil in marine waters shall report the updated information immediately to the California Office of Emergency Management Agency Services pursuant to paragraph (1). The report shall contain the accurate or complete information, or the revised quantity of oil discharged.

(b) Immediately upon receiving notification pursuant to subdivision (a), the California Office of Emergency Management Agency Services shall notify the

administrator, the State Lands Commission, the California Coastal Commission, the California regional water quality control board having jurisdiction over the location of the discharged oil, and the appropriate local governmental agencies in the area surrounding the discharged oil, and take the actions required by subdivision (d) of Section 8589.7. If the spill has occurred within the jurisdiction of the San Francisco Bay Conservation and Development Commission, the ~~California Office of Emergency Management Agency Services~~ shall notify that commission. Each public agency specified in this subdivision shall adopt an internal protocol over communications regarding the discharge of oil and file the internal protocol with the ~~California Office of Emergency Management Agency Services~~.

(c) The 24-hour emergency telephone number of the ~~California Office of Emergency Management Agency Services~~ shall be posted at every terminal, at the area of control of every marine facility, and on the bridge of every tankship in marine waters.

(d) This section does not apply to discharges, or potential discharges, of less than one barrel (42 gallons) of oil unless a more restrictive reporting standard is adopted in the California oil spill contingency plan prepared pursuant to Section 8574.1.

(e) Except as otherwise provided in this section and Section 8589.7, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency.

SEC. 148. Section 8670.26 of the Government Code is amended to read:

8670.26. Any local or state agency responding to a spill of oil shall notify the ~~California Office of Emergency Management Agency Services~~, if notification as required under Section 8670.25.5, Section 13272 of the Water Code, or any other

notification procedure adopted in the California oil spill contingency plan has not occurred.

SEC. 149. Section 8670.64 of the Government Code is amended to read:

8670.64. (a) A person who commits any of the following acts, shall, upon conviction, be punished by imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code:

(1) Except as provided in Section 8670.27, knowingly fails to follow the direction or orders of the administrator in connection with an oil spill.

(2) Knowingly fails to notify the Coast Guard that a vessel is disabled within one hour of the disability and the vessel, while disabled, causes a discharge of oil which enters marine waters. For the purposes of this paragraph, "vessel" means a vessel, as defined in Section 21 of the Harbors and Navigation Code, of 300 gross registered tons or more.

(3) Knowingly engages in or causes the discharge or spill of oil into marine waters, or a person who reasonably should have known that he or she was engaging in or causing the discharge or spill of oil into marine waters, unless the discharge is authorized by the United States, the state, or another agency with appropriate jurisdiction.

(4) Knowingly fails to begin cleanup, abatement, or removal of spilled oil as required in Section 8670.25.

(b) The court shall also impose upon a person convicted of violating subdivision (a), a fine of not less than five thousand dollars (\$5,000) or more than five hundred

thousand dollars (\$500,000) for each violation. For purposes of this subdivision, each day or partial day that a violation occurs is a separate violation.

(c) (1) A person who knowingly does any of the acts specified in paragraph (2) shall, upon conviction, be punished by a fine of not less than two thousand five hundred dollars (\$2,500) or more than two hundred fifty thousand dollars (\$250,000), or by imprisonment in a county jail for not more than one year, or by both the fine and imprisonment. Each day or partial day that a violation occurs is a separate violation. If the conviction is for a second or subsequent violation of this subdivision, the person shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail for not more than one year, or by a fine of not less than five thousand dollars (\$5,000) or more than five hundred thousand dollars (\$500,000), or by both that fine and imprisonment:

(2) The acts subject to this subdivision are all of the following:

(A) Failing to notify the ~~California Office of Emergency Management Agency~~ Services in violation of Section 8670.25.5.

(B) Knowingly making a false or misleading marine oil spill report to the ~~California Office of Emergency Management Agency~~ Services.

(C) Continuing operations for which an oil spill contingency plan is required without an oil spill contingency plan approved pursuant to Article 5 (commencing with Section 8670.28).

(D) Except as provided in Section 8670.27, knowingly failing to follow the material provisions of an applicable oil spill contingency plan.

SEC. 150. Section 8682 of the Government Code is amended to read:

8682. The ~~secretary~~ director shall administer this chapter. The ~~secretary~~ director may delegate any power or duty vested in him or her under this chapter to a state agency or to any other officer or employee of the ~~California Office of Emergency Management Agency Services~~.

SEC. 151. Section 8682.9 of the Government Code is amended to read:

8682.9. The ~~secretary~~ director shall adopt regulations, as necessary, to govern the administration of the disaster assistance program authorized by this chapter in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3). These regulations shall include specific project eligibility requirements, a procedure for local governments to request the implementation of programs under this chapter, and a method for evaluating these requests by the ~~California Office of Emergency Management Agency Services~~.

SEC. 152. Section 8685 of the Government Code is amended to read:

8685. From any moneys appropriated for that purpose, and subject to the conditions specified in this article, the ~~secretary~~ director shall allocate funds to meet the cost of any one or more projects as defined in Section 8680.4. Applications by school districts shall be submitted to the Superintendent of Public Instruction for review and approval, in accordance with instructions or regulations developed by the ~~California Office of Emergency Management Agency Services~~, prior to the allocation of funds by the ~~secretary~~ director.

Moneys appropriated for the purposes of this chapter may be used to provide financial assistance for the following local agency and state costs:

(a) Local agency personnel costs, equipment costs, and the cost of supplies and materials used during disaster response activities, incurred as a result of a state of emergency proclaimed by the Governor, excluding the normal hourly wage costs of employees engaged in emergency work activities.

(b) To repair, restore, reconstruct, or replace facilities belonging to local agencies damaged as a result of disasters as defined in Section 8680.3. Mitigation measures performed pursuant to subdivision (b) of Section 8686.4 shall qualify for funding pursuant to this chapter.

(c) Matching fund assistance for cost sharing required under federal disaster assistance programs, as otherwise eligible under this act.

(d) Indirect administrative costs and any other assistance deemed necessary by the director.

(e) Necessary and required site preparation costs for mobilehomes, travel trailers, and other manufactured housing units provided and operated by the Federal Emergency Management Agency.

SEC. 153. Section 8687.7 of the Government Code is amended to read:

8687.7. (a) As used in this section, the following terms have the following meanings:

(1) “Agency” or “office” means the California Office of Emergency Management Agency Services.

(2) “Community” means a geographic area impacted by an emergency proclaimed by the Governor that includes the jurisdiction of one or more local agencies.

(3) “Community recovery partners” means local, state, and federal agencies, private nonprofit organizations, nongovernmental agencies, faith-based organizations, and other private entities.

(b) The ~~agency office~~ may establish a model process that would be made available to assist a community in recovering from an emergency proclaimed by the Governor. The model process may include the following:

- (1) The role of the ~~agency office~~ in the community recovery process.
- (2) Procedures for the ~~agency office~~ to have representation onsite as soon as practicable after the Governor proclaims a state of emergency.
- (3) The role of the ~~agency office~~ to facilitate the use of temporary services, including, but not limited to, direct assistance to individuals, families, and businesses, crisis counseling, disaster unemployment assistance, food and clothing vouchers, communications systems, replacement of personal identification documents, provision of potable water, housing, farm service assistance, tax relief, insurance, and legal services.
- (4) The role of the ~~agency office~~ to facilitate the establishment of temporary structures, including local assistance centers, showers and bathroom facilities, and temporary administrative offices.
- (5) Measures to encourage the participation of nongovernmental organizations in the community recovery process to supplement recovery activities undertaken by federal or local agencies.

(6) The agency office may refer the model process to the standardized Emergency Management System (SEMS) Advisory Board, or any other advisory board it deems appropriate, for review and modifications.

(7) It is the intent of the Legislature that the model process assists and complements local procedures. The model process should allow the agency office to offer additional assistance when that assistance is needed but not available through local agencies.

SEC. 154. Section 8692 of the Government Code is amended to read:

8692. (a) If a state of emergency is proclaimed, an eligible private nonprofit organization may receive state assistance for distribution of supplies and other disaster or emergency assistance activities resulting in extraordinary cost.

(b) A private nonprofit organization is eligible for assistance under this section if it is eligible for disaster assistance under the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Sec. 5121).

(c) An organization is not eligible for assistance under this section if it employs religious content in the provision of emergency assistance.

(d) Any grant of assistance under this section shall comply with Section 4 of Article I and Section 5 of Article XVI of the California Constitution, state and federal civil rights laws, and the First Amendment to the United States Constitution in regard to the funding of religious organizations and activities. These legal constraints include prohibitions on the discrimination against beneficiaries and staff based on protected categories, on the use of public funds for proselytizing of religious doctrine, religious

instruction, or worship, and on the use of other religious means to accomplish programmatic goals.

(e) ~~The California Office of Emergency Management Agency Services~~ shall adopt regulations to implement this section.

SEC. 155. Section 8840 of the Government Code is amended to read:

8840. For purposes of this article, “eligible radio station” means a radio station that, at the time of applying for a grant under this article, meets both of the following requirements:

(a) It has met all of the following requirements for a period of two years unless another time is specified:

(1) It is licensed by the Federal Communications Commission as a noncommercial educational station, or is operating under program test authority pending the grant of a license.

(2) It has its community of license and principal administrative offices in this state and is not owned, controlled, managed, or primarily financed by any corporation or entity outside of this state.

(3) It provides a program service that meets the requirements for a Community Service Grant from the Corporation for Public Broadcasting.

(4) It provides significant locally originated programming in its community of license.

(5) It broadcasts not less than 15 hours per day, 365 days per year.

(6) It participates in statewide public broadcasting projects.

(7) It has provided, prior to its application for a grant under this article, an audited financial statement for the years on which the grant is based.

(8) It does either of the following:

(A) Meets the criteria for receipt of a Community Service Grant from the Corporation for Public Broadcasting that were in effect on June 30, 1995.

(B) Two months prior to applying for a grant, the station has a full-time staff of at least one professional paid not less than the California minimum wage, and is certified by the council as providing a needed service to its community of license.

(b) It enters into a permanent agreement with the ~~California~~ Office of Emergency Management Agency Services to dedicate, as necessary, a broadcast channel for the provision of emergency information, to broadcast that information, and to ensure that it is presented in a format that makes it accessible to the deaf, hearing-impaired, and non-English-speaking populations throughout its broadcast area, including rural and isolated populations.

SEC. 156. Section 8841 of the Government Code is amended to read:

8841. For purposes of this article, "eligible television station" means a television station that, at the time of applying for a grant under this article, unless another time is specified, meets all of the following requirements:

(a) It has met all of the following requirements for a period of two years:

(1) It is licensed by the Federal Communications Commission as a noncommercial educational television station, or is operating under program test authority pending the grant of a license.

(2) It has its community of license and principal administrative offices in this state, and is not owned, controlled, managed, or primarily financed by any corporation or entity outside of this state.

(3) It provides a program service that meets the requirements for a Community Service Grant from the Corporation for Public Broadcasting.

(4) It provides substantial and significant locally originated programming in its community of license.

(5) It broadcasts not less than 2,500 hours per year.

(6) It participates in statewide public broadcasting projects.

(7) It meets the criteria for receipt of a Community Service Grant or base grant from the Corporation for Public Broadcasting that were in effect on June 30, 1994.

(8) It has provided, prior to its application for a grant under this article, an audited financial statement for the years on which the grant is based.

(b) It enters into a permanent agreement with the ~~California~~ Office of Emergency Management Agency Services to dedicate, as necessary, a broadcast channel for the provision of emergency information, to broadcast that information, and to ensure that it is presented in a format that makes it accessible to the deaf, hearing-impaired, and non-English-speaking populations throughout its broadcast area, including rural and isolated populations.

(c) At the time of disbursement of the funds, it certifies in writing by the station manager or an officer of the licensee that it has in its public file a plan to address the needs of significant linguistic minorities in its service area.

SEC. 157. Section 8844 of the Government Code is amended to read:

8844. (a) Recognizing the necessity of converting California stations to the technologies of digital broadcasting, the Legislature intends that funds may be appropriated to the ~~California Office of Emergency Management Agency Services~~ for the purchase of equipment by eligible stations, the installation of that equipment, or purchase of other materials related to that equipment, pursuant to this article.

(b) ~~The agency office~~ shall solicit applications for grant funds from eligible stations throughout the state, and shall allocate funds appropriated pursuant to subdivision (a) as follows:

(1) Seventy-five percent of any equipment purchase funds appropriated pursuant to subdivision (a) shall be placed in an equipment grant pool for eligible television stations, and 25 percent shall be placed in an equipment grant pool for eligible radio stations.

(2) Fifty percent of the funds in each grant pool shall be divided equally among the stations in that grant pool.

(3) The remaining 50 percent of the funds in each grant pool shall be divided among stations in that grant pool in proportion to their nonfederal financial support.

(c) (1) Funds provided under this section shall be granted on a matching basis, with each station required to raise from other sources an amount equal to the funds provided to it under this section.

(2) If any funds remain in either grant pool because of the limitations set forth in paragraph (1), the remaining funds shall be returned to the same pool for distribution to other stations that have raised the required matching funds, in amounts proportionate to the nonfederal financial support of those stations.

SEC. 158. Section 8870.1 of the Government Code is amended to read:

8870.1. (a) (1) There is created in the state government the Alfred E. Alquist Seismic Safety Commission as an independent unit within the ~~State~~ Business and Consumer Services Agency.

(2) Any reference in statute or regulation to the Seismic Safety Commission shall be deemed to refer to the Alfred E. Alquist Seismic Safety Commission.

(b) The commission shall report annually to the Governor and to the Legislature on its findings, progress, and recommendations relating to earthquake hazard reduction, and any other seismic safety issues, as requested by the Governor or the Legislature.

SEC. 159. Section 8870.2 of the Government Code is amended to read:

8870.2. (a) The Alfred E. Alquist Seismic Safety Commission shall consist of 15 members appointed by the Governor and confirmed by the Senate, one member representing the ~~California Office of Emergency Management Agency Services~~, one member representing the Division of the State Architect in the Department of General Services, one member representing the California State Building Standards Commission, one member appointed by the Senate Committee on Rules ~~Committee~~, and one member appointed by the Speaker of the Assembly. The commission shall elect annually from its membership its own chairperson and vice chairperson and may replace them with other commissioners by majority vote. Commission members shall be residents of California.

(b) A quorum shall consist of 11 members if there are no vacancies, or else a majority of the members of the commission at the time.

(c) The Legislature declares that the individuals appointed to the commission are intended to represent the professions of architecture, planning, fire protection, public utilities, structural engineering, geotechnical engineering, geology, seismology, local government, insurance, social services, emergency services, and the Legislature and that such representation serves the public interest. Accordingly, the Legislature finds that for purposes of persons who hold this office the specified professions are tantamount to and constitute the public generally within the meaning of Section 87103.

(d) The commission exists as a separate unit within the ~~State Business~~ and Consumer Services Agency, and has the functions of prescribing policy, holding meetings and setting dates of the meetings, conducting investigations, and holding hearings insofar as those powers are given by statute to the commission.

(e) The decisions and actions of the commission, with respect to exercising its authority and carrying out its duties under this chapter, or any other applicable law, are not subject to review by the Secretary of the ~~State Business~~ and Consumer Services Agency, but are final within the limits provided by this chapter.

(f) The Legislature further declares that the highest level of service that the individuals appointed to the commission can provide to the residents of California is to offer professional, unbiased, scientifically based advice to the Governor and the Legislature. To maintain this quality of service, it is imperative that the commission retain its functional autonomy and access to the Governor and the Legislature. As such, the commission shall retain its existing authority to issue reports, publications, and literature, as well as to sponsor legislation, and to take official positions on proposed state and federal legislation.

SEC. 160. Section 8870.4 of the Government Code is amended to read:

8870.4. (a) Except as provided in subdivision (d), the members of the Alfred E. Alquist Seismic Safety Commission shall serve without compensation, but shall be paid per diem expenses of one hundred dollars (\$100) for each day's attendance at a meeting of the commission, plus actual necessary travel expenses as determined by Department of ~~Personnel Administration~~ Human Resources rules.

(b) The members of the commission who represent the ~~California Office of Emergency Management Agency Services~~, the California Building Standards Commission, and the Division of the State Architect shall be employees in good standing of those respective entities. Any per diem and travel expenses of those members of the commission shall be paid by the agencies that they represent on the commission, in compliance with applicable conditions or regulations set by the Department of ~~Personnel Administration~~ Human Resources.

SEC. 161. Section 8870.7 of the Government Code is amended to read:

8870.7. The commission is responsible for all of the following in connection with earthquake hazard mitigation:

(a) Setting goals and priorities in the public and private sectors.

(b) Requesting appropriate state agencies to devise criteria to promote earthquake and disaster safety.

(c) Scheduling a report on disaster mitigation issues from the ~~California Office of Emergency Management Agency Services~~, on the commission agenda as required. For the purposes of this subdivision, the term disaster refers to all natural hazards which could have an impact on public safety.

(d) Recommending program changes to state agencies, local agencies, and the private sector where such changes would improve earthquake hazards and reduction.

(e) Reviewing the recovery and reconstruction efforts after damaging earthquakes.

(f) Gathering, analyzing, and disseminating information.

(g) Encouraging research.

(h) Sponsoring training to help improve the competence of specialized enforcement and other technical personnel.

(i) Helping to coordinate the earthquake safety activities of government at all levels.

(j) Establishing and maintaining necessary working relationships with any boards, commissions, departments, and agencies, or other public or private organizations.

SEC. 162. Section 8870.71 of the Government Code is amended to read:

8870.71. To implement the foregoing responsibilities, the commission may do any of the following:

(a) Review state budgets and review grant proposals, other than those grant proposals submitted by institutions of postsecondary education to the federal government, for earthquake-related activities and to advise the Governor and Legislature thereon.

(b) Review legislative proposals related to earthquake safety to advise the Governor and the Legislature concerning the proposals and to propose needed legislation.

(c) Recommend the addition, deletion, or changing of state agency standards when, in the commission's view, the existing situation creates undue hazards or when

new developments would promote earthquake hazard mitigation, and conduct public hearings as deemed necessary on the subjects.

(d) In the conduct of any hearing, investigation, inquiry, or study that is ordered or undertaken in any part of the state, administer oaths and issue subpoenas for the attendance of witnesses and the production of papers, records, reports, books, maps, accounts, documents, and testimony.

(e) In addition, the commission may perform any of the functions contained in subdivisions (a) to (d), inclusive, in relation to disasters, as defined in subdivision (c) of Section 8870.7, in connection with issues or items reported or discussed with the California Office of Emergency Management Agency Services at any commission meeting.

SEC. 163. Section 8871.3 of the Government Code is amended to read:

8871.3. (a) ~~The California Emergency Management Agency office~~ shall establish an interim state operations center in southern California to coordinate response to a major earthquake. ~~The agency office~~ shall also develop an operational communications plan for the center based upon an inventory of current communications capabilities and an assessment of structural vulnerabilities.

(b) ~~The California Emergency Management Agency office~~ shall undertake a design analysis regarding construction of a permanent state operations center in southern California, including an evaluation of telecommunications and information technology systems for emergency management functions.

(c) All appropriations for the purposes of subdivision (a) or (b) shall be reviewed by the Department of Finance prior to obligation of funds.

SEC. 164. Section 8871.4 of the Government Code is amended to read:

8871.4. The commission shall prepare the California Earthquake Hazard Reduction Program, in consultation with the ~~California Office of Emergency Management Agency Services~~, the Division of Mines and Geology in the Department of Conservation, the Office of the State Architect, the Emergency Medical Services Authority, the University of California and other appropriate institutions of higher learning, the California National Guard, the Department of Finance, other appropriate state and local agencies, the private sector, volunteer groups, and the Legislature.

The commission may hold public hearings or joint hearings with other groups and conduct other activities as necessary for the development of the program.

SEC. 165. Section 8876.7 of the Government Code is amended to read:

8876.7. In carrying out its responsibilities under this chapter, the Seismic Safety Commission, in close consultation with the ~~Business, Transportation and Housing Agency~~, the ~~California Office of Emergency Management Agency Services~~, and the ~~State Business and Consumers Consumer Services Agency~~, may do the following:

(a) Monitor the work of the center on behalf of the state.

(b) Produce and deliver for each year that the center is in operation, an independent evaluation of the work conducted at the center as it pertains to the objectives of the center and reducing earthquake losses and earthquake risk in the state recognizing that as a national center it will undertake basic research of national and international consequence as well. The report shall include the following tasks:

(1) Interpret the results of research to indicate how the research may affect state law and policy.

(2) Recommend ways to promote the application of research.

(3) Recommend priorities that would contribute to achieving the center's objectives, provide direct benefits to California residents and businesses, and lead to the completion of specific recommendations in the state's earthquake risk reduction program.

SEC. 166. Section 8878.52 of the Government Code is amended to read:

8878.52. As used in this chapter, the following terms have the following meanings:

(a) "Agency" or "office" means the ~~California Office of Emergency Management~~ Agency Services.

(b) "Committee" means the Earthquake Safety and Public Buildings Rehabilitation Finance Committee created pursuant to subdivision (a) of Section 8878.111.

(c) "Commission" means the Seismic Safety Commission.

(d) "Fund" means the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 created pursuant to Section 8878.55.

(e) "Local government" means any city, county, city and county, or special district.

(f) "Project" means a program of work to retrofit, reconstruct, repair, replace, or relocate, for local government-owned facilities only, a building, facility, or both, which is owned by any city, county, city and county, or special district and which is included in an application for a grant of funds.

(g) "State Architect" means the Office of the State Architect.

(h) “State building or facility” means any building or structure owned by a state agency, which is identified pursuant to Section 8878.60, except for vehicular bridges, roadways, highways, or any facilities or buildings owned by the University of California or the California State University.

(i) “Local government building or facility” means an existing essential services building, as defined in Section 16007 of the Health and Safety Code, or an emergency or public safety local building as identified in Section 8878.99, which is owned by a city, county, city and county, or special district.

(j) State or local government buildings shall not include those owned by private for-profit or private nonprofit corporations, or those owned by any combination, consortium, or joint powers agreement that includes a private nonprofit corporation.

(k) “Retrofit” means to either strengthen the structure of a building or facility, or to provide the means necessary to reduce the seismic force level experienced by a building or facility during an earthquake, so as to significantly reduce hazards to life and safety while concomitantly providing for the substantially safe egress of occupants during and immediately after such an earthquake.

SEC. 167. Section 8879.23 of the Government Code is amended to read:

8879.23. The Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006 is hereby created in the State Treasury. The Legislature intends that the proceeds of bonds deposited in the fund shall be used to fund the mobility, safety, and air quality improvements described in this article over the course of the next decade. The proceeds of bonds issued and sold pursuant to this chapter for the purposes specified in this chapter shall be allocated in the following manner:

(a) (1) Four billion five hundred million dollars (\$4,500,000,000) shall be deposited in the Corridor Mobility Improvement Account, which is hereby created in the fund. Funds in the account shall be available to the California Transportation Commission, upon appropriation in the annual Budget Bill by the Legislature, for allocation for performance improvements on highly congested travel corridors in California. Funds in the account shall be used for performance improvements on the state highway system, or major access routes to the state highway system on the local road system that relieve congestion by expanding capacity, enhancing operations, or otherwise improving travel times within these high-congestion travel corridors, as identified by the department and regional or local transportation agencies, pursuant to the process in paragraph (3) or (4), as applicable.

(2) The commission shall develop and adopt guidelines, by December 1, 2006, including regional programming targets, for the program funded by this subdivision, and shall allocate funds from the account to projects after reviewing project nominations submitted by the Department of Transportation and by regional transportation planning agencies or county transportation commissions or authorities pursuant to paragraph (4).

(3) Subject to the guidelines adopted pursuant to paragraph (2), the department shall nominate, by no later than January 15, 2007, projects for the allocation of funds from the account on a statewide basis. The department's nominations shall be geographically balanced and shall reflect the department's assessment of a program that best meets the policy objectives described in paragraph (1).

(4) Subject to the guidelines adopted pursuant to paragraph (2), a regional transportation planning agency or county transportation commission or authority responsible for preparing a regional transportation improvement plan under Section 14527 may nominate projects identified pursuant to paragraph (1) that best meet the policy objectives described in that paragraph for funding from the account. Projects nominated pursuant to this paragraph shall be submitted to the commission for consideration for funding by no later than January 15, 2007.

(5) All nominations to the California Transportation Commission shall be accompanied by documentation regarding the quantitative and qualitative measures validating each project's consistency with the policy objectives described in paragraph (1). All projects nominated to the commission for funds from this account shall be included in a regional transportation plan.

(6) After review of the project nominations, and supporting documentation, the commission, by no later than March 1, 2007, shall adopt an initial program of projects to be funded from the account. This program may be updated every two years in conjunction with the biennial process for adoption of the state transportation improvement program pursuant to guidelines adopted by the commission. The inclusion of a project in the program shall be based on a demonstration that the project meets all of the following criteria:

(A) Is a high-priority project in the corridor as demonstrated by either of the following: (i) its inclusion in the list of nominated projects by both the department pursuant to paragraph (3) and the regional transportation planning agency or county transportation commission or authority, pursuant to paragraph (4); or (ii) if needed to

fully fund the project, the identification and commitment of supplemental funding to the project from other state, local, or federal funds.

(B) Can commence construction or implementation no later than December 31, 2012.

(C) Improves mobility in a high-congestion corridor by improving travel times or reducing the number of daily vehicle hours of delay, improves the connectivity of the state highway system between rural, suburban, and urban areas, or improves the operation or safety of a highway or road segment.

(D) Improves access to jobs, housing, markets, and commerce.

(7) Where competing projects offer similar mobility improvements to a specific corridor, the commission shall consider additional benefits when determining which project shall be included in the program for funding. These benefits shall include, but are not limited to, the following:

(A) A finding that the project provides quantifiable air quality benefits.

(B) A finding that the project substantially increases the safety for travelers in the corridor.

(8) In adopting a program for funding pursuant to this subdivision, the commission shall make a finding that the program is geographically balanced, consistent with the geographic split for funding described in Section 188 of the Streets and Highways Code; provides mobility improvements in highly traveled or highly congested corridors in all regions of California; and targets bond proceeds in a manner that provides the increment of funding necessary, when combined with other state, local, or federal funds, to provide the mobility benefit in the earliest possible timeframe.

(9) The commission shall include in its annual report to the Legislature, required by Section 14535, a summary of its activities related to the administration of this program. The summary should, at a minimum, include a description and the location of the projects contained in the program, the amount of funds allocated to each project, the status of each project, and a description of the mobility improvements the program is achieving.

(b) One billion dollars (\$1,000,000,000) shall be made available, upon appropriation in the annual Budget Bill by the Legislature, to the department for improvements to State Route 99. Funds may be used for safety, operational enhancements, rehabilitation, or capacity improvements necessary to improve the State Route 99 corridor traversing approximately 400 miles of the central valley of this state.

(c) Three billion one hundred million dollars (\$3,100,000,000) shall be deposited in the California Ports Infrastructure, Security, and Air Quality Improvement Account, which is hereby created in the fund. The money in the account shall be available, upon appropriation by the Legislature and subject to such conditions and criteria as the Legislature may provide by statute, as follows:

(1) (A) Two billion dollars (\$2,000,000,000) shall be transferred to the Trade Corridors Improvement Fund, which is hereby created. The money in this fund shall be available, upon appropriation in the annual Budget Bill by the Legislature and subject to such conditions and criteria as the Legislature may provide by statute, for allocation by the California Transportation Commission for infrastructure improvements along federally designated "Trade Corridors of National Significance" in this state or along other corridors within this state that have a high volume of freight movement,

as determined by the commission. In determining projects eligible for funding, the commission shall consult the trade infrastructure and goods movement plan submitted to the commission by the Secretary of ~~Business, Transportation and Housing~~ and the Secretary for Environmental Protection. No moneys shall be allocated from this fund until the report is submitted to the commission for its consideration, provided the report is submitted no later than January 1, 2007. The commission shall also consult trade infrastructure and goods movement plans adopted by regional transportation planning agencies, adopted regional transportation plans required by state and federal law, and the statewide port master plan prepared by the California Marine and Intermodal Transportation System Advisory Council (Cal-MITSAC) pursuant to Section 1760 of the Harbors and Navigation Code, when determining eligible projects for funding. Eligible projects for these funds include, but are not limited to, all of the following:

(i) Highway capacity improvements and operational improvements to more efficiently accommodate the movement of freight, particularly for ingress and egress to and from the state's seaports, including navigable inland waterways used to transport freight between seaports, land ports of entry, and airports, and to relieve traffic congestion along major trade or goods movement corridors.

(ii) Freight rail system improvements to enhance the ability to move goods from seaports, land ports of entry, and airports to warehousing and distribution centers throughout California, including projects that separate rail lines from highway or local road traffic, improve freight rail mobility through mountainous regions, relocate rail switching yards, and other projects that improve the efficiency and capacity of the rail freight system.

(iii) Projects to enhance the capacity and efficiency of ports.

(iv) Truck corridor improvements, including dedicated truck facilities or truck toll facilities.

(v) Border access improvements that enhance goods movement between California and Mexico and that maximize the state's ability to access coordinated border infrastructure funds made available to the state by federal law.

(vi) Surface transportation improvements to facilitate the movement of goods to and from the state's airports.

(B) The commission shall allocate funds for trade infrastructure improvements from the account in a manner that (i) addresses the state's most urgent needs, (ii) balances the demands of various ports (between large and small ports, as well as between seaports, airports, and land ports of entry), (iii) provides reasonable geographic balance between the state's regions, and (iv) places emphasis on projects that improve trade corridor mobility while reducing emissions of diesel particulate and other pollutant emissions. In addition, the commission shall also consider the following factors when allocating these funds:

(i) "Velocity," which means the speed by which large cargo would travel from the port through the distribution system.

(ii) "Throughput," which means the volume of cargo that would move from the port through the distribution system.

(iii) "Reliability," which means a reasonably consistent and predictable amount of time for cargo to travel from one point to another on any given day or at any given time in California.

(iv) "Congestion reduction," which means the reduction in recurrent daily hours of delay to be achieved.

(C) The commission shall allocate funds made available by this paragraph to projects that have identified and committed supplemental funding from appropriate local, federal, or private sources. The commission shall determine the appropriate amount of supplemental funding each project should have to be eligible for moneys from this fund based on a project-by-project review and an assessment of the project's benefit to the state and the program. Except for border access improvements described in clause (v) of subparagraph (A), improvements funded with moneys from this fund shall have supplemental funding that is at least equal to the amount of the contribution from the fund. The commission may give priority for funding to projects with higher levels of committed supplemental funding.

(D) The commission shall include in its annual report to the Legislature, required by Section 14535, a summary of its activities related to the administration of this program. The summary should, at a minimum, include a description and the location of the projects contained in the program, the amount of funds allocated to each project, the status of each project, and a description of the mobility and air quality improvements the program is achieving.

(2) One billion dollars (\$1,000,000,000) shall be made available, upon appropriation by the Legislature and subject to such conditions and criteria contained in a statute enacted by the Legislature, to the State Air Resources Board for emission reductions, not otherwise required by law or regulation, from activities related to the movement of freight along California's trade corridors. Funds made available by this

paragraph are intended to supplement existing funds used to finance strategies and public benefit projects that reduce emissions and improve air quality in trade corridors commencing at the state's airports, seaports, and land ports of entry.

(3) One hundred million dollars (\$100,000,000) shall be available, upon appropriation by the Legislature, to the ~~California Office of Emergency Management Agency Services~~ to be allocated, as grants, for port, harbor, and ferry terminal security improvements. Eligible applicants shall be publicly owned ports, harbors, and ferryboat and ferry terminal operators, which may submit applications for projects that include, but are not limited to, the following:

- (A) Video surveillance equipment.
- (B) Explosives detection technology, including, but not limited to, X-ray devices.
- (C) Cargo scanners.
- (D) Radiation monitors.
- (E) Thermal protective equipment.
- (F) Site identification instruments capable of providing a fingerprint for a broad inventory of chemical agents.
- (G) Other devices capable of detecting weapons of mass destruction using chemical, biological, or other similar substances.
- (H) Other security equipment to assist in any of the following:
  - (i) Screening of incoming vessels, trucks, and incoming or outbound cargo.
  - (ii) Monitoring the physical perimeters of harbors, ports, and ferry terminals.
  - (iii) Providing or augmenting onsite emergency response capability.

(I) Overweight cargo detection equipment, including, but not limited to, intermodal crane scales and truck weight scales.

(J) Developing disaster preparedness or emergency response plans.

(d) Two hundred million dollars (\$200,000,000) shall be available, upon appropriation by the Legislature, for schoolbus retrofit and replacement to reduce air pollution and to reduce children's exposure to diesel exhaust.

(e) Two billion dollars (\$2,000,000,000) shall be available for projects in the state transportation improvement program, to augment funds otherwise available for this purpose from other sources. The funds provided by this subdivision shall be deposited in the Transportation Facilities Account which is hereby created in the fund, and shall be available, upon appropriation by the Legislature, to the Department of Transportation, as allocated by the California Transportation Commission in the same manner as funds allocated for those projects under existing law.

(f) (1) Four billion dollars (\$4,000,000,000) shall be deposited in the Public Transportation Modernization, Improvement, and Service Enhancement Account, which is hereby created in the fund. Funds in the account shall be made available, upon appropriation by the Legislature, to the Department of Transportation for intercity rail projects and to commuter or urban rail operators, bus operators, waterborne transit operators, and other transit operators in California for rehabilitation, safety or modernization improvements, capital service enhancements or expansions, new capital projects, bus or rapid transit improvements, or for rolling stock procurement, rehabilitation, or replacement.

(2) Of the funds made available in paragraph (1), four hundred million dollars (\$400,000,000) shall be available, upon appropriation by the Legislature, to the department for intercity rail improvements, of which one hundred twenty-five million dollars (\$125,000,000) shall be used for the procurement of additional intercity railcars and locomotives.

(3) Of the funds remaining after the allocations in paragraph (2), 50 percent shall be distributed to the Controller, for allocation to eligible agencies using the formula in Section 99314 of the Public Utilities Code, and 50 percent shall be distributed to the Controller, for allocation to eligible agencies using the formula in Section 99313 of the Public Utilities Code, subject to the provisions governing funds allocated under those sections.

(g) One billion dollars (\$1,000,000,000) shall be deposited in the State-Local Partnership Program Account, which is hereby created in the fund. The funds shall be available, upon appropriation by the Legislature and subject to such conditions and criteria as the Legislature may provide by statute, for allocation by the California Transportation Commission over a five-year period to eligible transportation projects nominated by an applicant transportation agency. A dollar-for-dollar match of local funds shall be required for an applicant transportation agency to receive state funds under this program.

(h) One billion dollars (\$1,000,000,000) shall be deposited in the Transit System Safety, Security, and Disaster Response Account, which is hereby created in the fund. Funds in the account shall be made available, upon appropriation by the Legislature and subject to such conditions and criteria as the Legislature may provide by statute,

for capital projects that provide increased protection against a security and safety threat, and for capital expenditures to increase the capacity of transit operators, including waterborne transit operators, to develop disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster impairing the mobility of goods, people, and equipment.

(i) One hundred twenty-five million dollars (\$125,000,000) shall be deposited in the Local Bridge Seismic Retrofit Account, which is hereby created in the fund. The funds in the account shall be used, upon appropriation by the Legislature, to provide the 11.5 percent required match for federal Highway Bridge Replacement and Repair funds available to the state for seismic work on local bridges, ramps, and overpasses, as identified by the Department of Transportation.

(j) (1) Two hundred fifty million dollars (\$250,000,000) shall be deposited in the Highway-Railroad Crossing Safety Account, which is hereby created in the fund. Funds in the account shall be available, upon appropriation by the Legislature, to the Department of Transportation for the completion of high-priority grade separation and railroad crossing safety improvements. Funds in the account shall be made available for allocation pursuant to the process established in Chapter 10 (commencing with Section 2450) of Division 3 of the Streets and Highways Code, except that a dollar-for-dollar match of nonstate funds shall be provided for each project, and the limitation on maximum project cost in subdivision (g) of Section 2454 of the Streets and Highways Code shall not be applicable to projects funded with these funds.

(2) Notwithstanding the funding allocation process described in paragraph (1), in consultation with the department and the Public Utilities Commission, the California

Transportation Commission shall allocate one hundred million dollars (\$100,000,000) of the funds in the account to high-priority railroad crossing improvements, including grade separation projects, that are not part of the process established in Chapter 10 (commencing with Section 2450) of Division 3 of the Streets and Highways Code. The allocation of funds under this paragraph shall be made in consultation and coordination with the High-Speed Rail Authority created pursuant to Division 19.5 (commencing with Section 185000) of the Public Utilities Code.

(k) (1) Seven hundred fifty million dollars (\$750,000,000) shall be deposited in the Highway Safety, Rehabilitation, and Preservation Account, which is hereby created in the fund. Funds in the account shall be available, upon appropriation by the Legislature, to the Department of Transportation, as allocated by the California Transportation Commission, for the purposes of the state highway operation and protection program as described in Section 14526.5.

(2) The department shall develop a program for distribution of two hundred fifty million dollars (\$250,000,000) from the funds identified in paragraph (1) to fund traffic light synchronization projects or other technology-based improvements to improve safety, operations, and the effective capacity of local streets and roads.

(l) (1) Two billion dollars (\$2,000,000,000) shall be deposited in the Local Streets and Road Improvement, Congestion Relief, and Traffic Safety Account of 2006, which is hereby created in the fund. The proceeds of bonds deposited into that account shall be available, upon appropriation by the Legislature, for the purposes specified in this subdivision to the Controller for administration and allocation in the fiscal year in

which the bonds are issued and sold, including any interest or other return earned on the investment of those moneys, in the following manner:

(A) Fifty percent to the counties, including a city and county, in accordance with the following formulas:

(i) Seventy-five percent of the funds payable under this subparagraph shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(ii) Twenty-five percent of the funds payable under this subparagraph shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bears to the total number of miles of maintained county roads in the state. For the purposes of apportioning funds under this clause, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(B) Fifty percent to the cities, including a city and county, apportioned among the cities in the proportion that the total population of the city bears to the total population of all the cities in the state, provided, however, that the Controller shall allocate a minimum of four hundred thousand dollars (\$400,000) to each city, pursuant to this subparagraph.

(2) Funds received under this subdivision shall be deposited as follows in order to avoid the commingling of those funds with other local funds:

(A) In the case of a city, into the city account that is designated for the receipt of state funds allocated for local streets and roads.

(B) In the case of an eligible county, into the county road fund.

(C) In the case of a city and county, into a local account that is designated for the receipt of state funds allocated for local streets and roads.

(3) For the purpose of allocating funds under this subdivision to cities and a city and county, the Controller shall use the most recent population estimates prepared by the Demographic Research Unit of the Department of Finance. For a city that incorporated after January 1, 1998, that does not appear on the most recent population estimates prepared by the Demographic Research Unit, the Controller shall use the population determined for that city under Section 11005.3 of the Revenue and Taxation Code.

(4) Funds apportioned to a city, county, or city and county under this subdivision, including any interest or other return earned on the investment of those funds, shall be used for improvements to transportation facilities that will assist in reducing local traffic congestion and further deterioration, improving traffic flows, or increasing traffic safety that may include, but not be limited to, street and highway pavement maintenance, rehabilitation, installation, construction, and reconstruction of necessary associated facilities such as drainage and traffic control devices, or the maintenance, rehabilitation, installation, construction, and reconstruction of facilities that expand ridership on transit systems, safety projects to reduce fatalities, or as a local match to obtain state or federal transportation funds for similar purposes.

(5) At the conclusion of each fiscal year during which a city or county expends the funds it has received under this subdivision, including any interest or other return earned on the investment of these funds, the Controller may verify the city's or county's

compliance with paragraph (4). Any city or county that has not complied with paragraph (4) shall reimburse the state for the funds it received during that fiscal year, including any interest or other return earned on the investment of these funds. Any funds withheld or returned as a result of a failure to comply with paragraph (4) shall be reallocated to the other counties and cities whose expenditures are in compliance.

SEC. 168. Section 8879.50 of the Government Code is amended to read:

8879.50. (a) As used in this chapter and in Chapter 12.49 (commencing with Section 8879.20), the following terms have the following meanings:

(1) "Commission" means the California Transportation Commission.

(2) "Department" means the Department of Transportation.

(3) "Administrative agency" means the state agency responsible for programming bond funds made available by Chapter 12.49 (commencing with Section 8879.20), as specified in subdivision (c).

(4) Unless otherwise specified in this chapter, "project" includes equipment purchase, construction, right-of-way acquisition, and project delivery costs.

(5) "Recipient agency" means the recipient of bond funds made available by Chapter 12.49 (commencing with Section 8879.20) that is responsible for implementation of an approved project.

(6) "Fund" shall have the same meaning as in subdivision (c) of Section 8879.20.

(b) Administrative costs, including audit and program oversight costs for agencies, commissions, or departments administering programs funded pursuant to this chapter, recoverable by bond funds shall not exceed 3 percent of the program's cost.

(c) The administrative agency for each bond account is as follows:

(1) The commission is the administrative agency for the Corridor Mobility Improvement Account; the Trade Corridors Improvement Fund; the Transportation Facilities Account; the State Route 99 Account; the State-Local Partnership Program Account; the Local Bridge Seismic Retrofit Account; the Highway-Railroad Crossing Safety Account; and the Highway Safety, Rehabilitation, and Preservation Account.

(2) The ~~California Office of Emergency Management Agency Services~~ is the administrative agency for the Port and Maritime Security Account and the Transit System Safety, Security, and Disaster Response Account.

(3) The department is the administrative agency for the Public Transportation Modernization, Improvement, and Service Enhancement Account.

(d) The administrative agency shall not approve project fund allocations for a project until the recipient agency provides a project funding plan that demonstrates that the funds are expected to be reasonably available and sufficient to complete the project. The administrative agency may approve funding for usable project segments only if the benefits associated with each individual segment are sufficient to meet the objectives of the program from which the individual segment is funded.

(e) Guidelines adopted by the administrative agency pursuant to this chapter and Chapter 12.49 (commencing with Section 8879.20) are intended to provide internal guidance for the agency and shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3), and shall do all of the following:

(1) Provide for the audit of project expenditures and outcomes.

(2) Require that the useful life of the project be identified as part of the project nomination process.

(3) Require that project nominations have project delivery milestones, including, but not limited to, start and completion dates for environmental clearance, land acquisition, design, construction bid award, construction completion, and project closeout, as applicable.

(f) (1) As a condition for allocation of funds to a specific project under Chapter 12.49 (commencing with Section 8879.20), the administrative agency shall require the recipient agency to report, on a semiannual basis, on the activities and progress made toward implementation of the project. If it is anticipated that project costs will exceed the approved project budget, the recipient agency shall provide a plan to the administrative agency for achieving the benefits of the project by either downscoping the project to remain within budget or by identifying an alternative funding source to meet the cost increase. The administrative agency may either approve the corrective plan or direct the recipient agency to modify its plan.

(2) Within six months of the project becoming operable, the recipient agency shall provide a report to the administrative agency on the final costs of the project as compared to the approved project budget, the project duration as compared to the original project schedule as of the date of allocation, and performance outcomes derived from the project compared to those described in the original application for funding. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance.

SEC. 169. Section 8879.53 of the Government Code is amended to read:

8879.53. (a) Funds for the program contained in paragraph (3) of subdivision (c) of Section 8879.23 shall be deposited in the Port and Maritime Security Account, which is hereby created in the fund. For purposes of this section, “agency” or “office” means the ~~California Office of Emergency Management Agency Services~~.

(b) Funds in the account shall be available to the ~~agency office~~, upon appropriation by the Legislature. Funds shall be made available as grants to eligible applicants, as defined in paragraph (3) of subdivision (c) of Section 8879.23, for capital projects that include, but are not limited to, those projects described in paragraph (3) of subdivision (c) of Section 8879.23.

(c) Prior to allocating funds to projects from the account, the ~~agency office~~ shall adopt guidelines to establish the criteria and process for the distribution of funds. At least 30 days prior to adopting the guidelines, the ~~agency office~~ shall hold a public hearing on the proposed guidelines and shall provide opportunity for public review and comment.

(d) In allocating funds from the account, the ~~agency office~~ shall do the following:

- (1) Address the state’s most urgent maritime security needs.
- (2) Balance the demands of the various large and small ports.
- (3) Provide reasonable geographic balance in the distribution of funds.

(e) The unencumbered balance of any funds appropriated to the ~~agency office~~ prior to June 30, 2009, for purposes of this section, shall remain available to the ~~agency office~~ for encumbrance pursuant to this section until June 30, 2012.

(f) The ~~agency's~~ office's activities to implement this section shall be incorporated into the report to the Legislature required in paragraph (3) of subdivision (c) of Section 8879.23.

SEC. 170. Section 8879.57 of the Government Code is amended to read:

8879.57. Funds made available, upon appropriation of the Legislature, from the Transit System Safety, Security, and Disaster Response Account, created in subdivision (h) of Section 8879.23, shall be allocated as follows:

(a) (1) Sixty percent of available funds shall be allocated for capital expenditures to agencies and transit operators eligible to receive State Transit Assistance funds using the formula in Sections 99313 and 99314 of the Public Utilities Code, including commuter rail operators eligible to receive State Transit Assistance funds. Of these funds, 50 percent shall be allocated to eligible agencies using the formula in Section 99314 of the Public Utilities Code, and 50 percent shall be allocated to eligible agencies using the formula in Section 99313 of the Public Utilities Code, subject to the provisions governing funds allocated under those sections. Funds allocated to the Metropolitan Transportation Commission using the formula in Section 99313 of the Public Utilities Code shall be suballocated to transit operators within its jurisdiction using the formula in Section 99314 of the Public Utilities Code. In the region served by the multicounty transportation planning agency described in Section 130004 of the Public Utilities Code, funds that are to be allocated using the formula in Section 99314 of the Public Utilities Code for the Southern California Regional Rail Authority shall be allocated to the applicable county transportation commission in each county served by the authority within that region. The county transportation commission, subject to the

applicable provisions governing funds allocated under that section that are consistent with this section, shall use or allocate the funds for eligible capital expenditures as described in paragraph (2), including, but not limited to, eligible expenditures on the system of the Southern California Regional Rail Authority. The county transportation commission may suballocate these funds to the Southern California Regional Rail Authority for those purposes.

(2) Eligible capital expenditures shall include either of the following:

(A) A capital project that provides increased protection against a security or safety threat, including, but not limited to, the following:

(i) Construction or renovation projects that are designed to enhance the security of public transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.

(ii) Explosive device mitigation and remediation equipment.

(iii) Chemical, biological, radiological, and nuclear explosives search, rescue, or response equipment.

(iv) Interoperable communications equipment.

(v) Physical security enhancement equipment.

(vi) The installation of fencing, barriers, gates, or related security enhancements that are designed to improve the physical security of transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.

(vii) Other safety- or security-related projects approved by the California Office of Emergency Management Agency Services.

(B) Capital expenditures to increase the capacity of transit operators to develop disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster impairing the mobility of goods, people, and equipment.

(b) (1) Twenty-five percent of available funds shall be allocated for capital expenditures to regional public waterborne transit agencies authorized to operate a regional public water transit system, including the operation of water transit vessels, terminals, and feeder buses, and not otherwise eligible to receive State Transit Assistance funds as of the effective date of this article. Funds shall be allocated for eligible capital expenditures that enhance the capacity of regional public waterborne transit agencies to provide disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster or emergency.

(2) Eligible capital expenditures include, but are not limited to, the construction or acquisition of new vessels, the capital improvement or construction of docks, terminals, or other waterborne transit facilities, the purchase of related equipment, and the construction of fueling facilities. A project shall (A) provide capital facilities and equipment to a regional public waterborne transit system that enhances the ability of the system to respond to a regional emergency, (B) be included in a regional plan, including, but not limited to, a regional plan for waterborne transit expansion or disaster response preparedness, and (C) provide maximum flexibility in responding to disasters or emergencies.

(c) (1) Fifteen percent of available funds shall be made available for capital expenditures to the intercity passenger rail system described in Section 14035 and to the commuter rail systems operated by the entities specified in Section 14072 and in Section 99314.1 of the Public Utilities Code.

(2) Eligible capital expenditures shall include either of the following:

(A) A capital project that provides increased protection against a security or safety threat, including, but not limited to, the following:

(i) Construction or renovation projects that are designed to enhance the security of public transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.

(ii) Explosive device mitigation and remediation equipment.

(iii) Chemical, biological, radiological, and nuclear explosives search, rescue, or response equipment.

(iv) Interoperable communications equipment.

(v) Physical security enhancement equipment.

(vi) The installation of fencing, barriers, gates, or related security enhancements that are designed to improve the physical security of transit stations, tunnels, guideways, elevated structures, or other transit facilities and equipment.

(vii) Other safety- or security-related projects approved by the ~~California Office of Emergency Management Agency Services~~ California Office of Emergency Management Agency Services.

(B) Capital expenditures to increase the capacity of transit operators to develop disaster response transportation systems that can move people, goods, and emergency

personnel and equipment in the aftermath of a disaster impairing the mobility of goods, people, and equipment.

(d) (1) An entity that is eligible to receive funds pursuant to subdivision (a) or (c) shall, within 45 days of the date the Controller makes public the list of eligible recipients pursuant to Section 8879.58, provide a document, in a form as designated by the ~~California Office of Emergency Management Agency Services~~, to the California Office of Emergency Management Agency Services that indicates the intent to use those funds, the project or projects for which the funds will be used, and a schedule of funds to be drawn down. If the entity does not submit the document required under this paragraph, the funds allocated to the entity pursuant to subdivision (a) or (c) shall be reallocated by the ~~California Office of Emergency Management Agency Services~~ in accordance with paragraph (2). This paragraph also applies to transit operators receiving a suballocation from a transportation planning agency, in which case the operator rather than the transportation planning agency is required to provide the document.

(2) The ~~California Office of Emergency Management Agency Services~~ shall notify the transportation planning agency if funds allocated to an entity within the region of the transportation planning agency are being reallocated pursuant to paragraph (1). The transportation planning agency shall have 30 days to provide a document, in a form as designated by the ~~California Office of Emergency Management Agency Services~~, to the California Office of Emergency Management Agency Services indicating its intent to distribute those funds to transit operators or rail operators for purposes authorized under subdivision (a) or (c). An agency providing that document

shall receive an allocation of the funds. If the transportation planning agency does not provide the document within 30 days, the ~~California Office of Emergency Management Agency Services~~ may allocate the funds on a competitive basis, pursuant to guidelines established by the ~~California Office of Emergency Management Agency Services~~, to an entity in a different region of the state that is an eligible entity under subdivision (a) or (c). An eligible entity that is notified that it will be awarded these funds shall, as a condition of receiving the funds, satisfy the requirements of paragraph (1) within 45 days of being advised of the reallocation. As used in this subdivision, "transportation planning agency" includes the county transportation commission in counties that have such a commission.

(3) The formula that applies to State Transit Assistance funds shall not apply to a reallocation of funds under this subdivision.

SEC. 171. Section 8879.58 of the Government Code is amended to read:

8879.58. (a) (1) No later than September 1 of the first fiscal year in which the Legislature appropriates funds from the Transit System Safety, Security, and Disaster Response Account, and no later than September 1 of each fiscal year thereafter in which funds are appropriated from that account, the Controller shall develop and make public a list of eligible agencies and transit operators and the amount of funds each is eligible to receive from the account pursuant to subdivision (a) of Section 8879.57. It is the intent of the Legislature that funds allocated to specified recipients pursuant to this section provide each recipient with the same proportional share of funds as the proportional share each received from the allocation of State Transit Assistance funds,

pursuant to Sections 99313 and 99314 of the Public Utilities Code, over fiscal years 2004–05, 2005–06, and 2006–07.

(2) In establishing the amount of funding each eligible recipient is to receive under subdivision (a) of Section 8879.57 from appropriated funds to be allocated based on Section 99313 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each eligible recipient, compute the amounts of State Transit Assistance funds allocated to that recipient pursuant to Section 99313 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99313 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each eligible recipient, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount available for allocation pursuant to subdivision (a) of Section 8879.57.

(3) In establishing the amount of funding each eligible recipient is eligible to receive under subdivision (a) of Section 8879.57 from funds to be allocated based on Section 99314 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each eligible recipient, compute the amounts of State Transit Assistance funds allocated to that recipient pursuant to Section 99314 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99314 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each eligible recipient, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount available for allocation pursuant to subdivision (a) of Section 8879.57.

(4) The Controller shall notify eligible recipients of the amount of funding each is eligible to receive pursuant to subdivision (a) of Section 8879.57 for the duration of time that these funds are made available for these purposes based on the computations pursuant to subparagraph (D) of paragraph (2) and subparagraph (D) of paragraph (3).

(b) Prior to seeking a disbursement of funds for an eligible project, an agency or transit operator on the public list described in paragraph (1) of subdivision (a) shall submit to the ~~California Office of Emergency Management Agency Services~~ a description of the project it proposes to fund with its share of funds from the account. The description shall include all of the following:

(1) A summary of the proposed project that describes the safety, security, or emergency response benefit that the project intends to achieve.

(2) That the useful life of the project shall not be less than the required useful life for capital assets specified in subdivision (a) of Section 16727.

(3) The estimated schedule for the completion of the project.

(4) The total cost of the proposed project, including identification of all funding sources necessary for the project to be completed.

(c) After receiving the information required to be submitted under subdivision (b), the agency shall review the information to determine all of the following:

(1) The project is consistent with the purposes described in subdivision (h) of Section 8879.23.

(2) The project is an eligible capital expenditure, as described in subdivision (a) of Section 8879.57.

(3) The project is a capital improvement that meets the requirements of paragraph (2) of subdivision (b).

(4) The project, or a useful component thereof, is, or will become, fully funded with an allocation of funds from the Transit System Safety, Security, and Disaster Response Account.

(d) (1) Upon conducting the review required in subdivision (c) and determining that a proposed project meets the requirements of that subdivision, the agency shall, on a quarterly basis, provide the Controller with a list of projects and the sponsoring agencies or transit operators eligible to receive an allocation from the account.

(2) The list of projects submitted to the Controller for allocation for any one fiscal year shall be constrained by the total amount of funds appropriated by the Legislature for the purposes of this section for that fiscal year.

(3) For a fiscal year in which the number of projects submitted for funding under this section exceeds available funds, the agency shall prioritize projects contained on the lists submitted pursuant to paragraph (1) so that (A) projects addressing the greatest risks to the public have the highest priority and (B) to the maximum extent possible, the list reflects a distribution of funding that is geographically balanced.

(e) Upon receipt of the information from the agency required by subdivision (d), the Controller's office shall commence any necessary actions to allocate funds to eligible agencies and transit operators sponsoring projects on the list of projects, including, but not limited to, seeking the issuance of bonds for that purpose. The total allocations to any one eligible agency or transit operator shall not exceed that agency's or transit operator's share of funds from the account pursuant to the formula contained in subdivision (a) of Section 8879.57.

(f) The Controller's office may, pursuant to Section 12410, use its authority to audit the use of state bond funds on projects receiving an allocation under this section. Each eligible agency or transit operator sponsoring a project subject to an audit shall provide any and all data requested by the Controller's office in order to complete the audit. The Controller's office shall transmit copies of all completed audits to the agency and to the policy committees of the Legislature with jurisdiction over transportation and budget issues.

SEC. 172. Section 8879.59 of the Government Code is amended to read:

8879.59. (a) For funds appropriated from the Transit System Safety, Security, and Disaster Response Account for allocation to transit agencies eligible to receive funds pursuant to subdivision (b) of Section 8879.57, the ~~California~~ Office of Emergency Management Agency (Cal EMA) Services shall administer a grant application and award program for those transit agencies.

(b) Funds awarded to transit agencies pursuant to this section shall be for eligible capital expenditures as described in subdivision (b) of Section 8879.57.

(c) Prior to allocating funds to projects pursuant to this section, ~~Cal EMA the~~ office shall adopt guidelines to establish the criteria and process for the distribution of funds described in this section. Prior to adopting the guidelines, ~~Cal EMA the~~ office shall hold a public hearing on the proposed guidelines.

(d) For each fiscal year in which funds are appropriated for the purposes of this section, ~~Cal EMA the~~ office shall issue a notice of funding availability no later than October 1.

(e) No later than December 1 of each fiscal year in which the notice in subdivision (d) is issued, eligible transit agencies may submit project nominations for funding to ~~Cal EMA the~~ office for its review and consideration. Project nominations shall include all of the following:

(1) A description of the project, which shall illustrate the physical components of the project and the security or emergency response benefit to be achieved by the completion of the project.

(2) Identification of all nonbond sources of funding committed to the project.

(3) An estimate of the project's full cost and the proposed schedule for the project's completion.

(f) No later than February 1, ~~Cal EMA the~~ office shall select eligible projects to receive grants under this section and shall provide the Controller with a list of the projects and the sponsoring agencies eligible to receive an allocation from the account. Upon receipt of this information, the Controller's office shall commence any necessary actions to allocate funds to those agencies, including, but not limited to, seeking the issuance of bonds for that purpose. Grants awarded to eligible transit agencies pursuant

to subdivision (b) of Section 8879.57 shall be for eligible capital expenditures, as described in paragraph (2) of subdivision (b) of that section.

SEC. 173. Section 8879.60 of the Government Code is amended to read:

8879.60. (a) For funds appropriated from the Transit System Safety, Security, and Disaster Response Account for allocation to intercity and commuter rail operators eligible to receive funds pursuant to subdivision (c) of Section 8879.57, the ~~California Office of Emergency Management Agency Services~~ shall administer a grant application and award program for those intercity and commuter rail operators.

(b) Funds awarded to intercity and commuter rail operators pursuant to this section shall be for eligible capital expenditures as described in subdivision (c) of Section 8879.57.

(c) Prior to allocating funds to projects pursuant to this section, the ~~agency office~~ shall adopt guidelines to establish the criteria and process for the distribution of funds described in this section. Prior to adopting the guidelines, the ~~agency office~~ shall hold a public hearing on the proposed guidelines.

(d) For each fiscal year in which funds are appropriated for the purposes of this section, the ~~agency office~~ shall issue a notice of funding availability no later than October 1.

(e) No later than December 1 of each fiscal year in which the notice in subdivision (d) is issued, eligible intercity and commuter rail operators may submit project nominations for funding to the agency for its review and consideration. Project nominations shall include all of the following:

(1) A description of the project, which shall illustrate the physical components of the project and the security or emergency response benefit to be achieved by the completion of the project.

(2) Identification of all nonbond sources of funding committed to the project.

(3) An estimate of the project's full cost and the proposed schedule for the project's completion.

(f) No later than February 1, the ~~agency~~ office shall select eligible projects to receive grants under this section. Grants awarded to intercity and commuter rail operators pursuant to subdivision (c) of Section 8879.57 shall be for eligible capital expenditures, as described in subparagraphs (A) and (B) of paragraph (2) of subdivision (c) of that section.

SEC. 174. Section 8879.61 of the Government Code is amended to read:

8879.61. (a) (1) Entities described in subdivisions (a), (b), and (c) of Section 8879.57 receiving an allocation of funds pursuant to this article shall expend those funds within three fiscal years of the fiscal year in which the funds were allocated. Funds remaining unexpended thereafter shall revert to the ~~California~~ Office of Emergency Management Agency Services for reallocation under this article in subsequent fiscal years.

(2) Notwithstanding paragraph (1), for an allocation of funds made prior to June 30, 2011, to an entity described in subdivision (b) of Section 8879.57, that entity shall have four fiscal years from the last day of the fiscal year in which the funds were received by that entity to expend those funds.

(b) Entities that receive grant awards from funds allocated pursuant to subdivision (b) of Section 8879.57 are not eligible to receive awards from the funds allocated pursuant to subdivision (a) of Section 8879.57.

(c) Funds appropriated for the program established by this article in the Budget Act of 2007 shall be allocated consistent with the allocation schedule established in Section 8879.57.

(d) On or before May 1 of each year, the ~~California~~ Office of Emergency Management Agency Services shall report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate Committee on Transportation and Housing, the Assembly Committee on Transportation, and the Legislative Analyst's Office on its activities under this article. The report shall include a summary of the projects selected for funding during the fiscal year in which awards were made, the status of projects selected for funding in prior fiscal years, and a list of all transit entities that have not used funds allocated to the transit entities pursuant to Section 8879.57.

SEC. 175. Section 11340.2 of the Government Code is amended to read:

11340.2. (a) The Office of Administrative Law is hereby established in state government in the Government Operations Agency. The office shall be under the direction and control of an executive officer who shall be known as the director. There shall also be a deputy director. The director's term and the deputy director's term of office shall be coterminous with that of the appointing power, except that they shall be subject to reappointment.

(b) The director and deputy director shall have the same qualifications as a hearing officer and shall be appointed by the Governor subject to the confirmation of the Senate.

SEC. 176. Section 11532 of the Government Code is amended to read:

11532. For purposes of this chapter, the following terms shall have the following meanings, unless the context requires otherwise:

(a) "Board member" means a member of the Technology Services Board.

(b) "Board" means the Technology Services Board created pursuant to Section 11535.

(c) "Business telecommunications systems and services" includes, but is not limited to, wireless or wired systems for transport of voice, video, and data communications, network systems, requisite facilities, equipment, system controls, simulation, electronic commerce, and all related interactions between people and machines. Public safety communications are excluded from this definition.

(d) "Department" means the Department of Technology.

(e)

(e) "Director" means the Director of the Office of Technology Services.

(f) "Public agencies" include, but are not limited to, all state and local governmental agencies in the state, including cities, counties, other political subdivisions of the state, state departments, agencies, boards, and commissions, and departments, agencies, boards, and commissions of other states and federal agencies.

(d)

(g) "Technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, and business telecommunications systems and services.

~~(e) "Business telecommunications systems and services" includes, but is not limited to, wireless or wired systems for transport of voice, video, and data communications, network systems, requisite facilities, equipment, system controls, simulation, electronic commerce, and all related interactions between people and machines. Public safety communications are excluded from this definition.~~

~~(f) "Public agencies" include, but are not limited to, all state and local governmental agencies in the state, including cities, counties, other political subdivisions of the state, state departments, agencies, boards, and commissions, and departments, agencies, boards, and commissions of other states and federal agencies.~~

SEC. 177. Section 11534 of the Government Code is amended to read:

11534. (a) There is in state government, in the ~~California Technology Government Operations Agency, the Office~~ Department of Technology Services, which shall include an Office of Technology Services.

(b) The purpose of this article is to establish a general purpose technology services provider to serve the common technology needs of executive branch entities with accountability to customers for providing secure services that are responsive to client needs at a cost representing best value to the state.

(c) The purpose of this chapter is to improve and coordinate the use of technology and to coordinate and cooperate with all public agencies in the state in order to eliminate duplications and to bring about economies that could not otherwise be obtained.

(d) Unless the context clearly requires otherwise, whenever the term “Department of Technology Services” appears in any statute, regulation, or contract, it shall be deemed to refer to the ~~Office~~ Department of Technology ~~Services~~, and whenever the term “Director of Technology Services” or “Secretary of California Technology” appears in statute, regulation, or contract, or any other law, it shall be deemed to refer to the ~~Secretary~~ Director of ~~California~~ Technology.

(e) Unless the context clearly requires otherwise, the ~~Office~~ Department of Technology ~~Services~~ and the ~~Secretary~~ Director of ~~California~~ Technology succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the former Office of Technology Services, Department of Technology Services and the former, Director of Technology Services, and Secretary of California Technology, respectively.

(f) All employees serving in state civil service, other than temporary employees, who are engaged in the performance of functions transferred to the ~~Office~~ Department of Technology ~~Services~~, are transferred to the ~~Office~~ Department of Technology ~~Services~~. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service. The personnel

records of all transferred employees shall be transferred to the ~~Office~~ Department of Technology ~~Services~~.

(g) The property of any office, agency, or department related to functions transferred to the ~~Office~~ Department of Technology ~~Services~~ is transferred to the ~~Office~~ Department of Technology ~~Services~~. If any doubt arises as to where that property is transferred, the Department of General Services shall determine where the property is transferred.

(h) All unexpended balances of appropriations and other funds available for use in connection with any function or the administration of any law transferred to the ~~Office~~ Department of Technology ~~Services~~ shall be transferred to the ~~Office~~ Department of Technology ~~Services~~ for the use and for the purpose for which the appropriation was originally made or the funds were originally available. If there is any doubt as to where those balances and funds are transferred, the Department of Finance shall determine where the balances and funds are transferred.

SEC. 178. Section 11535 of the Government Code is amended to read:

11535. (a) There is, in the ~~Office~~ Department of Technology ~~Services~~, the Technology Services Board.

(b) The board shall consist of 13 members, as follows:

(1) The ~~Secretary~~ Director of ~~California~~ Technology, who shall serve as the chair of the board.

(2) The Director of Finance, who shall serve as vice chair of the board.

(3) The Controller.

(4) The Secretary of Food and Agriculture, the Secretary of ~~Business~~, Transportation and Housing, the Secretary of the Department of Corrections and Rehabilitation, the Secretary for Environmental Protection, the Secretary of California Health and Human Services, the Secretary of Labor and Workforce Development, the Secretary of the Natural Resources Agency, the Secretary of ~~State Business~~ and Consumer Services, and the Secretary of Veterans Affairs.

(5) The ~~Secretary~~ Director of California Emergency Management.

SEC. 179. Section 11537 of the Government Code is amended to read:

11537. (a) The ~~Secretary~~ Director of California Technology shall engage an independent firm of certified public accountants to conduct an annual financial audit of all accounts and transactions of the Office of Technology Services. The audit shall be conducted in accordance with generally accepted government auditing standards. The audited financial statements shall be presented to the board, the Governor, and the Legislature not more than 120 days after the submittal of the annual financial statements.

(b) The ~~Secretary~~ Director of California Technology may arrange for other audits as are necessary or prudent to ensure proper oversight and management of the Office of Technology Services.

SEC. 180. Section 11538 of the Government Code is amended to read:

11538. The ~~director~~ Chief of the Office of Technology Services shall be appointed by, and serve at the pleasure of, the Governor, subject to Senate confirmation. The ~~director~~ chief shall act as executive officer of the board, and shall report to the Director of Technology.

SEC. 181. Section 11540 of the Government Code is amended to read:

11540. (a) The director shall propose for board consideration and approval an annual budget for the Office of Technology Services' operations.

(b) The ~~Secretary~~ Director of ~~California~~ Technology shall propose for board consideration rates for Office of Technology Services' services based on a formal rate methodology approved by the board. At least 60 days before submitting proposed rates to the board, the ~~Secretary~~ Director of ~~California~~ Technology shall submit the proposed rates to the Department of Finance. Submittal of the rates to the Department of Finance shall be in a format and timeframe determined by the Department of Finance. The Department of Finance shall prepare a report for the board evaluating the reasonableness of the proposed rates and any significant impact the ~~Office of Technology Services'~~ rates are likely to have upon the budgets of other departments.

(c) ~~It is the intent of the Legislature that this section supersede Section 11540 of the Government Code, as added by Section 1 of the Governor's Reorganization Plan No. 2, effective July 9, 2005.~~

SEC. 182. Section 11541 of the Government Code is amended to read:

11541. (a) The ~~Office~~ Department of Technology ~~Services~~ may acquire, install, equip, maintain, and operate new or existing business telecommunications systems and services. Acquisitions for information technology goods and services shall be made pursuant to Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code. To accomplish that purpose, the ~~Office of Technology Services~~ department may enter into contracts, obtain licenses, acquire personal property, install necessary equipment and facilities, and do other acts that will provide adequate and efficient business telecommunications systems and services. Any system established

shall be made available to all public agencies in the state on terms that may be agreed upon by the agency and the ~~Office of Technology Services~~ department.

(b) With respect to business telecommunications systems and services, the ~~Office of Technology Services~~ department may do all of the following:

(1) Provide representation of public agencies before the Federal Communications Commission in matters affecting the state and other public agencies regarding business telecommunications systems and services issues.

(2) Provide, upon request, advice to public agencies concerning existing or proposed business telecommunications systems and services between any and all public agencies.

(3) Recommend to public agencies rules, regulations, procedures, and methods of operation that it deems necessary to effectuate the most efficient and economical use of business telecommunications systems and services within the state.

(4) Carry out the policies of this chapter.

(c) The ~~Office of Technology Services~~ department has responsibilities with respect to business telecommunications systems, services, policy, and planning, which include, but are not limited to, all of the following:

(1) Assessing the overall long-range business telecommunications needs and requirements of the state considering both routine and emergency operations for business telecommunications systems and services, performance, cost, state-of-the-art technology, multiuser availability, security, reliability, and other factors deemed to be important to state needs and requirements.

(2) Developing strategic and tactical policies and plans for business telecommunications with consideration for the systems and requirements of public agencies.

(3) Recommending industry standards, service level agreements, and solutions regarding business telecommunications systems and services to ensure multiuser availability and compatibility.

(4) Providing advice and assistance in the selection of business telecommunications equipment to ensure all of the following:

(A) Ensuring that the business telecommunications needs of state agencies are met.

(B) Ensuring that procurement is compatible throughout state agencies and is consistent with the state's strategic and tactical plans for telecommunications.

(C) Ensuring that procurement is designed to leverage the buying power of the state and encourage economies of scale.

(5) Providing management oversight of statewide business telecommunications systems and services developments.

(6) Providing for coordination of, and comment on, plans and policies and operational requirements from departments that utilize business telecommunications systems and services as determined by the ~~Office of Technology Services~~ department.

(7) Monitoring and participating, on behalf of the state, in the proceedings of federal and state regulatory agencies and in congressional and state legislative deliberations that have an impact on state governmental business telecommunications activities.

(d) ~~The Office of Technology Services~~ department shall develop and describe statewide policy on the use of business telecommunications systems and services by state agencies. In the development of that policy, ~~the Office of Technology Services~~ department shall ensure that access to state business information and services is improved, and that the policy is cost effective for the state and its residents. ~~The Office of Technology Services~~ department shall develop guidelines that do all of the following:

- (1) Describe what types of state business information and services may be accessed using business telecommunications systems and services.
- (2) Characterize the conditions under which a state agency may utilize business telecommunications systems and services.
- (3) Characterize the conditions under which a state agency may charge for information and services.
- (4) Specify pricing policies.
- (5) Provide other guidance as may be appropriate at the discretion of the Office of Technology Services.

~~(e) It is the intent of the Legislature that this section supersede Section 11541 of the Government Code, as added by Section 1 of the Governor's Reorganization Plan No. 2, effective July 9, 2005.~~

SEC. 183. Section 11542 of the Government Code is amended to read:

11542. (a) (1) The Stephen P. Teale Data Center and the California Health and Human Services Agency Data Center are consolidated within, and their functions are transferred to, the ~~Office~~ Department of Technology ~~Services~~.

(2) Except as expressly provided otherwise in this chapter, the ~~Office~~ Department of Technology ~~Services~~ is the successor to, and is vested with, all of the duties, powers, purposes, responsibilities, and jurisdiction of the Stephen P. Teale Data Center, and the California Health and Human Services Agency Data Center. Any reference in statutes, regulations, or contracts to those entities with respect to the transferred functions shall be construed to refer to the ~~Office~~ Department of Technology ~~Services~~ unless the context clearly requires otherwise.

(3) No contract, lease, license, or any other agreement to which either the Stephen P. Teale Data Center or the California Health and Human Services Agency Data Center is a party shall be void or voidable by reason of this chapter, but shall continue in full force and effect, with the ~~Office~~ Department of Technology ~~Services~~ assuming all of the rights, obligations, and duties of the Stephen P. Teale Data Center or the California Health and Human Services Agency Data Center, respectively.

(4) Notwithstanding subdivision (e) of Section 11793 and subdivision (e) of Section 11797, on and after the effective date of this chapter, the balance of any funds available for expenditure by the Stephen P. Teale Data Center and the California Health and Human Services Agency Data Center, with respect to business telecommunications systems and services functions in carrying out any functions transferred to the Office of Technology Services by this chapter, shall be transferred to the Technology Services Revolving Fund created by Section 11544, and shall be made available for the support and maintenance of the ~~Office~~ Department of Technology ~~Services~~.

(5) All references in statutes, regulations, or contracts to the former Stephen P. Teale Data Center Fund or the California Health and Human Services Data Center

Revolving Fund shall be construed to refer to the Technology Services Revolving Fund unless the context clearly requires otherwise.

(6) All books, documents, records, and property of the Stephen P. Teale Data Center and the California Health and Human Services Agency Data Center, excluding the Systems Integration Division, shall be transferred to the ~~Office~~ Department of Technology ~~Services~~.

(7) (A) All officers and employees of the former Stephen P. Teale Data Center and the California Health and Human Services Agency Data Center, are transferred to the ~~Office~~ Department of Technology ~~Services~~.

(B) The status, position, and rights of any officer or employee of the Stephen P. Teale Data Center and the California Health and Human Services Agency Data Center, shall not be affected by the transfer and consolidation of the functions of that officer or employee to the ~~Office~~ Department of Technology ~~Services~~.

(b) (1) All duties and functions of the Telecommunications Division of the Department of General Services are transferred to the ~~California~~ Department of Technology ~~Agency~~.

(2) Unless the context clearly requires otherwise, whenever the term “Telecommunications Division of the Department of General Services” or “California Technology Agency” appears in any statute, regulation, or contract, or any other law, it shall be deemed to refer to the ~~California~~ Department of Technology ~~Agency~~.

(3) All employees serving in state civil service, other than temporary employees, who are engaged in the performance of functions transferred to the California Technology Agency, are transferred to the ~~California~~ Department of Technology

~~Agency~~. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service. The personnel records of all transferred employees shall be transferred to the California Department of Technology Agency.

(4) The property of any office, agency, or department related to functions transferred to the California Technology Agency, are transferred to the California Department of Technology Agency. If any doubt arises as to where that property is transferred, the Department of General Services shall determine where the property is transferred.

(5) All unexpended balances of appropriations and other funds available for use in connection with any function or the administration of any law transferred to the California Department of Technology Agency shall be transferred to the California Department of Technology for the use and for the purpose for which the appropriation was originally made or the funds were originally available. If there is any doubt as to where those balances and funds are transferred, the Department of Finance shall determine where the balances and funds are transferred.

SEC. 184. Section 11543 of the Government Code is amended to read:

11543. (a) The ~~Secretary~~ Director of ~~California~~ Technology shall confer as frequently as necessary or desirable, but not less than once every quarter, with the board, on the operation and administration of the Office of Technology Services. The ~~Secretary~~ Director of ~~California~~ Technology shall make available for inspection by

the board or any board member, upon request, all books, records, files, and other information and documents of the Office of Technology Services and recommend any matters as he or she deems necessary and advisable to improve the operation and administration of the Office of Technology Services.

(b) The ~~Secretary~~ Director of ~~California~~ Technology shall make and keep books and records to permit preparation of financial statements in conformity with generally accepted accounting principles and any state policy requirements.

SEC. 185. Section 11544 of the Government Code is amended to read:

11544. (a) The Technology Services Revolving Fund, hereafter known as the fund, is hereby created within the State Treasury. The fund shall be administered by the ~~State Chief Information Officer~~ Director of Technology to receive all revenues from the sale of technology or technology services provided for in this chapter, for other services rendered by the ~~office of the State Chief Information Officer~~ Department of Technology, and all other moneys properly credited to the ~~office of the State Chief Information Officer~~ department from any other source, to pay, upon appropriation by the Legislature, all costs arising from this chapter and rendering of services to state and other public agencies, including, but not limited to, employment and compensation of necessary personnel and expenses, such as operating and other expenses of the board and the ~~office of the State Chief Information Officer~~ Department of Technology, and costs associated with approved information technology projects, and to establish reserves. At the discretion of the ~~State Chief Information Officer~~ Director of Technology, segregated, dedicated accounts within the fund may be established. The

amendments made to this section by the act adding this sentence shall apply to all revenues earned on or after July 1, 2010.

(b) The fund shall consist of all of the following:

(1) Moneys appropriated and made available by the Legislature for the purposes of this chapter.

(2) Any other moneys that may be made available to the ~~office~~ Department of the ~~State Chief Information Officer~~ Technology from any other source, including the return from investments of moneys by the Treasurer.

(c) The ~~office~~ Department of the ~~State Chief Information Officer~~ Technology may collect payments from public agencies for providing services to those agencies that the agencies have requested from the ~~office~~ Department of the ~~State Chief Information Officer~~ Technology. The ~~office~~ Department of the ~~State Chief Information Officer~~ Technology may require monthly payments by client agencies for the services the agencies have requested. Pursuant to Section 11255, the Controller shall transfer any amounts so authorized by the ~~office~~ Department of the ~~State Chief Information Officer~~ Technology, consistent with the annual budget of each department, to the fund. The ~~office~~ Department of the ~~State Chief Information Officer~~ Technology shall notify each affected state agency upon requesting the Controller to make the transfer.

(d) At the end of any fiscal year, if the balance remaining in the fund at the end of that fiscal year exceeds 25 percent of the portion of the ~~office~~ Department of the ~~State Chief Information Officer's~~ Technology's current fiscal year budget used for support of data center and other client services, the excess amount shall be used to reduce the billing rates for services rendered during the following fiscal year.

SEC. 186. Section 11545 of the Government Code is amended to read:

11545. (a) (1) There is in state government the California Department of Technology Agency within the Government Operations Agency. The Secretary Director of California Technology shall be appointed by, and serve at the pleasure of, the Governor, subject to Senate confirmation. The Secretary Director of California Technology shall supervise the California Department of Technology Agency and be a member of the Governor's cabinet.

(2) Unless the context clearly requires otherwise, whenever the term "office of the State Chief Information Officer" or "California Technology Agency" appears in any statute, regulation, or contract, or any other code, it shall be construed to refer to the California Department of Technology Agency, and whenever the term "State Chief Information Officer" or "Secretary of California Technology" appears in any statute, regulation, or contract, or any other code, it shall be construed to refer to the Secretary Director of California Technology.

(3) The Director of Technology shall be the State Chief Information Officer.

(b) The duties of the Secretary Director of California Technology shall include, but are not limited to, all of the following:

(1) Advising the Governor on the strategic management and direction of the state's information technology resources.

(2) Establishing and enforcing state information technology strategic plans, policies, standards, and enterprise architecture. This shall include the periodic review and maintenance of the information technology sections of the State Administrative Manual, except for sections on information technology procurement procedures, and

information technology fiscal policy. The ~~Secretary~~ Director of ~~California~~ Technology shall consult with the Director of General Services, the Director of Finance, and other relevant agencies concerning policies and standards these agencies are responsible to issue as they relate to information technology.

(3) Minimizing overlap, redundancy, and cost in state operations by promoting the efficient and effective use of information technology.

(4) Providing technology direction to agency and department chief information officers to ensure the integration of statewide technology initiatives, compliance with information technology policies and standards, and the promotion of the alignment and effective management of information technology services. Nothing in this paragraph shall be deemed to limit the authority of a constitutional officer, cabinet agency secretary, or department director to establish programmatic priorities and business direction to the respective agency or department chief information officer.

(5) Working to improve organizational maturity and capacity in the effective management of information technology.

(6) Establishing performance management and improvement processes to ensure state information technology systems and services are efficient and effective.

(7) Approving, suspending, terminating, and reinstating information technology projects.

(8) Performing enterprise information technology functions and services, including, but not limited to, implementing Geographic Information Systems (GIS), shared services, applications, and program and project management activities in partnership with the owning agency or department.

(c) The ~~Secretary~~ Director of ~~California~~ Technology shall produce an annual information technology strategic plan that shall guide the acquisition, management, and use of information technology. State agencies shall cooperate with the ~~agency~~ department in the development of this plan, as required by the ~~Secretary~~ Director of ~~California~~ Technology.

(1) Upon establishment of the information technology strategic plan, the ~~Secretary~~ Director of ~~California~~ Technology shall take all appropriate and necessary steps to implement the plan, subject to any modifications and adjustments deemed necessary and reasonable.

(2) The information technology strategic plan shall be submitted to the Joint Legislative Budget Committee by January 15 of every year.

(d) The ~~Secretary~~ Director of ~~California~~ Technology shall produce an annual information technology performance report that shall assess and measure the state's progress toward enhancing information technology human capital management; reducing and avoiding costs and risks associated with the acquisition, development, implementation, management, and operation of information technology assets, infrastructure, and systems; improving energy efficiency in the use of information technology assets; enhancing the security, reliability, and quality of information technology networks, services, and systems; and improving the information technology procurement process. The ~~agency~~ department shall establish those policies and procedures required to improve the performance of the state's information technology program.

(1) The ~~agency~~ department shall submit an information technology performance management framework to the Joint Legislative Budget Committee by May 15, 2009, accompanied by the most current baseline data for each performance measure or metric contained in the framework. The information technology performance management framework shall include the performance measures and targets that the ~~agency~~ department will utilize to assess the performance of, and measure the costs and risks avoided by, the state's information technology program. The ~~agency~~ department shall provide notice to the Joint Legislative Budget Committee within 30 days of making changes to the framework. This notice shall include the rationale for changes in specific measures or metrics.

(2) State agencies shall take all necessary steps to achieve the targets set forth by the ~~agency~~ department and shall report their progress to the ~~agency~~ department on a quarterly basis.

(3) Notwithstanding Section 10231.5, the information technology performance report shall be submitted to the Joint Legislative Budget Committee by January 15 of every year. To enhance transparency, the ~~agency~~ department shall post performance targets and progress toward these targets on its public Internet Web site.

(4) The ~~agency~~ department shall at least annually report to the Director of Finance cost savings and avoidances achieved through improvements to the way the state acquires, develops, implements, manages, and operates state technology assets, infrastructure, and systems. This report shall be submitted in a timeframe determined by the Department of Finance and shall identify the actual savings achieved by each office, department, and agency. Notwithstanding Section 10231.5, the ~~agency~~

department shall also, within 30 days, submit a copy of that report to the Joint Legislative Budget Committee, the Senate Committee on Appropriations, the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Appropriations, and the Assembly Committee on Budget.

SEC. 187. Section 11546 of the Government Code is amended to read:

11546. (a) ~~The California Department of Technology Agency~~ shall be responsible for the approval and oversight of information technology projects, which shall include, but are not limited to, all of the following:

(1) Establishing and maintaining a framework of policies, procedures, and requirements for the initiation, approval, implementation, management, oversight, and continuation of information technology projects.

(2) Evaluating information technology projects based on the business case justification, resources requirements, proposed technical solution, project management, oversight and risk mitigation approach, and compliance with statewide strategies, policies, and procedures. Projects shall continue to be funded through the established Budget Act process.

(3) Consulting with agencies during initial project planning to ensure that project proposals are based on well-defined programmatic needs, clearly identify programmatic benefits, and consider feasible alternatives to address the identified needs and benefits consistent with statewide strategies, policies, and procedures.

(4) Consulting with agencies prior to project initiation to review the project governance and management framework to ensure that it is best designed for success and will serve as a resource for agencies throughout the project implementation.

(5) Requiring agencies to provide information on information technology projects including, but not limited to, all of the following:

- (A) The degree to which the project is within approved scope, cost, and schedule.
- (B) Project issues, risks, and corresponding mitigation efforts.
- (C) The current estimated schedule and costs for project completion.

(6) Requiring agencies to perform remedial measures to achieve compliance with approved project objectives. These remedial measures may include, but are not limited to, any of the following:

(A) Independent assessments of project activities, the cost of which shall be funded by the agency administering the project.

(B) Establishing remediation plans.

(C) Securing appropriate expertise, the cost of which shall be funded by the agency administering the project.

(D) Requiring additional project reporting.

(E) Requiring approval to initiate any action identified in the approved project schedule.

(7) Suspending, reinstating, or terminating information technology projects. The agency department shall notify the Joint Legislative Budget Committee of any project suspension, reinstatement, and termination within 30 days of that suspension, reinstatement, or termination.

(8) Establishing restrictions or other controls to mitigate nonperformance by agencies, including, but not limited to, any of the following:

(A) The restriction of future project approvals pending demonstration of successful correction of the identified performance failure.

(B) The revocation or reduction of authority for state agencies to initiate information technology projects or acquire information technology or telecommunications goods or services.

(b) ~~The California Department of Technology Agency~~ shall have the authority to delegate to another agency any authority granted under this section based on its assessment of the agency's project management, project oversight, and project performance.

SEC. 188. Section 11546.1 of the Government Code is amended to read:

11546.1. ~~The California Department of Technology Agency~~ shall improve the governance and implementation of information technology by standardizing reporting relationships, roles, and responsibilities for setting information technology priorities.

(a) (1) Each state agency shall have a chief information officer who is appointed by the head of the state agency, or by the head's designee, subject to the approval of the ~~California Department of Technology Agency~~.

(2) A chief information officer appointed under this subdivision shall do all of the following:

(A) Oversee the information technology portfolio and information technology services within his or her state agency through the operational oversight of information technology budgets of departments, boards, bureaus, and offices within the state agency.

(B) Develop the enterprise architecture for his or her state agency, subject to the review and approval of the ~~California Department of Technology Agency~~, to rationalize,

standardize, and consolidate information technology applications, assets, infrastructure, data, and procedures for all departments, boards, bureaus, and offices within the state agency.

(C) Ensure that all departments, boards, bureaus, and offices within the state agency are in compliance with the state information technology policy.

(b) (1) Each state entity shall have a chief information officer who is appointed by the head of the state entity.

(2) A chief information officer appointed under this subdivision shall do all of the following:

(A) Supervise all information technology and telecommunications activities within his or her state entity, including, but not limited to, information technology, information security, and telecommunications personnel, contractors, systems, assets, projects, purchases, and contracts.

(B) Ensure the entity conforms with state information technology and telecommunications policy and enterprise architecture.

(c) Each state agency shall have an information security officer appointed by the head of the state agency, or the head's designee, subject to the approval by the ~~California Department of Technology Agency~~. The state agency's information security officer appointed under this subdivision shall report to the state agency's chief information officer.

(d) Each state entity shall have an information security officer who is appointed by the head of the state entity. An information security officer shall report to the chief information officer of his or her state entity. The ~~California Department of Technology~~

~~Agency~~ shall develop specific qualification criteria for an information security officer. If a state entity cannot fund a position for an information security officer, the entity's chief information officer shall perform the duties assigned to the information security officer. The chief information officer shall coordinate with the ~~California Department of Technology Agency~~ for any necessary support.

(e) (1) For purposes of this section, "state agency" means the ~~Business, Transportation and Housing Agency, Department of Corrections and Rehabilitation, Department of Veterans Affairs, State Business and Consumer Services Agency, Natural Resources Agency, California Health and Human Services Agency, California Environmental Protection Agency, Labor and Workforce Development Agency, and Department of Food and Agriculture.~~

(2) For purposes of this section, "state entity" means an entity within the executive branch that is under the direct authority of the Governor, including, but not limited to, all departments, boards, bureaus, commissions, councils, and offices that are not defined as a "state agency" pursuant to paragraph (1).

(f) A state entity that is not defined under subdivision (e) may voluntarily comply with any of the requirements of Sections 11546.2 and 11546.3 and may request assistance from the ~~California Department of Technology Agency~~ to do so.

SEC. 189. Section 11546.2 of the Government Code is amended to read:

11546.2. On or before February 1, 2011, and annually thereafter, each state agency and state entity subject to Section 11546.1, shall submit, as instructed by the ~~California Department of Technology Agency~~, a summary of its actual and projected information technology and telecommunications costs, including personnel, for the

immediately preceding fiscal year and current fiscal year, showing current expenses and projected expenses for the current fiscal year, in a format prescribed by the ~~California Department of Technology Agency~~ in order to capture statewide information technology expenditures.

SEC. 190. Section 11546.3 of the Government Code is amended to read:

11546.3. (a) (1) A chief information officer appointed under Section 11546.1 shall develop a plan to leverage cost-effective strategies to reduce the total amount of energy utilized by information technology and telecommunications equipment of the officer's agency or entity, as the case may be, in support of the statewide effort to reduce energy consumption by 20 percent below the 2009 baseline by July 1, 2011, and by 30 percent below the 2009 baseline by July 1, 2012.

(2) A chief information officer appointed under Section 11546.1 shall report the progress toward the energy reduction targets in paragraph (1) to the ~~California Department of Technology Agency~~ on a quarterly basis beginning in January 2011. The ~~California Department of Technology Agency~~ shall include the quarterly reports on its Internet Web site.

(b) (1) A state agency or entity subject to Section 11546.1 shall do all of the following:

(A) Comply with the policies of the ~~California Department of Technology Agency~~ to reduce the total amount of office square footage currently utilized for data centers by the agency or entity, as the case may be, in support of the statewide effort to reduce energy consumption by 50 percent below the 2009 baseline by July 2011.

(B) Host all mission critical and public-facing applications and server refreshes in a Tier III or equivalent data center, as designated by the ~~California Department of Technology Agency~~.

(C) Close any existing data centers or server rooms that house nonnetwork equipment by June 2013. On or before July 2011, transition plans, in accordance with guidance provided by the ~~California Department of Technology Agency~~, shall be submitted to the ~~California Department of Technology Agency~~.

(D) Be in migration from its existing network services to the California Government Network by no later than July 2011.

(E) Report to the ~~California Department of Technology Agency~~ on the progress toward the targets listed in this subdivision on a quarterly basis, beginning in January 2011.

(2) The ~~California Department of Technology Agency~~ shall include the quarterly reports required by subparagraph (E) of paragraph (1) on its Internet Web site.

(c) (1) A state agency or entity subject to Section 11546.1 shall do both of the following:

(A) Be in migration to the state shared e-mail solution by no later than June 2011.

(B) Report to the ~~California Department of Technology Agency~~ on the progress toward the target listed in subparagraph (A) on a quarterly basis, beginning in April 2011.

(2) The ~~California Department of Technology Agency~~ shall include the quarterly reports required by subparagraph (B) of paragraph (1) on its Internet Web site.

SEC. 191. Section 11546.4 of the Government Code is amended to read:

11546.4. Notwithstanding any other law, any service contract proposed to be entered into by an agency that would not otherwise be subject to review, approval, or oversight by the ~~office~~ Department of the State Chief Information Officer Technology but that contains an information technology component that would be subject to oversight by the ~~office~~ Department of the State Chief Information Officer Technology if it was a separate information technology project, shall be subject to review, approval, and oversight by the ~~office~~ Department of the State Chief Information Officer Technology as set forth in Section 11546.

SEC. 192. Section 11546.5 of the Government Code is amended to read:

11546.5. Notwithstanding any other ~~provision of~~ law, all employees of the ~~California Department of Technology Agency~~ shall be designated as excluded from collective bargaining pursuant to subdivision (b) of Section 3527, except for employees of the Office of Technology Services and employees of the Public Safety Communications Division who are not otherwise excluded from collective bargaining.

SEC. 193. Section 11546.6 of the Government Code is amended to read:

11546.6. (a) ~~The State Chief Information Officer~~ Director of Technology shall require fingerprint images and associated information from an employee, prospective employee, contractor, subcontractor, volunteer, or vendor whose duties include, or would include, working on data center, telecommunications, or network operations, engineering, or security with access to confidential or sensitive information and data on the network or computing infrastructure.

(b) The fingerprint images and associated information described in subdivision (a) shall be furnished to the Department of Justice for the purpose of obtaining information as to the existence and nature of any of the following:

(1) A record of state or federal convictions and the existence and nature of state or federal arrests for which the person is free on bail or on his or her own recognizance pending trial or appeal.

(2) Being convicted of, or pleading nolo contendere to, a crime, or having committed an act involving dishonesty, fraud, or deceit, if the crime or act is substantially related to the qualifications, functions, or duties of a person employed by the state in accordance with this provision.

(3) Any conviction or arrest, for which the person is free on bail or on his or her own recognizance pending trial or appeal, with a reasonable nexus to the information or data to which the employee shall have access.

(c) Requests for federal criminal offender record information received by the Department of Justice pursuant to this section shall be forwarded to the Federal Bureau of Investigation by the Department of Justice.

(d) The Department of Justice shall respond to the ~~State Chief Information Officer~~ Director of Technology with information as provided under subdivision (p) of Section 11105 of the Penal Code.

(e) The ~~State Chief Information Officer~~ Director of Technology shall request subsequent arrest notifications from the Department of Justice as provided under Section 11105.2 of the Penal Code.

(f) The Department of Justice may assess a fee sufficient to cover the processing costs required under this section, as authorized pursuant to subdivision (e) of Section 11105 of the Penal Code.

(g) If an individual described in subdivision (a) is rejected as a result of information contained in the Department of Justice or Federal Bureau of Investigation criminal offender record information response, the individual shall receive a copy of the response record from the ~~State Chief Information Officer~~ Director of Technology.

(h) The ~~State Chief Information Officer~~ Director of Technology shall develop a written appeal process for an individual described in subdivision (a) who is determined ineligible for employment because of his or her Department of Justice or Federal Bureau of Investigation criminal offender record. Individuals shall not be found to be ineligible for employment pursuant to this section until the appeal process is in place.

(i) When considering the background information received pursuant to this section, the ~~State Chief Information Officer~~ Director of Technology shall take under consideration any evidence of rehabilitation, including participation in treatment programs, as well as the age and specifics of the offense.

SEC. 194. Section 11549 of the Government Code is amended to read:

11549. (a) There is in state government, in the ~~California~~ Department of Technology Agency, the Office of Information Security. The purpose of the Office of Information Security is to ensure the confidentiality, integrity, and availability of state systems and applications, and to promote and protect privacy as part of the development and operations of state systems and applications to ensure the trust of the residents of this state.

(b) The office shall be under the direction of a director, who shall be appointed by, and serve at the pleasure of, the Governor. The director shall report to the ~~Secretary~~ Director of California Technology, and shall lead the Office of Information Security in carrying out its mission.

(c) The duties of the Office of Information Security, under the direction of the director, shall be to provide direction for information security and privacy to state government agencies, departments, and offices, pursuant to Section 11549.3.

(d) (1) Unless the context clearly requires otherwise, whenever the term “Office of Information Security and Privacy Protection” appears in any statute, regulation, or contract, it shall be deemed to refer to the Office of Information Security, and whenever the term “executive director of the Office of Information Security and Privacy Protection” appears in statute, regulation, or contract, it shall be deemed to refer to the Director of the Office of Information Security.

(2) All employees serving in state civil service, other than temporary employees, who are engaged in the performance of functions transferred from the Office of Information Security and Privacy Protection to the Office of Information Security, are transferred to the Office of Information Security. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service. The personnel records of all transferred employees shall be transferred to the Office of Information Security.

(3) The property of any office, agency, or department related to functions transferred to the Office of Information Security is transferred to the Office of Information Security. If any doubt arises as to where that property is transferred, the Department of General Services shall determine where the property is transferred.

(4) All unexpended balances of appropriations and other funds available for use in connection with any function or the administration of any law transferred to the Office of Information Security shall be transferred to the Office of Information Security for the use and for the purpose for which the appropriation was originally made or the funds were originally available. If there is any doubt as to where those balances and funds are transferred, the Department of Finance shall determine where the balances and funds are transferred.

SEC. 195. Section 11549.3 of the Government Code is amended to read:

11549.3. (a) The director shall establish an information security program. The program responsibilities include, but are not limited to, all of the following:

(1) The creation, updating, and publishing of information security and privacy policies, standards, and procedures for state agencies in the State Administrative Manual.

(2) The creation, issuance, and maintenance of policies, standards, and procedures directing state agencies to effectively manage security and risk for all of the following:

(A) Information technology, which includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval,

telecommunications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.

(B) Information that is identified as mission critical, confidential, sensitive, or personal, as defined and published by the ~~office~~ Office of Information Security.

(3) The creation, issuance, and maintenance of policies, standards, and procedures directing state agencies for the collection, tracking, and reporting of information regarding security and privacy incidents.

(4) The creation, issuance, and maintenance of policies, standards, and procedures directing state agencies in the development, maintenance, testing, and filing of each agency's disaster recovery plan.

(5) Coordination of the activities of agency information security officers, for purposes of integrating statewide security initiatives and ensuring compliance with information security and privacy policies and standards.

(6) Promotion and enhancement of the state agencies' risk management and privacy programs through education, awareness, collaboration, and consultation.

(7) Representing the state before the federal government, other state agencies, local government entities, and private industry on issues that have statewide impact on information security and privacy.

(b) An information security officer appointed pursuant to Section 11546.1 shall implement the policies and procedures issued by the Office of Information Security, including, but not limited to, performing all of the following duties:

(1) Comply with the information security and privacy policies, standards, and procedures issued pursuant to this chapter by the Office of Information Security.

(2) Comply with filing requirements and incident notification by providing timely information and reports as required by policy or directives of the office.

(c) The office may conduct, or require to be conducted, independent security assessments of any state agency, department, or office, the cost of which shall be funded by the state agency, department, or office being assessed.

(d) The office may require an audit of information security to ensure program compliance, the cost of which shall be funded by the state agency, department, or office being audited.

(e) The office shall report to the ~~California Department of Technology Agency~~ any state agency found to be noncompliant with information security program requirements.

SEC. 196. Section 11550 of the Government Code is amended to read:

11550. (a) Effective January 1, 1988, an annual salary of ninety-one thousand fifty-four dollars (\$91,054) shall be paid to each of the following:

- (1) Director of Finance.
- (2) Secretary of ~~Business, Transportation and Housing~~.
- (3) Secretary of the Natural Resources Agency.
- (4) Secretary of California Health and Human Services.
- (5) Secretary of ~~State~~ Business and Consumer Services.
- (6) Commissioner of the California Highway Patrol.
- (7) Secretary of the Department of Corrections and Rehabilitation.
- (8) Secretary of Food and Agriculture.
- (9) Secretary of Veterans Affairs.

(10) Secretary of Labor and Workforce Development.

~~(11) State Chief Information Officer.~~

~~(12)~~

~~(11) Secretary for Environmental Protection.~~

~~(13)~~

~~(12) Secretary of California Emergency Management Government Operations.~~

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 197. Section 11552 of the Government Code is amended to read:

11552. (a) Effective January 1, 1988, an annual salary of eighty-five thousand four hundred two dollars (\$85,402) shall be paid to each of the following:

(1) Commissioner of ~~Financial Institutions~~ Business Oversight.

~~(2) Commissioner of Corporations.~~

~~(3)~~

~~(2) Director of Transportation.~~

~~(4)~~

~~(3) Real Estate Commissioner.~~

~~(5)~~

~~(4) Director of Social Services.~~

~~(6)~~

(5) Director of Water Resources.

~~(7)~~

(6) Chief Deputy Secretary for Adult Operations of the Department of Corrections and Rehabilitation.

~~(8)~~

(7) Director of General Services.

~~(9)~~

(8) Director of Motor Vehicles.

~~(10)~~

(9) Chief Deputy Secretary for Juvenile Justice in the Department of Corrections and Rehabilitation.

~~(11)~~

(10) Executive Officer of the Franchise Tax Board.

~~(12)~~

(11) Director of Employment Development.

~~(13)~~

(12) Director of Alcoholic Beverage Control.

~~(14)~~

(13) Director of Housing and Community Development.

~~(15)~~

(14) Director of Alcohol and Drug Programs.

~~(16)~~

(15) Director of Statewide Health Planning and Development.

~~(17)~~

~~(16)~~ Director of the Department of ~~Personnel Administration~~ Human Resources.

~~(18)~~

~~(17)~~ Director of Health Care Services.

~~(19)~~

~~(18)~~ Director of Mental Health.

~~(20)~~

~~(19)~~ Director of Developmental Services.

~~(21)~~

~~(20)~~ State Public Defender.

~~(22)~~

~~(21)~~ Director of the California State Lottery.

~~(23)~~

~~(22)~~ Director of Fish and Game.

~~(24)~~

~~(23)~~ Director of Parks and Recreation.

~~(25)~~

~~(24)~~ Director of Rehabilitation.

~~(26)~~

~~(25)~~ Director of the Office of Administrative Law.

~~(27)~~

~~(26)~~ Director of Consumer Affairs.

~~(28)~~

(27) Director of Forestry and Fire Protection.

~~(29)~~

(28) The Inspector General pursuant to Section 6125 of the Penal Code.

~~(30)~~

(29) Director of Child Support Services.

~~(31)~~

(30) Director of Industrial Relations.

~~(32)~~

(31) Chief Deputy Secretary for Adult Programs in the Department of Corrections and Rehabilitation.

~~(33)~~

(32) Director of Toxic Substances Control.

~~(34)~~

(33) Director of Pesticide Regulation.

~~(35)~~

(34) Director of Managed Health Care.

~~(36)~~

(35) Director of Environmental Health Hazard Assessment.

~~(37)~~ Director of Technology.

~~(38)~~

(36) Director of California Bay-Delta Authority.

~~(39)~~

(37) Director of California Conservation Corps.

(38) Director of Technology.

(39) Director of Emergency Services.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 198. Section 12012.90 of the Government Code is amended to read:

12012.90. (a) (1) For each fiscal year commencing with the 2002–03 fiscal year to the ~~2004–05~~ 2004–05 fiscal year, inclusive, the California Gambling Control Commission shall determine the aggregate amount of shortfalls in payments that occurred in the Indian Gaming Revenue Sharing Trust Fund pursuant to Section 4.3.2.1 of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution as determined below:

(A) For each eligible recipient Indian tribe that received money for all four quarters of the fiscal year, the difference between one million one hundred thousand dollars (\$1,100,000) and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(B) For each eligible recipient Indian tribe that received moneys for less than four quarters of the fiscal year, the difference between two hundred seventy-five thousand dollars (\$275,000) for each quarter in the fiscal year that a recipient Indian tribe was eligible to receive moneys and the actual amount paid to each eligible recipient

Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(2) For purposes of this section, “eligible recipient Indian tribe” means a noncompact tribe, as defined in Section 4.3.2(a)(i) of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution.

(b) The California Gambling Control Commission shall provide to the committee in the Senate and Assembly that considers the State Budget an estimate of the amount needed to backfill the Indian Gaming Revenue Sharing Trust Fund on or before the date of the May budget revision for each fiscal year.

(c) An eligible recipient Indian tribe may not receive an amount from the backfill appropriated following the estimate made pursuant to subdivision (b) that would give the eligible recipient Indian tribe an aggregate amount in excess of two hundred seventy-five thousand dollars (\$275,000) per eligible quarter. Any funds transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund that result in a surplus shall revert back to the Indian Gaming Special Distribution Fund following the authorization of the final payment of the fiscal year.

(d) Upon a transfer of moneys from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund and appropriation from the trust fund, the California Gambling Control Commission shall distribute the moneys without delay to eligible recipient Indian tribes for each quarter that a tribe was eligible to receive a distribution during the fiscal year immediately preceding.

(e) For each fiscal year commencing with the ~~2005-06~~ 2005-06 fiscal year, all of the following shall apply and subdivisions (b) to (d), inclusive, shall not apply:

(1) On or before the day of the May budget revision for each fiscal year, the California Gambling Control Commission shall determine the anticipated total amount of shortfalls in payment likely to occur in the Indian Gaming Revenue Sharing Trust Fund for the upcoming fiscal year, and shall provide to the committee in the Senate and Assembly that considers the State Budget an estimate of the amount needed to transfer from the Indian Gaming Special Distribution Fund to backfill the Indian Gaming Revenue Sharing Trust Fund for the next fiscal year. The anticipated total amount of shortfalls to be transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund shall be determined by the California Gambling Control Commission as follows:

(A) The anticipated number of eligible recipient tribes that will be eligible to receive payments for the next fiscal year, multiplied by one million one hundred thousand dollars (\$1,100,000), with that product reduced by the amount anticipated to be paid by the tribes directly into the Indian Gaming Revenue Sharing Trust Fund for the fiscal year.

(B) This amount shall be based upon actual payments received into the Indian Gaming Revenue Sharing Trust Fund the previous fiscal year, with adjustments made due to amendments to existing tribal-state compacts or newly executed tribal-state compacts with respect to payments to be made to the Indian Gaming Revenue Sharing Trust Fund.

(2) The Legislature shall transfer from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund an amount sufficient for each eligible recipient tribe to receive a total not to exceed two hundred seventy-five thousand dollars (\$275,000) for each quarter in the upcoming fiscal year an eligible recipient tribe is eligible to receive moneys, for a total not to exceed one million, one hundred thousand dollars (\$1,100,000) for the entire fiscal year. The California Gambling Control Commission shall make quarterly payments from the Indian Gaming Revenue Sharing Trust Fund to each eligible recipient Indian tribe within 45 days of the end of each fiscal quarter.

(3) If the transfer of funds from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund results in a surplus, the funds shall remain in the Indian Gaming Revenue Sharing Trust Fund for disbursement in future years, and if necessary, adjustments shall be made to future distributions from the Indian Gaming Special Distribution Fund to the Revenue Sharing Trust Fund.

(4) In the event the amount appropriated for the fiscal year is insufficient to ensure each eligible recipient tribe receives the total of two hundred seventy-five thousand dollars (\$275,000) for each fiscal quarter, the Department of Finance, after consultation with the California Gambling Control Commission, shall submit to the Legislature a request for a budget augmentation for the current fiscal year with an explanation as to the reason why the amount appropriated for the fiscal year was insufficient.

(5) At the end of each fiscal quarter, the California Gambling Control Commission's Indian Gaming Revenue Sharing Trust Fund report shall include

information that identifies each of the eligible recipient tribes eligible to receive a distribution for that fiscal quarter, the amount paid into the Indian Gaming Revenue Sharing Trust Fund by each of the tribes pursuant to the applicable sections of the tribal-state compact, and the amount necessary to backfill from the Indian Gaming Special Distribution Fund the shortfall in the Indian Gaming Revenue Sharing Trust Fund in order for each eligible recipient tribe to receive the total of two hundred seventy-five thousand dollars (\$275,000) for the fiscal quarter.

~~(6) Based upon the projected shortfall in the Indian Gaming Revenue Sharing Trust Fund, for the 2005-06 fiscal year, the sum of fifty million dollars (\$50,000,000) is hereby transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund and is hereby appropriated from that fund to the California Gambling Control Commission for distribution to each eligible recipient tribe pursuant to this section.~~

SEC. 199. Section 12800 of the Government Code is amended to read:

12800. (a) There are in the state government the following agencies: State Business and Consumer Services; ~~Business~~; ~~Transportation and Housing~~; ~~California Emergency Management~~; California Environmental Protection; California Health and Human Services; Labor and Workforce Development; Natural Resources; Government Operations; and ~~Youth and Adult Correctional~~ Corrections and Rehabilitation.

~~Whenever the term "Agriculture and Services Agency" appears in any law, it means the "State and Consumer Services Agency," and whenever the term "Secretary of Agriculture and Services Agency" appears in any law, it means the "Secretary of State and Consumer Services."~~

~~Whenever the term “Business and Transportation Agency” appears in any law, it means the “Business, Transportation and Housing Agency,” and whenever the term “Secretary of the Business and Transportation Agency” appears in any law, it means the “Secretary of Business, Transportation and Housing.”~~

~~Whenever the term “Health and Welfare Agency” appears in any law, it means the “California Health and Human Services Agency,” and whenever the term “Secretary of the Health and Welfare Agency” appears in any law, it means the “Secretary of California Health and Human Services.”~~

~~Whenever the term “Resources Agency” appears in any law, it means the “Natural Resources Agency,” and whenever the term “Secretary of the Resources Agency” appears in any law, it means the “Secretary of the Natural Resources Agency.”~~

(b) The secretary of an agency shall be generally responsible for the sound fiscal management of each department, office, or other unit within the agency. The secretary shall review and approve the proposed budget of each department, office, or other unit. The secretary shall hold the head of each department, office, or other unit responsible for management control over the administrative, fiscal, and program performance of his or her department, office, or other unit. The secretary shall review the operations and evaluate the performance at appropriate intervals of each department, office, or other unit, and shall seek continually to improve the organization structure, the operating policies, and the management information systems of each department, office, or other unit.

SEC. 200. Section 12803.2 is added to the Government Code, to read:

12803.2. (a) The Government Operations Agency shall consist of all of the following:

- (1) The Office of Administrative Law.
- (2) The Public Employees' Retirement System.
- (3) The State Teachers' Retirement System.
- (4) The State Personnel Board.
- (5) The California Victim Compensation and Government Claims Board.
- (6) The Department of General Services.
- (7) The Department of Technology.
- (8) The Franchise Tax Board.
- (9) The Department of Human Resources.

(b) The Government Operations Agency shall be governed by the Secretary of Government Operations pursuant to Section 12801. However, the Director of Human Resources shall report directly to the Governor on issues relating to labor relations.

SEC. 201. Section 12804 of the Government Code is repealed.

~~12804. The Agriculture and Services Agency is hereby renamed the State and Consumer Services Agency.~~

~~The State and Consumer Services Agency consists of the following: the Department of General Services; the Department of Consumer Affairs; the Franchise Tax Board; the Public Employees' Retirement System; the State Teachers' Retirement System; the Department of Fair Employment and Housing; the Fair Employment and Housing Commission; the California Science Center; the California Victim Compensation and Government Claims Board; the California African American~~

~~Museum; the California Building and Standards Commission; the Alfred E. Alquist Seismic Safety Commission; and the Office of Privacy Protection.~~

SEC. 202. Section 12804 is added to the Government Code, to read:

12804. There is in the state government the Business and Consumer Services Agency.

The Business and Consumer Services Agency consists of the following: the Department of Consumer Affairs, the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Business Oversight, the Department of Alcoholic Beverage Control, the Alcoholic Beverage Control Appeals Board, the California Building and Standards Commission, the California Horse Racing Board, and the Alfred E. Alquist Seismic Safety Commission.

SEC. 203. Section 12804.5 of the Government Code is amended to read:

12804.5. The Secretary of the State Business and Consumer Services Agency is hereby authorized to develop programs for technical and fiscal assistance to facilitate nonprofit, self-help community vegetable gardens and related supporting activities.

SEC. 204. Section 12804.7 of the Government Code is amended to read:

12804.7. ~~The State and Consumer Services~~ Natural Resources Agency succeeds to and is vested with all the duties, powers, purposes, and responsibilities, and jurisdiction vested in the Department of Food and Agriculture by Part 3 (commencing with Section 3801) of Division 3 of the Food and Agricultural Code with respect to ~~the Museum of Science and Industry~~ Office of Exposition Park.

SEC. 205. Section 12805 of the Government Code is amended to read:

12805. (a) The Resources Agency is hereby renamed the Natural Resources Agency. The Natural Resources Agency consists of the departments of Forestry and Fire Protection, Conservation, Fish and Game, ~~Boating and Waterways~~, Delta Stewardship Council, Parks and Recreation, ~~Resources Recycling and Recovery~~, and Water Resources; the State Lands Commission; the Colorado River Board; the San Francisco Bay Conservation and Development Commission; the Central Valley Flood Protection Board; the Energy Resources Conservation and Development Commission; the Wildlife Conservation Board; the Delta Protection Commission; the Office of Exposition Park; the Native American Heritage Commission; the California Conservation Corps; the California Coastal Commission; the State Coastal Conservancy; the California Tahoe Conservancy; the Santa Monica Mountains Conservancy; the Coachella Valley Mountains Conservancy; the San Joaquin River Conservancy; the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy; the Baldwin Hills Conservancy; the San Diego River Conservancy; and the Sierra Nevada Conservancy.

(b) ~~No existing~~ Existing supplies, forms, insignias, signs, or logos shall not be destroyed or changed as a result of changing the name of the Resources Agency to the Natural Resources Agency, and those materials shall continue to be used until exhausted or unserviceable.

SEC. 206. Section 12813.5 is added to the Government Code, to read:

12813.5. The Public Employment Relations Board is in the Labor and Workforce Development Agency.

SEC. 207. Section 12855 of the Government Code is amended to read:

12855. For the purpose of this chapter, “agency” means the ~~State~~ Business and Consumer Services Agency, the California Health and ~~Welfare~~ Human Services Agency, ~~or the~~ Natural Resources Agency, the Government Operations Agency ~~or the~~ Youth and Adult Correctional Agency Corrections and Rehabilitation, and “secretary” means the secretary of any such agency. The general powers of the ~~Business, Transportation and Housing~~ Transportation Agency and its secretary are those specified in Part 4.5 (commencing with Section 13975).

SEC. 208. Section 12856 of the Government Code is amended to read:

12856. In addition to any other provision of law, the Secretary of ~~the State~~ Business and Consumer Services ~~Agency~~ may appoint an assistant, who is exempt from the civil service laws. The secretary shall prescribe the duties of ~~such~~ the appointed assistant and shall fix the salary of such assistant subject to the approval of the Director of Finance. ~~Such~~ The appointed assistant shall serve at the pleasure of the secretary.

SEC. 209. Section 12901 of the Government Code is amended to read:

12901. There is in the state government, in the ~~State~~ Business and Consumer Services Agency, the Department of Fair Employment and Housing. The department is under the direction of an executive officer known as the Director of Fair Employment and Housing, who is appointed by the Governor, subject to confirmation by the Senate, and who holds office at the pleasure of the Governor. The annual salary of the director is provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2.

SEC. 210. Section 12944 of the Government Code is amended to read:

12944. (a) It shall be unlawful for a licensing board to require any examination or establish any other qualification for licensing that has an adverse impact on any class by virtue of its race, creed, color, national origin or ancestry, sex, gender, gender identity, gender expression, age, medical condition, genetic information, physical disability, mental disability, or sexual orientation, unless the practice can be demonstrated to be job related.

Where the commission, after hearing, determines that an examination is unlawful under this subdivision, the licensing board may continue to use and rely on the examination until such time as judicial review by the superior court of the determination is exhausted.

If an examination or other qualification for licensing is determined to be unlawful under this section, that determination shall not void, limit, repeal, or otherwise affect any right, privilege, status, or responsibility previously conferred upon any person by the examination or by a license issued in reliance on the examination or qualification.

(b) It shall be unlawful for a licensing board to fail or refuse to make reasonable accommodation to an individual's mental or physical disability or medical condition.

(c) It shall be unlawful for any licensing board, unless specifically acting in accordance with federal equal employment opportunity guidelines or regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information,

sex, gender, gender identity, gender expression, age, or sexual orientation or any intent to make any such limitation, specification, or discrimination. Nothing in this subdivision shall prohibit any licensing board from making, in connection with prospective licensure or certification, an inquiry as to, or a request for information regarding, the physical fitness of applicants if that inquiry or request for information is directly related and pertinent to the license or the licensed position the applicant is applying for. Nothing in this subdivision shall prohibit any licensing board, in connection with prospective examinations, licensure, or certification, from inviting individuals with physical or mental disabilities to request reasonable accommodations or from making inquiries related to reasonable accommodations.

(d) It is unlawful for a licensing board to discriminate against any person because the person has filed a complaint, testified, or assisted in any proceeding under this part.

(e) It is unlawful for any licensing board to fail to keep records of applications for licensing or certification for a period of two years following the date of receipt of the applications.

(f) As used in this section, "licensing board" means any state board, agency, or authority in the ~~State~~ Business and Consumer Services Agency that has the authority to grant licenses or certificates which are prerequisites to employment eligibility or professional status.

SEC. 211. Section 13901 of the Government Code is amended to read:

13901. (a) There is within the ~~State and Consumer Services~~ Government Operations Agency the California Victim Compensation and Government Claims Board.

(b) The board consists of the Secretary of ~~State and Consumer Services~~ Government Operations or his or her designee and the Controller, both acting ex officio, and a third member who shall be appointed by and serve at the pleasure of the Governor. The third member may be a state officer who shall act ex officio.

(c) Any reference in statute or regulation to the State Board of Control shall be construed to refer to the California Victim Compensation and Government Claims Board.

SEC. 212. Section 13903 of the Government Code is amended to read:

13903. The Secretary of ~~the State and Consumer Services Agency~~ Government Operations shall serve as chair of the board.

SEC. 213. Section 13975 of the Government Code is repealed.

~~13975. The Business and Transportation Agency in state government is hereby renamed the Business, Transportation and Housing Agency. The agency consists of the State Department of Alcoholic Beverage Control, the Department of the California Highway Patrol, the Department of Corporations, the Department of Housing and Community Development, the Department of Motor Vehicles, the Department of Real Estate, the Department of Transportation, the Department of Financial Institutions, and the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun. The California Housing Finance Agency is also located within the Business, Transportation and Housing Agency, as specified in Division 31 (commencing with Section 50000) of the Health and Safety Code.~~

SEC. 214. Section 13975 is added to the Government Code, to read:

13975. There is in the state government the Transportation Agency. The agency consists of the Department of the California Highway Patrol, the California Transportation Commission, the Department of Motor Vehicles, the Department of Transportation, the High-Speed Rail Authority, and the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun.

SEC. 215. Section 13978.6 of the Government Code is amended to read:

13978.6. ~~(a) The Secretary of the Business, Transportation and Housing Agency shall be generally responsible for the sound fiscal management of each department, office, or other unit within the agency. The secretary shall review and approve the proposed budget of each department, office, or other unit. The secretary shall hold the head of each department, office, or other unit responsible for management control over the administrative, fiscal, and program performance of his or her department, office, or other unit. The secretary shall review the operations and evaluate the performance at appropriate intervals of each department, office, or other unit, and shall seek continually to improve the organization structure, the operating policies, and the management information systems of each department, office, or other unit.~~

(b)

(a) There is in the Business, Transportation, and Housing Business and Consumer Services Agency a Department of Business Oversight containing the Division of Corporations, which has the responsibility for administering various laws. In order to effectively support the Department Division of Corporations in the administration of these laws, there is hereby established the State Corporations Fund. All expenses and salaries of the Department Division of Corporations shall be paid out of the State

Corporations Fund. Therefore, notwithstanding any provision of any law administered by the ~~Department~~ Division of Corporations declaring that fees, reimbursements, assessments, or other money or amounts charged and collected by the ~~Department~~ Division of Corporations under these laws are to be delivered or transmitted to the Treasurer and deposited to the credit of the General Fund, ~~on and after July 1, 1992,~~ all fees, reimbursements, assessments, and other money or amounts charged and collected under these laws ~~and attributable to the 1992-93 fiscal year and subsequent fiscal years~~ shall be delivered or transmitted to the Treasurer and deposited to the credit of the State Corporations Fund.

(c) Funds appropriated from the State Corporations Fund and made available for expenditure for any law or program of the ~~Department~~ Division of Corporations may come from the following:

(1) Fees and any other amounts charged and collected pursuant to Section 25608 of the Corporations Code, except for fees and other amounts charged and collected pursuant to subdivisions (o) to (r), inclusive, of Section 25608 of the Corporations Code.

(2) Fees collected pursuant to subdivisions (a), (b), (c), and (d) of Section 25608.1 of the Corporations Code.

SEC. 216. Section 13984 of the Government Code is amended to read:

13984. In order to ensure that Section 10240.3 of the Business and Professions Code and Sections 215.5, 22171, and 50333 of the Financial Code are applied consistently to all California entities engaged in the brokering, originating, servicing, underwriting, and issuance of nontraditional mortgage products, the secretary shall

ensure that the ~~Commissioner~~ Director of Consumer Affairs or the Commissioner of Real Estate, the Commissioner of Financial Institutions, and the Commissioner of Corporations Business Oversight coordinate their policymaking and rulemaking efforts.

SEC. 217. Section 13995.20 of the Government Code, as amended by Section 2 of Chapter 790 of the Statutes of 2006, is amended to read:

13995.20. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) “Appointed commissioner” means a commissioner appointed by the Governor pursuant to paragraph (2) of subdivision (b) of Section 13995.40.

(b) “Assessed business” means a person required to pay an assessment pursuant to this chapter, and until the first assessment is levied, any person authorized to vote for the initial referendum. An assessed business shall not include a public entity or a corporation when a majority of the corporation’s board of directors is appointed by a public official or public entity, or serves on the corporation’s board of directors by virtue of being elected to public office, or both.

(c) “Commission” means the California Travel and Tourism Commission.

(d) “Director” means the Director of the Governor’s Office of Business and Economic Development.

(d)

(e) “Elected commissioner” means a commissioner elected pursuant to subdivision (d) of Section 13995.40.

(e)

(f) “Industry category” means the following classifications within the tourism industry:

- (1) Accommodations.
- (2) Restaurants and retail.
- (3) Attractions and recreation.
- (4) Transportation and travel services.

(f)

(g) “Industry segment” means a portion of an industry category. For example, rental cars are an industry segment of the transportation and travel services industry category.

(g)

(h) “Office” means the Office of Tourism, also popularly referred to as the Division of Tourism, within the ~~Business, Transportation and Housing Agency~~ Governor’s Office of Business and Economic Development.

(h)

(i) “Person” means an individual, public entity, firm, corporation, association, or any other business unit, whether operating on a for-profit or nonprofit basis.

(i)

(j) “Referendum” means any vote by mailed ballot of measures recommended by the commission and approved by the ~~secretary~~ director pursuant to Section 13995.60, except for the initial referendum, which shall consist of measures contained in the selection committee report, discussed in Section 13995.30.

(j) “Secretary” means the ~~Secretary of Business, Transportation and Housing~~.

(k) "Selection committee" means the Tourism Selection Committee described in Article 3 (commencing with Section 13995.30).

~~(l) This section shall become inoperative on the date the Secretary of Business, Transportation and Housing provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the conditions described in Section 13995.92 have been satisfied, and if the secretary provides those notices, this section is repealed as of January 1, 2008, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.~~

SEC. 218. Section 13995.30 of the Government Code is amended to read:

13995.30. (a) The Governor shall appoint a Tourism Selection Committee based upon recommendations from established industry associations. The committee shall consist of 25 representatives, with no fewer than six from each industry category. In selecting the representatives, the Governor shall, to the extent possible, give recognition to the diversity within each industry category. The committee shall select a chairperson from among its members. The office shall provide staffing for the committee.

(b) The selection committee shall convene on or before March 1, 1996. Not later than 150 days following the initial convening of the committee, the committee shall issue a report listing the following:

- (1) Industry segments that will be included in the initial referendum.
- (2) The target assessment level for the initial referendum.
- (3) Percentage of funds to be levied against each industry category and segment.

To the extent possible, the percentages shall be based upon quantifiable industry data,

and amounts to be levied against industry segments shall bear an appropriate relationship to the benefit derived from travel and tourism by those industry segments.

(4) Assessment methodology and rate of assessment within each industry segment, that may include, but is not limited to, a percentage of gross revenue or a per transaction charge.

(5) Businesses, if any, within a segment to be assessed at a reduced rate, which may be set at zero, whether temporarily or permanently.

(6) Initial slate of proposed elected commissioners. The number of commissioners elected from each industry category shall be determined by the weighted percentage of assessments from that category.

(c) Nothing in this section shall preclude the selection committee from setting the assessment rate for a business within a segment at a lower rate, which may be set at zero, than a rate applicable to other businesses within that segment if the selection committee makes specific findings that the lower rate should apply due to unique geographical, financial, or other circumstances affecting the business. No business for which a zero assessment rate is set pursuant to this subdivision shall be sent a ballot or entitled to participate in the initial referendum, or in any subsequent referendum in which its rate of assessment is set at zero.

(d) The committee members for each industry category, also referred to as a subcommittee, shall prepare a recommendation for the entire committee on how the items specified in subdivision (b) should be determined for the industry segments within their industry category. The recommendations shall not include a discussion of industry category levies, which shall be determined solely by the committee. In the

event that the subcommittee cannot agree on one or more of the items specified in subdivision (b), no recommendation shall be given in that category. The recommendations shall be presented to the full committee, which shall address each of the items contained in subdivision (b).

(e) In order to be assessed, an industry segment must be defined with sufficient clarity to allow for the cost-effective identification of assessed businesses within that segment.

(f) It shall be the responsibility of the office to advertise widely the selection committee process and to schedule public meetings for potential assessed businesses to provide input to the selection committee.

(g) The recommendations developed by the committee pursuant to subdivision (b) shall be reviewed and approved by the ~~secretary~~ director.

(h) The selection committee process and report are exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

SEC. 219. Section 13995.40 of the Government Code is amended to read:

13995.40. (a) Upon approval of the initial referendum, the office shall establish a nonprofit mutual benefit corporation named the California Travel and Tourism Commission. The commission shall be under the direction of a board of commissioners, which shall function as the board of directors for purposes of the Nonprofit Corporation Law.

(b) The board of commissioners shall consist of 37 commissioners comprising the following:

(1) The ~~secretary~~ director, who shall serve as chairperson.

(2) (A) Twelve members, who are professionally active in the tourism industry, and whose primary business, trade, or profession is directly related to the tourism industry, shall be appointed by the Governor. Each appointed commissioner shall represent only one of the 12 tourism regions designated by the office, and the appointed commissioners shall be selected so as to represent, to the greatest extent possible, the diverse elements of the tourism industry. Appointed commissioners are not limited to individuals who are employed by or represent assessed businesses.

(B) If an appointed commissioner ceases to be professionally active in the tourism industry or his or her primary business, trade, or profession ceases to be directly related to the tourism industry, he or she shall automatically cease to be an appointed commissioner 90 days following the date on which he or she ceases to meet both of the eligibility criteria specified in subparagraph (A), unless the commissioner becomes eligible again within that 90-day period.

(3) Twenty-four elected commissioners, including at least one representative of a travel agency or tour operator that is an assessed business.

(c) The commission established pursuant to Section 15364.52 shall be inoperative so long as the commission established pursuant to this section is in existence.

(d) Elected commissioners shall be elected by industry category in a referendum. Regardless of the number of ballots received for a referendum, the nominee for each commissioner slot with the most weighted votes from assessed businesses within that industry category shall be elected commissioner. In the event that an elected commissioner resigns, dies, or is removed from office during his or her term, the

commission shall appoint a replacement from the same industry category that the commissioner in question represented, and that commissioner shall fill the remaining term of the commissioner in question. The number of commissioners elected from each industry category shall be determined by the weighted percentage of assessments from that category.

(e) The ~~secretary~~ director may remove any elected commissioner following a hearing at which the commissioner is found guilty of abuse of office or moral turpitude.

(f) (1) The term of each elected commissioner shall commence July 1 of the year next following his or her election, and shall expire on June 30 of the fourth year following his or her election. If an elected commissioner ceases to be employed by or with an assessed business in the category and segment which he or she was representing, his or her term as an elected commissioner shall automatically terminate 90 days following the date on which he or she ceases to be so employed, unless, within that 90-day period, the commissioner again is employed by or with an assessed business in the same category and segment.

(2) Terms of elected commissioners that would otherwise expire effective December 31 of the year during which legislation adding this subdivision is enacted shall automatically be extended until June 30 of the following year.

(g) With the exception of the ~~secretary~~ director, no commissioner shall serve for more than two consecutive terms. For purposes of this subdivision, the phrase “two consecutive terms” shall not include partial terms.

(h) Except for the original commissioners, all commissioners shall serve four-year terms. One-half of the commissioners originally appointed or elected shall serve a

two-year term, while the remainder shall serve a four-year term. Every two years thereafter, one-half of the commissioners shall be appointed or elected by referendum.

(i) The selection committee shall determine the initial slate of candidates for elected commissioners. Thereafter the commissioners, by adopted resolution, shall nominate a slate of candidates, and shall include any additional candidates complying with the procedure described in Section 13995.62.

(j) The commissioners shall elect a vice chairperson from the elected commissioners.

(k) The commission may lease space from the office.

(l) The commission and the office shall be the official state representatives of California tourism.

(m) All commission meetings shall be held in California.

(n) No person shall receive compensation for serving as a commissioner, but each commissioner shall receive reimbursement for reasonable expenses incurred while on authorized commission business.

(o) Assessed businesses shall vote only for commissioners representing their industry category.

(p) Commissioners shall comply with the requirements of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)). The Legislature finds and declares that commissioners appointed or elected on the basis of membership in a particular tourism segment are appointed or elected to represent and serve the economic interests of those tourism segments and that the economic interests of these members are the same as those of the public generally.

(q) Commission meetings shall be subject to the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1).

(r) The executive director of the commission shall serve as secretary to the commission, a nonvoting position, and shall keep the minutes and records of all commission meetings.

SEC. 220. Section 13995.42 of the Government Code is amended to read:

13995.42. (a) The commission is a separate, independent California nonprofit mutual benefit corporation. Except as provided in Section 13995.43, the staff of the commission shall be employees solely of the commission, and the procedures adopted by the commission shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

(b) Not later than six months following the initial referendum, the commission shall adopt procedures concerning the operation of the commission in order to provide due process rights for assessed businesses.

(c) In the event that the commission fails to adopt the procedures described in subdivision (b) within the specified timeframe, the ~~secretary~~ director shall adopt procedures for use by the commission until the commission adopts its own procedures. These procedures shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1), whether adopted by the commission or ~~secretary~~ director.

SEC. 221. Section 13995.43 of the Government Code is amended to read:

13995.43. (a) The commission shall be administered by an executive director. That individual shall be a tourism industry marketing professional, recommended by a vote of the commissioners and approved by the Governor. The executive director shall serve at the pleasure of both the commissioners and the Governor.

(b) The executive director shall report to and receive overall guidance from the commission, and shall implement the commission's tourism marketing plan. The executive director shall report to the ~~secretary~~ director for day-to-day managerial and financial responsibilities.

(c) The executive director shall serve ~~simultaneously~~ as the director of the office; ~~with the title of Deputy Secretary of Tourism of the Business, Transportation and Housing Agency, and that individual shall be an exempt employee, employed by the state. So long as the commission is in existence, the only director of the office shall be the executive director of the commission.~~ Notwithstanding any other provision of law, the executive director may supervise both employees of the commission and employees of the office, notwithstanding the fact that the commission employees are employees solely of the commission.

(d) The salary and benefits of the executive director shall be determined by the commission, and approved by the ~~secretary~~ director, based upon industry standards for a director of a marketing budget of similar size. The entire salary and all benefits of the executive director shall be paid from assessments.

SEC. 222. Section 13995.44 of the Government Code is amended to read:

13995.44. (a) (1) The commission shall annually provide to all assessed businesses a report on the activities and budget of the commission including, but not

limited to, income and expenses, the fund balance, a summary of the tourism marketing plan, and a report of progress in achieving the goals set forth in the plan. The portions of the report that pertain to the commission's income and expenses and the fund balance, as well as those other portions that the commission may from time to time deem appropriate, shall be audited by independent accountants retained by the commission for this purpose.

(2) The commission's annual budget shall be subject to the review and approval of the ~~secretary~~ director. However, any decision of the ~~secretary~~ director related to the budget may be overridden by a vote of three-fifths or more of the commissioners then in office.

(b) The commission shall maintain a report on the percentage assessment allocation between industry categories and industry segments. The report shall also specify the reasons and methodology used for the allocations. This report shall be updated every time the assessment allocations are amended. The report shall be made available to any assessed business.

SEC. 223. Section 13995.45 of the Government Code is amended to read:

13995.45. (a) The commission shall annually prepare, or cause to be prepared, a written marketing plan. In developing the plan, the commission shall utilize, as appropriate, the advice and recommendations of the industry marketing advisory committee or committees established pursuant to subdivision (a) of Section 13995.47. The commission may amend the plan at any commission meeting. All expenditures by the commission shall be consistent with the marketing plan.

(b) The plan shall promote travel to and within California, and shall include, but not be limited to, the following:

- (1) An evaluation of the previous year's budget and activities.
- (2) Review of California tourism trends, conditions, and opportunities.
- (3) Target audiences for tourism marketing expenditures.
- (4) Marketing strategies, objectives, and targets.
- (5) Budget for the current year.

(c) Before final adoption of the plan, the commission shall provide each known destination marketing organization in California notice of the availability of the proposed marketing plan and suitable opportunity, which may include public meetings, to review the plan and to comment upon it. The commission shall take into consideration any recommendations submitted by the destination marketing organizations, except that the final determination as to the nature, extent, and substance of the plan shall in all respects rest solely within the ultimate discretion of the commission, except as provided in subdivision (d).

(d) The final adoption of the plan shall be subject to the review and approval of the ~~secretary~~ director. However, any decision of the ~~secretary~~ director related to the plan may be overridden by a vote of three-fifths or more of the commissioners then in office.

SEC. 224. Section 13995.50 of the Government Code is amended to read:

13995.50. (a) The marketing of California tourism is hereby declared to be affected with the public interest. This chapter is enacted in the exercise of the police

powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

(b) The police powers shall be used to collect assessments not paid by the deadlines established by the ~~secretary~~ director.

SEC. 225. Section 13995.51 of the Government Code is amended to read:

13995.51. (a) The following powers, and any other powers provided in this act, with the exception of the exercising of police powers and of that power enumerated in subdivision (b), shall be the responsibility of the ~~secretary~~ director and, when not exercised by the ~~secretary~~ director, may be exercised by the commission:

(1) Call referenda in accordance with the procedures set forth in Article 6 (commencing with Section 13995.60) and certify the results.

(2) Collect and deposit assessments.

(3) Exercise police powers.

(4) Pursue actions and penalties connected with assessments.

(b) Except as otherwise specified in this chapter, the ~~secretary~~ director shall have veto power over the actions of the commission, following consultation with the commission, only under the following circumstances:

(1) Travel and expense costs.

(2) Situations where the ~~secretary~~ director determines a conflict of interest exists, as defined by the Fair Political Practices Commission.

(3) The use of any state funds.

(4) Any contracts entered into between the commission and a commissioner.

SEC. 226. Section 13995.53 of the Government Code is amended to read:

13995.53. The ~~secretary~~ director may require any and all assessed businesses to maintain books and records that reflect their income or sales as reflected in the assessment, and to furnish the ~~secretary~~ director with any information that may, from ~~time-to-time~~ time to time, be requested by the ~~secretary~~ director, and to permit the inspection by the ~~secretary~~ director of portions of books and records that relate to the amount of assessment.

SEC. 227. Section 13995.54 of the Government Code is amended to read:

13995.54. Information pertaining to assessed businesses obtained by the ~~secretary~~ director pursuant to this chapter is confidential and shall not be disclosed except to a person with the right to obtain the information, any attorney hired by the ~~secretary~~ director who is employed to give legal advice upon it, or by court order. Information obtained by the ~~secretary~~ director in order to determine the assessment level for an assessed business is exempt from the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

SEC. 228. Section 13995.55 of the Government Code is amended to read:

13995.55. For the purpose of carrying out Section 13995.51, the ~~secretary~~ director may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas for the production of books, records, or documents of any kind.

SEC. 229. Section 13995.56 of the Government Code is amended to read:

13995.56. A person shall not be excused from attending and testifying, or from producing documentary evidence, before the ~~secretary~~ director in obedience to the subpoena of the ~~secretary~~ director pursuant to the authority granted in Section 13995.55 on the ground, or for the reason, that the testimony or evidence, documentary or

otherwise, which is required of him or her may tend to incriminate the person or subject that person to a penalty. A natural person shall not, however, be prosecuted or subjected to any penalty on account of any transaction, matter, or thing concerning which he or she may be required to testify, or produce evidence, documentary or otherwise, before the ~~secretary~~ director in obedience to a subpoena. A natural person testifying shall not, however, be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 230. Section 13995.60 of the Government Code, as added by Section 8 of Chapter 790 of the Statutes of 2006, is amended to read:

13995.60. (a) As used in this article and Article 7 (commencing with Section 13995.65), “assessment level” means the estimated gross dollar amount received by assessment from all assessed businesses on an annual basis, and “assessment formula” means the allocation method used within each industry segment (for example, percentage of gross revenue or percentage of transaction charges).

(b) Commencing on January 1, 2003, a referendum shall be called every two years, and the commission, by adopted resolution, shall determine the slate of individuals who will run for commissioner. The resolution shall also cover, but not be limited to, the proposed assessment level for each industry category, based upon specified assessment formulae, together with necessary information to enable each assessed business to determine what its individual assessment would be. Commencing with the referendum held in 2007 and every six years thereafter, the resolution shall also cover the termination or continuation of the commission. The resolution may also include an amended industry segment allocation formula and the percentage allocation of

assessments between industry categories and segments. The commission may specify in the resolution that a special, lower assessment rate that was set pursuant to subdivision (c) of Section 13995.30 for a particular business will no longer apply due to changes in the unique circumstance that originally justified the lower rate. The resolution may include up to three possible assessment levels for each industry category, from which the assessed businesses will select one assessment level for each industry category by plurality weighted vote.

(c) The commission shall deliver to the ~~secretary~~ director the resolution described in subdivision (b). The ~~secretary~~ director shall call a referendum containing the information required by subdivision (b) plus any additional matters complying with the procedures of subdivision (b) of Section 13995.62.

(d) When the ~~secretary~~ director calls a referendum, all assessed businesses shall be sent a ballot for the referendum. Every ballot that the ~~secretary~~ director receives by the ballot deadline shall be counted, utilizing the weighted formula adopted initially by the selection committee, and subsequently amended by referendum.

(e) If the commission's assessment level is significantly different from what was projected when the existing assessment formula was last approved by referendum, a majority of members, by weighted votes of an industry category, may petition for a referendum to change the assessment formula applicable to that industry category.

(f) If the referendum includes more than one possible assessment rate for each industry category, the rate with the plurality of weighted votes within a category shall be adopted.

(g) Notwithstanding any other provision of this section, if the commission delivers to the ~~secretary~~ director a resolution pertaining to any matter described in subdivision (b), the ~~secretary~~ director shall call a referendum at a time or times other than as specified in this section. Each referendum shall contain only those matters contained in the resolution.

(h) Notwithstanding any other provision of this section, the ~~secretary~~ director shall identify, to the extent reasonably feasible, those businesses that would become newly assessed due to a change in category, segment, threshold, or exemption status sought via referendum, and provide those businesses the opportunity to vote in that referendum.

(i) This section shall become operative only if the Secretary of Business, Transportation and Housing provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the conditions described in Section 13995.92 have been satisfied.

SEC. 231. Section 13995.63 of the Government Code is amended to read:

13995.63. (a) Upon receipt of the resolution required by Section 13995.60, including any assessed business referendum request pursuant to subdivision (a) of Section 13995.52 or Section 13995.62, the ~~secretary~~ director shall establish a referendum period not to exceed 60 days. If the ~~secretary~~ director determines that the referendum period so established does not provide sufficient time for the balloting, the ~~secretary~~ director may extend the referendum period not more than 15 additional days. At the close of the referendum period, the ~~secretary~~ director shall count and tabulate the ballots filed during the referendum period.

(b) The ~~secretary~~ director shall establish a deadline for adoption of the resolution described in subdivision (a). If the commission fails to meet this deadline, or if the adopted resolution fails to meet the requirements of this chapter, then assessed businesses may present a slate of candidates to the ~~secretary~~ director not later than 60 days following the deadline established for the commission resolution. A minimum of 10 percent of weighted voters shall sign the document presenting the slate.

(c) In the event that the ~~secretary~~ director does not receive a resolution required by Section 13995.60 from the commission by the deadline established pursuant to subdivision (b) or the resolution does not comply with the requirements of this chapter and the assessed businesses fail to present a slate pursuant to subdivision (b), then the ~~secretary~~ director shall select a slate of commissioners and this slate, added to any assessed business referendum requests pursuant to subdivision (a) of Section 13995.52 or Section 13995.62, shall constitute the items included in the referendum.

SEC. 232. Section 13995.64 of the Government Code is amended to read:

13995.64. (a) Each assessed business is entitled to a weighted vote in each referendum. In calculating weighted votes, each assessed business receives a vote equal to the relative assessment paid by that business. An assessed business paying nine hundred dollars (\$900) in annual assessments has three times the weighted vote of a business paying three hundred dollars (\$300). Weighted votes are used to determine all issues on the referendum. The initial referendum, and any referendum item to terminate the commission, must be approved by a majority of the weighted votes cast at the referendum. The amount of assessment and selection of commissioners is determined by the most weighted votes, whether or not there is a majority.

(b) For purposes of voting in any referendum, each assessed business is part of one industry category and one industry segment, and for voting purposes only, a business with revenue in more than one industry category or industry segment shall only be included in the category and segment in which it earns the most gross revenue.

(c) Each assessed business is eligible to vote for each item on the referendum, except that an assessed business can only vote for commissioners representing its industry category, and industry segment formulae for its industry segment.

(d) A business is not eligible to vote unless it has paid all assessments and fines outstanding as of a date established by the ~~secretary~~ director.

SEC. 233. Section 13995.65 of the Government Code is amended to read:

13995.65. (a) Each industry category shall establish a committee to determine the following within its industry category: industry segments, assessment formula for each industry segment, and any types of business exempt from assessment. The initial segment committees shall consist of the subcommittee for that category as described in subdivision (d) of Section 13995.30. Following approval of the assessment by referendum, the committees shall be selected by the commission, based upon recommendations from the tourism industry. Committee members need not be commission members.

(b) The committee recommendations shall be presented to the commission or selection committee, as applicable. The selection committee may adopt a resolution specifying some or all of the items listed in subdivision (a), plus an allocation of the overall assessment among industry categories. The commission may adopt a resolution specifying one or more of the items listed in subdivision (a), plus an allocation of the

proposed assessment. The selection committee and commission are not required to adopt the findings of any committee.

(c) The initial industry category and industry segment allocations shall be included in the selection committee report required by subdivision (b) of Section 13995.30. Changes to the industry segment allocation formula may be recommended to the commission by a segment committee at the biennial commission meeting scheduled to approve the referendum resolution pursuant to Section 13995.60. At the same meeting, the commission may amend the percentage allocations among industry categories. Any item discussed in this section that is approved by resolution of the commission, except amendments to the percentage allocations among industry categories, shall be placed on the next referendum, and adopted if approved by the majority of weighted votes cast.

(d) Upon approval by referendum, the office shall mail an assessment bill to each assessed business. The ~~secretary~~ director shall determine how often assessments are collected, based upon available staffing resources. The ~~secretary~~ director may stagger the assessment collection throughout the year, and charge businesses a prorated amount of assessment because of the staggered assessment period. The ~~secretary~~ director and office shall not divulge the amount of assessment or weighted votes of any assessed businesses, except as part of an assessment action.

(e) An assessed business may appeal an assessment to the ~~secretary~~ director based upon the fact that the business does not meet the definition established for an assessed business within its industry segment or that the level of assessment is incorrect. An appeal brought under this subdivision shall be supported by substantial evidence

submitted under penalty of perjury by affidavit or declaration as provided in Section 2015.5 of the Code of Civil Procedure. If the error is based upon failure of the business to provide the required information in a timely manner, the ~~secretary~~ director may impose a fee for reasonable costs incurred by the ~~secretary~~ director in correcting the assessment against the business as a condition of correcting the assessment.

(f) Notwithstanding any other provision of law, an assessed business may pass on some or all of the assessment to customers. An assessed business that is passing on the assessment may, but shall not be required to, separately identify or itemize the assessment on any document provided to a customer. Assessments levied pursuant to this chapter and passed on to customers are not part of gross receipts or gross revenue for any purpose, including the calculation of sales or use tax and income pursuant to any lease. However, assessments that are passed on to customers shall be included in gross receipts for purposes of income and franchise taxes.

(g) For purposes of calculating the assessment for a business with revenue in more than one industry category or industry segment, that business may elect to be assessed based on either of the following:

(1) The assessment methodology and rate of assessment applicable to each category or segment, respectively, as it relates to the revenue that it derives from that category or segment.

(2) With respect to its total revenue from all industry categories or segments, the assessment methodology and rate of assessment applicable to the revenue in the category and segment in which it earns the most gross revenue.

(h) (1) A person sharing common ownership, management, or control of more than one assessed business may elect to calculate, administer, and pay the assessment owed by each business by any of the following methods:

(A) Calculated on the basis of each individual business location.

(B) Calculated on the basis of each business, or each group of businesses, possessing a single federal employer identification number, regardless of the number of locations involved.

(C) Calculated on the basis of the average aggregate percentage of tourism-related gross revenue received by all of the person's businesses in a particular industry segment or industry category during the period in question, multiplied by the total aggregate tourism-related gross revenue received by all of the businesses, and then multiplied by the appropriate assessment formula. For example, if a person sharing common ownership, management, or control of more than one assessed business in the retail industry segment calculates that the average percentage of tourism-related gross revenue received by all of its locations equals 6 percent during the period in question, that person may multiply all of the gross revenue received from all of those locations by 6 percent, and then multiply that product by the applicable assessment formula.

(D) Calculated on any other basis authorized by the ~~secretary~~ director.

(2) Except as the ~~secretary~~ director may otherwise authorize, the methods in ~~subparagraphs~~ subparagraph (B), (C), or (D) of paragraph (1) shall not be used if the aggregate assessments paid would be less than the total assessment revenues that would be paid if the method in subparagraph (A) of paragraph (1) were used.

SEC. 234. Section 13995.68 of the Government Code is amended to read:

13995.68. (a) The ~~secretary~~ director shall establish a list of businesses to be assessed and the amount of assessment owed by each. The ~~secretary~~ director shall collect the assessment from all assessed businesses, and in collecting the assessment the ~~secretary~~ director may exercise the police powers and bring enforcement actions.

(b) Funds collected by the ~~secretary~~ director shall be deposited into the account of the commission. This account shall not be an account of the state government.

(c) Any costs relating to the collection of assessments incurred by the state shall be reimbursed by the commission.

SEC. 235. Section 13995.69 of the Government Code is amended to read:

13995.69. (a) The office shall develop a list of California businesses within each segment included within the report required by subdivision (b) of Section 13995.30, periodically updated. Other state agencies shall assist the office in obtaining the names and addresses of these businesses.

(b) The office shall mail to each business identified pursuant to subdivision (a) a form requesting information necessary to determine the assessment for that business. Any business failing to provide this information in a timely manner shall be assessed an amount determined by the ~~secretary~~ director to represent the upper assessment level for that segment.

(c) The office, in consultation with the commission, shall establish by regulation the procedure for assessment collection.

SEC. 236. Section 13995.71 of the Government Code is amended to read:

13995.71. Any assessment levied as provided in this chapter is a personal debt of every person so assessed and shall be due and payable to the ~~secretary~~ director. If

any assessed person fails to pay any assessment, the ~~secretary~~ director may file a complaint against the person in a state court of competent jurisdiction for the collection of the assessment.

SEC. 237. Section 13995.72 of the Government Code is amended to read:

13995.72. If any assessed business that is duly assessed pursuant to this chapter fails to pay to the ~~secretary~~ director the assessed amount by the due date, the ~~secretary~~ director may add to the unpaid assessment an amount not to exceed 10 percent of the unpaid assessment to defray the cost of enforcing the collection of the unpaid assessment. In addition to payment for the cost of enforcing a collection, the assessed business shall pay to the ~~secretary~~ director a penalty equivalent to the lesser of either the maximum amount authorized by Section 1 of Article XV of the California Constitution or 5 percent for each 30 days the assessment is unpaid, prorated over the days unpaid, commencing 30 days after the notice has been given to the assessed business of ~~his or her~~ its failure to pay the assessment on the date required, unless the ~~secretary~~ director determines, to his or her satisfaction, that the failure to pay is due to reasonable cause beyond the control of the assessed business.

SEC. 238. Section 13995.73 of the Government Code is amended to read:

13995.73. The ~~secretary~~ director may require assessed businesses to deposit with him or her in advance the following amounts:

- (a) An amount for necessary expenses.
- (b) An amount that shall not exceed 25 percent of the assessment to cover costs that are incurred prior to the receipt of sufficient funds from the assessment.

(c) The amount of any deposit that is required by the ~~secretary~~ director shall be based upon the estimated assessment for the assessed business.

SEC. 239. Section 13995.74 of the Government Code is amended to read:

13995.74. In lieu of requiring advance deposits pursuant to Section 13995.73, or in order generally to provide funds for defraying administrative expenses or the expenses of implementing the tourism marketing plan until the time that sufficient moneys are collected for this purpose from the payment of the assessments that are established pursuant to this chapter, the ~~secretary~~ director may receive and disburse for the express purposes contributions that are made by assessed businesses. If, however, collections from the payment of established assessments are sufficient to so warrant, the ~~secretary~~ director shall authorize the repayment of contributions, or authorize the application of the contributions to the assessment obligations of persons that made the contributions.

SEC. 240. Section 13995.75 of the Government Code is amended to read:

13995.75. Upon termination of the commission, any remaining funds that are not required by the ~~secretary~~ director to defray commission expenses shall be returned by the ~~secretary~~ director upon a pro rata basis, to all persons from whom the assessments were collected unless the ~~secretary~~ director finds that the amounts to be returned are so small as to make impractical the computation and remitting of the pro rata refund to the appropriate persons. If the ~~secretary~~ director makes a finding that returning the remaining funds would be impractical, he or she may use the moneys in the fund to defray the costs of the office.

SEC. 241. Section 13995.77 of the Government Code is amended to read:

13995.77. A business is exempt from the assessments provided for in this chapter if any of the following apply:

(a) The business is a travel agency or tour operator that derives less than 20 percent of its gross revenue annually from travel and tourism occurring within the state. A travel agency or tour operator that qualifies for this exemption may participate as an assessed business by paying an assessment calculated on the same basis applicable to other travel agencies or tour operators, respectively, and by filing a written request with the ~~secretary~~ director indicating its desire to be categorized as an assessed business.

(b) The business is a small business. For purposes of this section, "small business" means a business location with less than one million dollars (\$1,000,000) in total California gross annual revenue from all sources. This threshold amount may be lowered, but never to less than five hundred thousand dollars (\$500,000), by means of a referendum conducted pursuant to Section 13995.60; however, the ~~secretary~~ director may elect to forgo assessing a business for which the expense incurred in collecting the assessment is not commensurate with the assessment that would be collected.

(c) The assessments provided for in this chapter shall not apply to the revenue of regular route intrastate and interstate bus service: provided, however, that this subdivision shall not be deemed to exclude any revenue derived from bus service that is of a type that requires authority, whether in the form of a certificate of public convenience and necessity, or a permit, to operate as a charter-party carrier of passengers pursuant to Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code.

(d) Any business exempted pursuant to this section may enter into a contract for voluntary assessments pursuant to Section 13995.49.

SEC. 242. Section 13995.82 of the Government Code is amended to read:

13995.82. (a) When the ~~secretary~~ director makes a determination that an assessment is deficient as to the payment due, the ~~secretary~~ director may determine the amount of the deficiency, including any applicable penalty, as provided in this chapter. After giving notice that a deficiency determination is proposed and an opportunity to file a report or provide supplemental information is provided, the ~~secretary~~ director may make one or more deficiency determinations of the amount due for any reporting period based on information in the ~~secretary's~~ director's possession. When an assessed business is discontinued, a deficiency determination may be made at anytime thereafter as to the liability arising out of the operation of that business.

(b) The ~~secretary~~ director shall give notice of the proposed deficiency determination and the notice of deficiency determination by mailing a copy of the deficiency to the assessed business at the current address for that business on file with the ~~secretary~~ director. The giving of notice is complete at the time of deposit in the United States mail. In lieu of mailing, a notice may be served personally by delivering it to the person to be served.

(c) Except in the case of fraud or failure to file required information, a notice of a deficiency determination shall be given within four years of the accrual of the deficiency.

(d) The person against whom a deficiency determination is made may petition the ~~secretary~~ director for redetermination within 30 days after the serving of the notice

of deficiency determination. If a petition is not filed within 30 days, the deficiency determination shall become final.

(e) A petition for redetermination shall be in writing, state the specific grounds upon which it is based, and be supported by applicable records and declarations under penalty of perjury that the information supporting the petition is accurate and complete. If a petition for redetermination is duly filed, the ~~secretary~~ director shall reconsider the deficiency determination and may grant a hearing thereon. The ~~secretary~~ director shall, as soon as practicable, make an order on redetermination, which shall become final 30 days after service of notice of the order of redetermination upon the petitioner. The notice of the order shall be served in the same manner as the notice of the original deficiency determination.

(f) If any amount required to be paid pursuant to a deficiency determination or redetermination is not paid within the time specified in the notice thereof, the ~~secretary~~ director may, within four years thereafter, file in the Superior Court in the County of Sacramento, or the superior court in any other county, a certificate specifying the amount required to be paid, the name and address of the person liable as it appears on the records of the ~~secretary~~ director, and a request that judgment be entered against the person in that amount 30 days after the filing. Notice of the filing shall be given in the same manner as for the notice of deficiency determination. The court shall enter a judgment in conformance with the ~~secretary's~~ director's certificate 30 days after its filing, unless a petition for judicial review has been filed within the 30-day period.

(g) An abstract of the judgment, or a copy thereof, may be filed with the county recorder of any county. From the time of filing of the judgment, the amount of the

judgment constitutes a lien upon all of the property in the county owned by the judgment debtor. The lien has the force, effect and priority of a judgment lien and shall continue for 10 years from the date of the judgment, unless sooner released or otherwise discharged. The lien imposed by this section is not valid insofar as personal property is concerned against a purchaser of value without actual knowledge of the lien.

(h) Execution shall issue upon the judgment upon request of the ~~secretary~~ director in the same manner as execution may issue upon other judgments, and sales shall be held under execution as prescribed in the Code of Civil Procedure.

(i) The person named in a notice of deficiency determination or redetermination may, within 30 days of the notice of filing with the superior court, file an action for judicial review thereof, as provided herein, in the Superior Court in the County of Sacramento or, with the ~~secretary's~~ director's consent, the superior court in any other county. As a condition of staying entry of judgment or granting other relief, the court shall require the filing of a corporate surety bond with the ~~secretary~~ director in the amount of the deficiency stated in the certificate. In any court proceeding, the certificate of the ~~secretary~~ director determining the deficiency shall be prima facie evidence of the fee and the amount due and unpaid.

(j) The provisions of this section are supplemental to any other procedures for collection and imposition of fees and penalties provided by this chapter.

(k) In lieu of proceeding pursuant to this section, the ~~secretary~~ director may file a complaint for collection of unpaid assessments as provided by law.

SEC. 243. Section 13995.83 of the Government Code is amended to read:

13995.83. It is a violation of this chapter for any person to willfully render or furnish a false or fraudulent report, statement, or record that is required by the ~~secretary~~ director pursuant to any provision of this chapter.

SEC. 244. Section 13995.84 of the Government Code is amended to read:

13995.84. Any suit brought by the ~~secretary~~ director to enforce any provision of this chapter, or any regulation, or rule and regulation, that is issued by the ~~secretary~~ director shall provide that the defendant pay to the ~~secretary~~ director the costs that were incurred by the ~~secretary~~ director and by the commission in the prosecution of the action in the event the ~~secretary~~ director prevails in the action. Any money that is recovered shall reimburse the account or accounts used to pay the costs.

SEC. 245. Section 13995.102 of the Government Code is amended to read:

13995.102. (a) The Los Angeles County Board of Supervisors shall appoint the Los Angeles County Tourism Selection Committee to consist of persons, or principals of entities, from within the industry categories that are to be assessed, based upon recommendations from established industry associations and destination marketing organizations within Los Angeles County.

(b) The county selection committee shall consist of 24 representatives, with no fewer than three from each industry category. The county selection committee shall appoint a chair and any other officers it deems advisable.

(c) The county selection committee shall convene within 150 days after the effective date of this chapter. Not later than 150 days following the initial convening of the committee, the committee shall issue a report and recommendations listing the following:

(1) Industry segments that will be included in the initial referendum.

(2) Percentage of funds to be levied against each industry category and segment.

To the extent possible, the percentages shall be based upon quantifiable industry data. Funds to be levied against businesses shall bear an appropriate relationship to the benefit derived from travel and tourism by those businesses.

(3) Assessment methodology and rate of assessment within each industry segment, that may include, but not be limited to, a percentage of gross revenue or a per transaction charge.

(4) Businesses, if any, within a segment to be assessed at a reduced rate, which may be set at zero, whether temporarily or permanently, because they do not sufficiently benefit from travel and tourism.

(5) Initial slate of proposed elected commissioners. The number of commissioners elected from each industry category shall be determined by the weighted percentage of assessments from that category.

(d) Nothing in this section shall preclude the selection committee from setting the assessment rate for a business within a segment at a lower rate, which may be set at zero, than a rate applicable to other businesses within that segment if the selection committee makes specific findings that the lower rate should apply due to unique geographical, financial, or other circumstances affecting the business. No business for which a zero assessment rate is set pursuant to this subdivision shall be sent a ballot or entitled to participate in the initial referendum, or in any subsequent referendum in which its rate of assessment is set at zero.

(e) The committee members for each industry category, also referred to as a subcommittee, shall prepare a recommendation for the entire committee on how the items specified in subdivision (c) should be determined for the industry segments within their industry category. The recommendations shall not include a discussion of industry category levies, which shall be determined solely by the committee. In the event that the subcommittee cannot agree on one or more of the items specified in subdivision (c), no recommendation shall be given in that category. The recommendations shall be presented to the full committee, which shall address each of the items contained in subdivision (c).

(f) In order to be assessed, an industry segment shall be defined with sufficient clarity to allow for the cost-effective identification of assessed businesses within that segment.

(g) It shall be the responsibility of the county selection committee to advertise widely the selection committee process and to schedule public meetings for potential assessed businesses to provide input to the selection committee.

(h) The selection committee process and report shall be exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

(i) The Los Angeles Convention and Visitors Bureau shall be asked to supply staff support to the county selection committee. ~~The Office of Tourism within the Business, Transportation and Housing Agency~~ Governor's Office of Business and Economic Development shall not be required to supply staff support to the county selection committee.

SEC. 246. Section 13995.110 of the Government Code is amended to read:

13995.110. (a) No referendum required under this article shall be undertaken until any of the following occurs, whichever is earliest:

(1) A statewide referendum held pursuant to this chapter has obtained a passing vote in the County of Los Angeles.

(2) Two statewide referenda have been held pursuant to this chapter.

(3) July 1, 1998.

(b) Referenda required under this article shall be conducted in a similar manner as provided in Article 6 (commencing with Section ~~13995.60~~ 13995.60) as follows:

(1) The county commission shall undertake all duties, and act in all respects, in place of the California Tourism Marketing Commission, and either the county or the county treasurer/tax collector, as designated in this article, shall act in place of the ~~Secretary of Business, Transportation and Housing~~ Director of the Governor's Office of Business and Economic Development.

(2) The initial assessment target for the county commission shall be set by the county selection committee.

(3) The first referendum shall be initiated by industry members, with all costs of marketing and promoting of the initial referendum to be provided by the tourism industry.

(4) Each referendum may cover one or more of the following subjects:

(A) Assessment level based upon specified assessment formula.

(B) Amended industry segment allocation formulae.

(C) Percentage allocation of assessments between industry categories and segments.

(D) Election of county commissioners subject to election by referendum.

(E) Termination of the county commission.

(F) Whether to establish, continue, or reestablish an assessment.

(5) The costs of all marketing and promoting of all referenda following the initial referendum shall be paid by the county commission from assessments collected. The county commission may reimburse those who have contributed to the costs of the initial referendum from proceeds raised from assessments collected from the initial referendum.

SEC. 247. Section 13995.116 of the Government Code is amended to read:

13995.116. This article is subject to Article 8 (commencing with Section 13995.80) and Article 9 (commencing with Section 13995.90) except that, as to Article 8, either the county or the county treasurer/tax collector, as designated in this article, shall act in the place of the ~~Secretary of Business, Transportation and Housing~~ Director of the Governor's Office of Business and Economic Development in all respects.

SEC. 248. Section 14001 of the Government Code is amended to read:

14001. There is in the ~~Business, Transportation and Housing Agency~~ Transportation Agency a Department of Transportation.

Any reference in any law or regulation to the Department of Public Works shall be deemed to refer to the Department of Transportation.

SEC. 249. Section 14002.5 of the Government Code is amended to read:

14002.5. As used in this part, unless the context otherwise requires:

(a) "Department" means the Department of Transportation.

(b) "Director" means the Director of Transportation.

(c) "Secretary" means the Secretary of ~~the Business, Transportation and Housing Agency~~ Transportation.

(d) "Board" or "commission" means the California Transportation Commission.

(e) "Displaced worker" means individuals eligible for assistance pursuant to Section 15076 of the Unemployment Insurance Code.

SEC. 250. Section 14500 of the Government Code is amended to read:

14500. There is in the ~~state government~~ Transportation Agency a California Transportation Commission.

SEC. 251. Section 14520 of the Government Code is amended to read:

14520. The commission shall advise and assist the Secretary of ~~the Business, Transportation and Housing Agency~~ Transportation and the Legislature in formulating and evaluating state policies and plans for transportation programs in the state.

SEC. 252. Section 14601 of the Government Code is amended to read:

14601. There is in the state government, in the ~~State and Consumer Services Government Operations~~ Agency, the Department of General Services.

SEC. 253. Section 14998.2 of the Government Code is amended to read:

14998.2. (a) There is in the ~~Business, Transportation, and Housing Agency~~ Governor's Office of Business and Economic Development, the California Film Commission consisting of 26 members. The Governor shall appoint 13 members, the Senate Committee on Rules shall appoint four members, the Speaker of the Assembly shall appoint four members, and five members shall be ex officio. The members of the commission appointed by the Governor may include representatives of state and local

government, motion picture development companies, employee and professional organizations composed of persons employed in the motion picture industry, and other appropriate members of this or related industries.

All members of the commission, except legislators who are appointed either by the Senate Committee on Rules or by the Speaker of the Assembly, shall serve at the pleasure of the appointing authority for a term of two years from the effective date of the appointment.

(b) (1) One of the members appointed by the Senate Committee on Rules shall, and another one may, be a Senator and one of the members appointed by the Speaker of the Assembly shall, and another one may, be a Member of the Assembly. These persons shall be appointed for terms of four years.

(2) Of the legislators appointed to the commission, no more than three legislators from the same political party may be appointed to or serve on the commission at the same time.

(c) Any legislator appointed shall serve as a voting member of the commission, and shall meet with, and participate in the activities of, the commission to the extent that participation is not incompatible with his or her position as a Member of the Legislature, but shall only serve in that capacity while concurrently serving as a Member of the Legislature. Whenever a legislator vacates an office, the appointing power shall appoint another person for a new full term.

(d) Six of the 13 members appointed by the Governor shall be as follows:

(1) One shall be a person who is a member or employee of a union or guild of motion picture artists.

(2) One shall be a person who is a member or employee of a union or guild representing motion picture craftsmen, technicians, or photographers.

(3) Two shall be from major motion picture studios.

(4) One shall be a member of the city council or a member of the county board of supervisors of a city or a county with a population of at least two million people.

(5) One shall be a member of the city council or a member of the county board of supervisors of a city or a county with a population of less than two million people.

(e) The Director of Transportation shall serve as an ex officio nonvoting member.

(f) The Director of Parks and Recreation shall serve as an ex officio nonvoting member.

(g) The Commissioner of the California Highway Patrol shall serve as an ex officio nonvoting member.

(h) The State Fire Marshal shall serve as an ex officio nonvoting member.

(i) The director of the commission shall serve as an ex officio nonvoting member.

SEC. 254. Section 15251 of the Government Code is amended to read:

15251. Unless the context requires otherwise, as used in this part, the following terms shall have the following meanings:

(a) ~~“Agency”~~ “Department” means the ~~California~~ Department of Technology Agency.

(b) “Division” means the Public Safety Communications Division established by this part.

SEC. 255. Section 15254 of the Government Code is amended to read:

15254. Radio and other communications facilities owned or operated by the state and subject to the jurisdiction of the ~~agency~~ department shall not be used for political, sectarian, or propaganda purposes. The facilities shall not be used for the purpose of broadcasts intended for the general public, except for fire, flood, frost, storm, catastrophe, and other warnings and information for the protection of the public safety as the ~~agency~~ department may prescribe.

SEC. 256. Section 15275 of the Government Code is amended to read:

15275. The ~~agency~~ department may do all of the following:

(a) Provide adequate representation of local and state governmental bodies and agencies before the Federal Communications Commission in matters affecting the state and its cities, counties, and other public agencies regarding public safety communications issues.

(b) Provide, upon request, adequate advice to state and local agencies in the state concerning existing or proposed public safety communications facilities between any and all of the following: cities, counties, other political subdivisions of the state, state departments, agencies, boards, and commissions, and departments, agencies, boards, and commissions of other states and federal agencies.

(c) Recommend to the appropriate state and local agencies rules, regulations, procedures, and methods of operation that it deems necessary to effectuate the most efficient and economical use of publicly owned and operated public safety communications facilities within this state.

(d) Provide, upon request, information and data concerning the public safety communications facilities that are owned and operated by public agencies in connection with official business of public safety services.

(e) Carry out the policy of this part.

SEC. 257. Section 15277 of the Government Code is amended to read:

15277. The Public Safety Communications Division is established within the agency department. The duties of the division shall include, but not be limited to, all of the following:

(a) Assessing the overall long-range public safety communications needs and requirements of the state considering emergency operations, performance, cost, state-of-the-art technology, multiuser availability, security, reliability, and other factors deemed to be important to state needs and requirements.

(b) Developing strategic and tactical policies and plans for public safety communications with consideration for the systems and requirements of the state and all public agencies in this state, and preparing an annual strategic communications plan that includes the feasibility of interfaces with federal and other state telecommunications networks and services.

(c) Recommending industry standards for public safety communications systems to ensure multiuser availability and compatibility.

(d) Providing advice and assistance in the selection of communications equipment to ensure that the public safety communications needs of state agencies are met and that procurements are compatible throughout state agencies and are consistent with the state's strategic and tactical plans for public safety communications.

(e) Providing management oversight of statewide public safety communications systems developments.

(f) Providing for coordination of, and comment on, plans, policies, and operational requirements from departments that utilize public safety communications in support of their principal function, such as the ~~California~~ Office of Emergency Management Agency Services, National Guard, health and safety agencies, and others with primary public safety communications programs.

(g) Monitoring and participating on behalf of the state in the proceedings of federal and state regulatory agencies and in congressional and state legislative deliberations that have an impact on state government public safety communications activities.

(h) Developing plans regarding teleconferencing as an alternative to state travel during emergency situations.

(i) Ensuring that all radio transmitting devices owned or operated by state agencies and departments are licensed, installed, and maintained in accordance with the requirements of federal law. A request for a federally required license for a state-owned radio transmitting device shall be sought only in the name of the "State of California."

(j) Acquiring, installing, equipping, maintaining, and operating new or existing public safety communications systems and facilities for public safety agencies. To accomplish that purpose, the division is authorized to enter into contracts, obtain licenses, acquire property, install necessary equipment and facilities, and do other necessary acts to provide adequate and efficient public safety communications systems.

Any systems established shall be available to all public agencies in the state on terms that may be agreed upon by the public agency and the division.

(k) Acquiring, installing, equipping, maintaining, and operating all new or replacement microwave communications systems operated by the state, except microwave equipment used exclusively for traffic signal and signing control, traffic metering, and roadway surveillance systems. To accomplish that purpose, the division is authorized to enter into contracts, obtain licenses, acquire property, install necessary equipment and facilities, and do other necessary acts to provide adequate and efficient microwave communications systems. Any system established shall be available to all public safety agencies in the state on terms that may be agreed upon by the public agency and the division.

(l) This chapter shall not apply to Department of Justice communications operated pursuant to Chapter 2.5 (commencing with Section 15150) of Part 6.

SEC. 258. Section 15363.61 of the Government Code is amended to read:

15363.61. (a) The Legislature finds and declares as follows:

(1) The entertainment industry is one of California's leading industries in terms of employment and tax revenue.

(2) While film, television, and commercial production in California has expanded over the years, other states and countries actively compete for California production business. It is generally acknowledged that certain segments of the industry, mainly film and television production, are especially hard hit in California. The Legislature finds that this is due to assertive efforts of other states and countries, offering various incentives for filming outside of California. As a result of increased marketing efforts

by other states and countries, unemployment in certain film industry sectors and a reduction of film business has occurred within California.

(3) Recognizing the vital role the entertainment industry plays in California's economy, legislation enacted in 1985 created the California Film Commission ~~within the Business, Transportation and Housing Agency~~ to facilitate, retain, and attract filming in California.

(4) In order to stop the decline of California film production, it is necessary and appropriate to assist in the underwriting of actual costs incurred by production companies to film in California and to provide opportunities for production companies and other film industry companies to lease property owned by the State of California at below market rates.

(5) Providing the funds designated under this program, and leasing property owned by the State of California at below market rates is in the public interest and serves a public purpose, and providing incentives to production companies and other film industry companies will promote the prosperity, health, safety, and welfare of the citizens of the State of California.

(b) It is the intent of the Legislature that, commencing with the 2002–03 fiscal year, funding for the program from the General Fund shall not exceed the General Fund funding level for the prior fiscal year.

SEC. 259. Section 15363.62 of the Government Code is amended to read:

15363.62. For purposes of this chapter, the following meanings shall apply:

(a) ~~“Agency” means the Business, Transportation and Housing Agency, which includes the California Film Commission.~~

(b)

(a) “Film” means any commercial production for motion picture, television, commercial, or still photography.

(e)

(b) “Film costs” means the usual and customary charges by a public agency connected with the production of a film, limited to any of the following:

- (1) State employee costs.
- (2) Federal employee costs.
- (3) Federal, state, University of California, and California State University permits and rental costs.
- (4) Local public entity employee costs.
- (5) Local property use fees.
- (6) Rental costs for equipment owned and operated by a public agency in connection with the film.

(d)

(c) “Fund” means the Film California First Fund, established pursuant to Section 15363.74.

(d) “Office” means the Governor’s Office of Business and Economic Development, which includes the California Film Commission.

(e) “Production company” means a company, partnership, or corporation, engaged in the production of film.

(f) “Program” means the Film California First Program established pursuant to this chapter.

(g) "Public agency" means any of the following:

- (1) The State of California, and any of its agencies, departments, boards, or commissions.
- (2) The federal government, and any of its agencies, departments, boards, or commissions.
- (3) The University of California.
- (4) The California State University.
- (5) California local public entities.
- (6) Any nonprofit corporation acting as an agent for the recovery of costs incurred by any of the entities listed in this subdivision.

SEC. 260. Section 15363.63 of the Government Code is amended to read:

15363.63. (a) (1) Except as provided in paragraph (2), the ~~Business, Transportation and Housing Agency~~ office may pay and reimburse the film costs incurred by a public agency, subject to an audit. The director of the commission shall develop alternate procedures for the reimbursement of public agency costs incurred by the production company. The ~~Business, Transportation and Housing Agency~~ office shall only reimburse actual costs incurred and may not reimburse for duplicative costs.

(2) Notwithstanding paragraph (1), the ~~Business, Transportation and Housing Agency~~ office shall not reimburse costs at rates exceeding those in effect as of January 1, 2002.

(b) Notwithstanding any other provision of law, the Controller shall pay any program invoice received from the ~~agency~~ office that contains documentation detailing the film costs, and if the party requesting payment or reimbursement is a public agency,

a certification that the invoice is not duplicative cost recovery, and an agreement by the public agency that the ~~Business, Transportation and Housing Agency~~ office may audit the public agency for invoice compliance with the program requirements.

(c) (1) Not more than three hundred thousand dollars (\$300,000) shall be expended to pay or reimburse costs incurred on any one film.

(2) In developing the procedures and guidelines for the program, the commission may, in consultation with interested public agencies, establish limits on per day film costs that the state will reimburse. A consultation and comment period shall begin on January 1, 2001, and shall end 30 days thereafter.

(d) (1) Upon receipt of all necessary film costs documentation from a public agency, the ~~Business, Transportation and Housing Agency~~ office shall transmit the appropriate information to the Controller for payment of the film costs within 30 days.

(2) Public agencies shall be entitled to reimbursement for certain administrative costs, to be determined by the director of the commission, incurred while participating in the program. The reimbursement for administrative costs shall not exceed 1 percent of the total amount of the invoices submitted. Reimbursement shall have an annual cap imposed of not more than ten thousand dollars (\$10,000) per public agency participating in the program. Contracted agents working on behalf of two or more public agencies shall have a cap of not more than twenty thousand dollars (\$20,000) annually.

(e) The commission shall prepare annual preliminary reports to be submitted to the Joint Legislative Budget Committee in regard to the program prior to the adoption of the annual Budget Act. The reports shall include a list of all entities that received

funds from the program, the amounts they received, and the public services that were reimbursed. The commission shall prepare and submit a final report to the committee no later than January 1, 2004.

(f) The commission shall, in consultation with the Department of Industrial Relations and the Employment Development Department, contract with an independent audit firm or qualified academic expert, to prepare a report to be submitted to the Joint Legislative Budget Committee no later than January 1, 2004, that identifies the beneficiaries of expenditures from the Film California First Fund, and determines the impact of these expenditures on job retention and job creation in California.

SEC. 261. Section 15700 of the Government Code is amended to read:

15700. There is in the state government, in the ~~Agriculture and Services~~ Government Operations Agency, a Franchise Tax Board consisting of the ~~State~~ Controller, the Director of Finance, and the ~~Chairman~~ Chairperson of the State Board of Equalization. The Franchise Tax Board is the successor to, and is vested with, all of the duties, powers, purposes, responsibilities, and jurisdiction of the Franchise Tax Commissioner, but the statutes and laws under which that office existed and all laws prescribing the duties, powers, purposes, responsibilities, and jurisdiction of that office, together with all lawful rules and regulations established thereunder, are expressly continued in force. "Franchise Tax Commissioner" when used in any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted, means the Franchise Tax Board. No action to which the Franchise Tax Commissioner is a party shall abate by reason hereof but shall continue in the name of the Franchise Tax Board, and the Franchise Tax Board shall be substituted for the Franchise Tax Commissioner

by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

Notwithstanding any other provision of the law to the contrary, any directive or regulation adopted by the Franchise Tax Board shall take precedence over any directive or regulation adopted by its executive officer.

SEC. 262. Section 16304.9 of the Government Code is amended to read:

16304.9. (a) Upon the effective date of an act transferring any of the powers or duties of any state officer or agency to another state officer or agency, the Department of Finance shall determine the portion remaining of any appropriation which was intended to be used for the performance of such powers or duties, and shall certify this amount to the State Controller. The State Controller shall thereupon transfer such amount to the state officer or agency to which such powers or duties were transferred.

(b) The Department of Finance shall make the final determination of the budgetary and accounting transactions and treatments to ensure proper implementation of reorganization, mergers, or the elimination of state entities, offices, or agencies.

SEC. 263. Section 18521 of the Government Code is amended to read:

18521. "Board" means the agency created by Section 2 of Article VII of the Constitution and includes the "State Personnel Board" provided in Section 2(a) and the "executive officer" provided in Section 2(c) thereof. The board shall be within the Government Operations Agency.

SEC. 264. Section 19815.25 is added to the Government Code, to read:

19815.25. The Department of Human Resources, as established on July 1, 2012, is hereby established within the Government Operations Agency.

SEC. 265. Section 20002 of the Government Code is amended to read:

20002. The Public Employees' Retirement System created by Chapter 700 of the Statutes of 1931, as amended, is continued in existence under this part. This system is a unit of the ~~State and Consumer Services~~ Government Operations Agency.

SEC. 266. Section 53108.5 of the Government Code is amended to read:

53108.5. "Division," as used in this article, means the Public Safety Communications Division within the ~~California~~ Department of Technology Agency.

SEC. 267. Section 53126.5 of the Government Code is amended to read:

53126.5. For purposes of this article, the following definitions apply:

(a) "Local public agency" means a city, county, city and county, and joint powers authority that provides a public safety answering point (PSAP).

(b) "Nonemergency telephone system" means a system structured to provide access to only public safety agencies such as police and fire, or a system structured to provide access to public safety agencies and to all other services provided by a local public agency such as street maintenance and animal control.

(c) "Public Safety Communications Division" means the Public Safety Communications Division within the ~~California~~ Department of Technology Agency.

SEC. 268. Section 63021 of the Government Code is amended to read:

63021. (a) There is within the ~~Business, Transportation and Housing Agency~~ Governor's Office of Business and Economic Development the Infrastructure and Economic Development Bank which shall be responsible for administering this division.

(b) The bank shall be under the direction of an executive director appointed by the Governor, and who shall serve at the pleasure of the Governor. The appointment shall be subject to confirmation by the Senate.

SEC. 269. Section 63021.5 of the Government Code is amended to read:

63021.5. (a) The bank shall be governed and its corporate power exercised by a board of directors that shall consist of the following persons:

- (1) The Director of Finance or his or her designee.
- (2) The Treasurer or his or her designee.
- (3) ~~The Secretary of Business, Transportation and Housing~~ Director of the Governor's Office of Economic and Business Development or his or her designee, who shall serve as chair of the board.
- (4) An appointee of the Governor.
- (5) ~~The Secretary of State and Consumer Services Agency~~ Transportation or his or her designee.

(b) Any designated director shall serve at the pleasure of the designating power.

(c) Three of the members shall constitute a quorum and the affirmative vote of three board members shall be necessary for any action to be taken by the board.

(d) A member of the board shall not participate in any bank action or attempt to influence any decision or recommendation by any employee of, or consultant to, the bank that involves a sponsor of which he or she is a representative or in which the member or a member of his or her immediate family has a personal financial interest within the meaning of Section 87100. For purposes of this section, "immediate family" means the spouse, children, and parents of the member.

(e) Except as provided in this subdivision, the members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for these expenses is not otherwise provided or payable by another public agency, and shall receive one hundred dollars (\$100) for each full day of attending meetings of the authority.

SEC. 270. Section 65037.1 of the Government Code is repealed.

~~65037.1. The position of the Secretary of Service and Volunteering is hereby established in state government in the Office of Planning and Research. The secretary shall be appointed by, and serve at the pleasure of, the Governor. The appointment of the secretary shall be subject to Senate confirmation.~~

SEC. 271. Section 31 of the Harbors and Navigation Code is repealed.

~~31. "Commission" means the Boating and Waterways Commission.~~

SEC. 272. Section 32 of the Harbors and Navigation Code is amended to read:

32. "Department" or "Division" means the ~~Department~~ Division of Boating and Waterways in the Department of Parks and Recreation.

SEC. 273. Section 33 of the Harbors and Navigation Code is amended to read:

33. "Director" or "Deputy director" means the ~~Director~~ Deputy Director of Boating and Waterways.

SEC. 274. Section 50 of the Harbors and Navigation Code is amended to read:

50. (a) The Department of Harbors and Watercraft and its successor, the Department of Navigation and Ocean Development, and the Department of Boating and Waterways are continued in existence in the ~~Resources Agency~~ Department of

Parks and Recreation as the ~~Department~~ Division of Boating and Waterways. The ~~Department~~ Division of Boating and Waterways is the successor to, and is vested with, the powers, functions, and jurisdiction of the following state departments and agencies as hereinafter specified:

~~(a)~~

(1) All of the powers, functions, and jurisdiction previously vested in the Division of Small Craft Harbors of the Department of Parks and Recreation.

~~(b)~~

(2) All of the powers, functions, and jurisdiction of the State Lands Commission with respect to the acquisition, construction, development, improvement, maintenance, and operation of small craft harbors.

~~(c)~~

(3) All of the powers, functions, and jurisdiction of the Department of Parks and Recreation with respect to boating facility planning, design, and construction, except as specifically provided with respect to boating trails in the California Recreational Trails Act (commencing with Section 5070 of the Public Resources Code) and in Article 2.6 (commencing with Section 68) of this chapter.

~~(d)~~

(4) All of the powers, functions, and jurisdiction of the Office of Architecture and Construction in the Department of General Services with respect to boating facility planning and design.

~~(e)~~

(5) All of the powers, functions, and jurisdiction of the Department of Water Resources with respect to beach erosion control.

~~(f)~~

(6) All of the policymaking and regulatory powers, functions, and jurisdiction of the Harbors and Watercraft Commission as to matters within the jurisdiction of the department.

(b) Regulations adopted by the former Department of Boating and Waterways shall remain in effect until revised or repealed by the Division of Boating and Waterways.

SEC. 275. Section 50.1 of the Harbors and Navigation Code is amended to read:

50.1. (a) Whenever the term “Division of Small Craft Harbors” or the term “Small Craft Harbors Commission” or the term “Department of Boating and Waterways” is used in any provision of law, it shall be construed as referring to the ~~Department~~ Division of Boating and Waterways.

~~Whenever,~~

(b) ~~Whenever,~~ by any statute now in force or that may be hereafter enacted, any power, function, or jurisdiction, as specified in Section 50, is imposed or conferred upon the State Lands Commission, the Department of Parks and Recreation, the Office of Architecture and Construction in the Department of General Services, or the Department of Water Resources, such power, function, or jurisdiction shall be deemed to be imposed or conferred upon the ~~Department~~ Division of Boating and Waterways.

~~Nothing in this~~

(c) This section or in and this code shall do not divest the State Lands Commission of jurisdiction with respect to the leasing of state lands, including state lands used for small craft harbors, swamps and overflowed lands, or tide and submerged lands, for the extraction and removal of oil and gas and other minerals.

SEC. 276. Section 50.2 of the Harbors and Navigation Code is amended to read:

50.2. ~~The department~~ division shall be administered by an executive officer known as the Deputy Director of Boating and Waterways. Any reference to the Director of Boating and Waterways shall be deemed to refer to the Deputy Director of Boating and Waterways. The deputy director shall be appointed by and hold office at the pleasure of the Governor and shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code. The appointment of any deputy director appointed by the Governor shall be subject to confirmation by the Senate.

SEC. 277. Section 65.4 of the Harbors and Navigation Code is repealed.

~~65.4. Any plans for construction of beach erosion control works which may in any way affect recreational beaches under the ownership or control of the Department of Parks and Recreation shall be subject to approval by the Department of Parks and Recreation.~~

SEC. 278. Chapter 3 (commencing with Section 80) of Division 1 of the Harbors and Navigation Code is repealed.

SEC. 279. Section 85.2 of the Harbors and Navigation Code is amended to read:

85.2. (a) All moneys in the Harbors and Watercraft Revolving Fund are available, upon appropriation by the Legislature, for expenditure by the ~~department~~ Department of Parks and Recreation for boating facilities development, boating safety, and boating regulation programs, and for the purposes of Section 656.4, including refunds, and for expenditure for construction of small craft harbor and boating facilities planned, designed, and constructed by the ~~department~~ division, as specified in subdivision (c) of Section 50, at sites owned or under the control of the state.

(b) (1) The money in the fund is also available, upon appropriation by the Legislature, ~~to the Department of Parks and Recreation~~ for the operation and maintenance of units of the state park system that have boating-related activities. Funds appropriated ~~to the Department of Parks and Recreation~~ may also be used for boating safety and enforcement programs ~~for waters under its jurisdiction~~.

(2) The Department of Parks and Recreation shall submit to the Legislature, on or before January 1 of each year, a report describing the allocation and expenditure of funds made available to the Department of Parks and Recreation from the Harbors and Watercraft Revolving Fund and from the Motor Vehicle Fuel Account in the Transportation Tax Fund attributable to taxes imposed on the distribution of motor vehicle fuel used or usable in propelling vessels during the previous fiscal year. The report shall list the special project or use, project location, amount of money allocated or expended, the source of funds allocated or expended, and the relation of the project or use to boating activities.

(c) The money in the fund shall also be available, upon appropriation by the Legislature, to the State Water Resources Control Board for boating-related water quality regulatory activities.

(d) The money in the fund is also available, upon appropriation by the Legislature, to the Department of Fish and Game for activities addressing the boating-related spread of invasive species.

(e) The money in the fund is also available, upon appropriation by the Legislature, to the Department of Food and Agriculture for activities addressing the boating-related spread of invasive species.

SEC. 280. Section 1150 of the Harbors and Navigation Code is amended to read:

1150. (a) There is in the ~~Business, Transportation and Housing~~ Transportation Agency a Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, consisting of seven members appointed by the Governor, with the consent of the Senate, as follows:

(1) Two members shall be pilots licensed pursuant to this division.

(2) Two members shall represent the industry and shall be persons currently engaged as owners, officers, directors, employees, or representatives of a firm or association of firms that is a substantial user of pilotage service in the Bay of San Francisco, San Pablo, Suisun, or Monterey, one of whom shall be engaged in the field of tanker company operations, and one of whom shall be engaged in dry cargo operations. The board of directors of a regional maritime trade association controlled by West Coast vessel operators that specifically represents the owners and operators

of vessels or barges engaged in transportation by water of cargo or passengers from or to the Pacific area of the United States shall nominate, rank, and submit to the Governor the names of three persons for each category of industry member to be appointed.

(3) Three members shall be public members. Any person may serve as a public member unless otherwise prohibited by law, except that during his or her term of office or within the two years preceding his or her appointment, a public member appointed shall not have (A) any financial or proprietary interest in the ownership, operation, or management of tugs, cargo, or passenger vessels, (B) sailed under the authority of a federal or state pilot license in waters under the jurisdiction of the board, (C) been employed by a company that is a substantial user of pilot services, or (D) been a consultant or other person providing professional services who had received more than 20 percent in the aggregate of his or her income from a company that is a substantial user of pilot services or an association of companies that are substantial users of pilot services. Ownership of less than one-tenth of 1 percent of the stock of a publicly traded corporation is not a financial or proprietary interest in the ownership of tugs, cargo, or passenger vessels.

(4) Notwithstanding any other provision of law, this chapter does not prohibit the Governor from notifying the nominating authority identified in paragraph (2) that persons nominated are unacceptable for appointment. Following that notification, the nominating authority shall submit a new list of nominees to the Governor, naming three persons, none of whom were previously nominated, from which the Governor

may make the appointment. This process shall be continued until a person nominated by the nominating authority and satisfactory to the Governor has been appointed.

(b) Members appointed pursuant to subdivision (a) shall be appointed with staggered terms as follows:

(1) Each of the members appointed pursuant to paragraphs (1) and (2) of subdivision (a) shall be appointed for a four-year term, except that the first member appointed after December 31, 2012, to an initial term pursuant to paragraph (1) of subdivision (a) shall be appointed to a term expiring on December 31, 2014, and the first member appointed after December 31, 2012, to an initial term pursuant to paragraph (2) of subdivision (a) shall be appointed to a term expiring on December 31, 2014.

(2) Members appointed pursuant to paragraph (3) of subdivision (a) shall be appointed with staggered four-year terms with the initial four-year terms expiring on December 31 of the years 1988, 1990, and 1991, respectively.

(3) A person shall not be appointed for more than two terms.

(4) Vacancies on the board for both expired and unexpired terms shall be filled by the appointing power in the manner prescribed by subdivision (a).

(c) A quorum of the board members consists of four members. All actions of the board shall require the vote of four members, a quorum being present.

(d) The Secretary of ~~Business, Transportation and Housing~~ Transportation shall serve as an ex officio member of the board who, without vote, may exercise all other privileges of a member of the board.

SEC. 281. Section 18901 of the Health and Safety Code is amended to read:

18901. (a) This part shall be known and may be cited as the California Building Standards Law.

(b) The California Building Standards Commission shall continue within the ~~State and Consumer Services Agency~~ Department of General Services.

SEC. 282. Section 18917.5 of the Health and Safety Code is amended to read:

18917.5. "Secretary" means the Secretary of ~~the State~~ Business and Consumer Services ~~Agency~~.

SEC. 283. Section 18920 of the Health and Safety Code is amended to read:

18920. There is continued in existence in the ~~State~~ Business and Consumer Services Agency a California Building Standards Commission consisting of the Secretary of ~~State~~ Business and Consumer Services ~~Agency~~, and 10 members appointed by the Governor subject to confirmation by the Senate.

SEC. 284. Section 18922 of the Health and Safety Code is amended to read:

18922. The Secretary of ~~the State~~ Business and Consumer Services ~~Agency~~ or the secretary's representative shall serve as the chair of the commission. The commission shall elect a vice chair annually from among its members.

SEC. 285. Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code is repealed.

SEC. 286. Article 6.5 (commencing with Section 25369) of Chapter 6.8 of Division 20 of the Health and Safety Code is repealed.

SEC. 287. Article 8 (commencing with Section 25395.1) of Chapter 6.8 of Division 20 of the Health and Safety Code is repealed.

SEC. 288. Chapter 6.82 (commencing with Section 25395.60) of Division 20 of the Health and Safety Code is repealed.

SEC. 289. Chapter 6.85 (commencing with Section 25396) of Division 20 of the Health and Safety Code is repealed.

SEC. 290. Chapter 6.98 (commencing with Section 25570) of Division 20 of the Health and Safety Code is repealed.

SEC. 291. Section 50400 of the Health and Safety Code is amended to read:

50400. The Department of Housing and Community Development is hereby continued in existence in the ~~Business, Transportation, and Housing~~ Business and Consumer Services Agency.

SEC. 292. Section 50900 of the Health and Safety Code is amended to read:

50900. The California Housing Finance Agency is hereby continued in existence in the ~~Business, Transportation and Housing Agency~~ Department of Housing and Community Development. The agency constitutes a public instrumentality and a political subdivision of the state, and the exercise by the agency of the powers conferred by this division shall be deemed and held to be the performance of an essential public function.

SEC. 293. Section 50901 of the Health and Safety Code is amended to read:

50901. The agency shall be administered by a board of directors consisting of 11 voting members, including a chairperson selected by the Governor from among his or her appointees. The ~~State~~ Treasurer, the Secretary of ~~the Business, Transportation and Housing Agency~~ Consumer Services, and the Director of Housing and Community Development, or their designees, shall be members, in addition to six members

appointed by the Governor, one member appointed by the Speaker of the Assembly, and one member appointed by the Senate ~~Rules~~ Committee on Rules. The Director of Finance, the Director of the State Office of Planning and Research, and the executive director of the agency shall serve as nonvoting ex officio members of the board.

SEC. 294. Section 50913 of the Health and Safety Code is amended to read:

50913. For its activities under this division, the executive director shall prepare a preliminary budget on or before December 1 of each year for the ensuing fiscal year to be reviewed by the Secretary of ~~the Business and Transportation Agency~~ Consumer Services, the Director of Finance, and the Joint Legislative Budget Committee.

SEC. 295. Section 51005 of the Health and Safety Code is amended to read:

51005. (a) The agency shall, by November 1 of each year, submit an annual report of its activities under this division for the preceding year to the Governor, the Secretary of ~~the Business and Transportation Agency~~ Consumer Services, the Director of Housing and Community Development, the Treasurer, the Joint Legislative Budget Committee, the Legislative Analyst, and the Legislature. The report shall set forth a complete operating and financial statement of the agency during the concluded fiscal year. The report shall specify the number of units assisted, the distribution of units among the metropolitan, nonmetropolitan, and rural areas of the state, and shall contain a summary of statistical data relative to the incomes of households occupying assisted units, the monthly rentals charged to occupants of rental housing developments, and the sales prices of residential structures purchased during the previous fiscal year by persons or families of low or moderate income. The report shall also include a statement of accomplishment during the previous year with respect to the agency's progress,

priorities, and affirmative action efforts. The agency shall specifically include in its report on affirmative action goals, statistical data on the numbers and percentages of minority sponsors, developers, contractors, subcontractors, suppliers, architects, engineers, attorneys, mortgage bankers or other lenders, insurance agents, and managing agents.

(b) The report shall also include specific information evaluating the extent to which the programs administered by the agency have attained the statutory objectives of the agency, including, but not limited to, (1) the primary purpose of the agency in meeting the housing needs of persons and families of low or moderate income pursuant to Section 50950, (2) the occupancy requirements for very low income households established pursuant to Sections 50951 and 51226, (3) the elderly and orthopedic disability occupancy requirements established pursuant to Section 51230, (4) the use of surplus moneys pursuant to Section 51007, (5) the metropolitan, nonmetropolitan, and rural goals established pursuant to subdivision (h) of Section 50952, (6) the California Statewide Housing Plan, as required by Section 50154, (7) the statistical and other information developed and maintained pursuant to Section 51610, (8) the number of manufactured housing units assisted by the agency, (9) information with respect to the proceeds derived from the issuance of bonds or securities and any interest or other increment derived from the investment of bonds or securities, and the uses for which those proceeds or increments are being made as provided for in Section 51365, including the amount by which each fund balance exceeds indenture requirements, (10) any recommendations described in subdivision (d), (11) any recommendations described in Section 51227, (12) the revenue bonding authority plan adopted pursuant

to Section 51004.5, (13) the statistical and other information required to be provided pursuant to Section 50156, (14) an analysis of the agency's compliance with the targeting requirements of subsection (d) of Section 142 of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 142) with respect to any issue of bonds subject to those requirements under Section 103 of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 103), including the numbers of rental units subject to this reporting requirement by categories based on the number of bedrooms per unit, and (15) the statistical and other information relating to congregate housing for the elderly pursuant to Section 51218.

The agency may, at its option, include the information required by this section in a single document or may separately report the statistical portion of the information in a supplement appended to its annual report. This statistical supplement shall be distributed with copies of the agency's annual report, but need not be provided to bond rating agencies, underwriters, investors, developers, or financial institutions.

(c) The agency shall cause an audit of its books and accounts with respect to its activities under this division to be made at least once during each fiscal year by an independent certified public accountant and the agency shall be subject to audit by the Department of Finance not more often than once each fiscal year.

(d) The agency shall assess any obstacles or problems that it has encountered in meeting its mandate to serve nonmetropolitan and rural metropolitan areas, and recommend legislative and administrative solutions to overcome these obstacles or problems. The agency shall separately assess its progress in meeting the rehabilitation needs of rural areas and the new construction needs of rural areas, and separately assess its progress as to single and multifamily units. The agency shall include in its report a

quantification and evaluation of its progress in meeting the housing needs of communities of various sizes in rural areas.

(e) By December 1 of each fiscal year, the agency shall ascertain that not less than 25 percent of the total units financed by mortgage loans during the preceding 12 months pursuant to this part were made available to very low income households. If the agency finds that these very low income occupancy goals have not been met, the agency shall immediately notify the Governor, the Speaker of the Assembly, and the Senate Committee on Rules, and shall recommend legislation or other action as may be required to make (1) at least 25 percent of the units so available, and (2) at least 25 percent of the units thereafter financed so available. In housing developments for which the agency provides a construction loan but not a mortgage loan, the agency shall report annually on the percentage of units projected to be made available for occupancy and actually occupied by lower income households.

SEC. 296. Section 326.3 of the Penal Code is amended to read:

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

(1) Nonprofit organizations provide important and essential educational, philanthropic, and social services to the people of the ~~State of California~~ state.

(2) One of the great strengths of California is a vibrant nonprofit sector.

(3) Nonprofit and philanthropic organizations touch the lives of every Californian through service and employment.

(4) Many of these services would not be available if nonprofit organizations did not provide them.

(5) There is a need to provide methods of fundraising to nonprofit organizations to enable them to provide these essential services.

(6) Historically, many nonprofit organizations have used charitable bingo as one of their key fundraising strategies to promote the mission of the charity.

(7) Legislation is needed to provide greater revenues for nonprofit organizations to enable them to fulfill their charitable purposes, and especially to meet their increasing social service obligations.

(8) Legislation is also needed to clarify that existing law requires that all charitable bingo must be played using a tangible card and that the only permissible electronic devices to be used by charitable bingo players are card-minding devices.

(b) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any remote caller bingo game that is played or conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the California Constitution, if the ordinance allows a remote caller bingo game to be played or conducted only in accordance with this section, including the following requirements:

(1) The game may be conducted only by the following organizations:

(A) An organization that is exempted from the payment of the taxes imposed under the Corporation Tax Law by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or 23701w of the Revenue and Taxation Code.

(B) A mobilehome park association.

(C) A senior citizens organization.

(D) Charitable organizations affiliated with a school district.

(2) The organization conducting the game shall have been incorporated or in existence for three years or more.

(3) The organization conducting the game shall be licensed pursuant to subdivision (l) of Section 326.5.

(4) The receipts of the game shall be used only for charitable purposes. The organization conducting the game shall determine the disbursement of the net receipts of the game.

(5) The operation of bingo may not be the primary purpose for which the organization is organized.

(c) (1) A city, county, or city and county may adopt an ordinance in substantially the following form to authorize remote caller bingo in accordance with the requirements of subdivision (b):

Sec.   .01. Legislative Authorization.

This chapter is adopted pursuant to Section 19 of Article IV of the California Constitution, as implemented by Sections 326.3 and 326.4 of the Penal Code.

Sec.   .02. Remote Caller Bingo Authorized.

Remote Caller Bingo may be lawfully played in the [City, County, or City and County] pursuant to the provisions of Sections 326.3 and 326.4 of the Penal Code, and this chapter, and not otherwise.

Sec.   .03. Qualified Applicants: Applicants for Licensure.

(a) The following organizations are qualified to apply to the License Official for a license to operate a bingo game if the receipts of those games are used only for charitable purposes:

(1) An organization exempt from the payment of the taxes imposed under the Corporation Tax Law by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or 23701w of the Revenue and Taxation Code.

(2) A mobile home park association of a mobile home park that is situated in the [City, County, or City and County].

(3) Senior citizen organizations.

(4) Charitable organizations affiliated with a school district.

(b) The application shall be in a form prescribed by the License Official and shall be accompanied by a nonrefundable filing fee in an amount determined by resolution of the [Governing Body of the City, County, or City and County] from time to time. The following documentation shall be attached to the application, as applicable:

(1) A certificate issued by the Franchise Tax Board certifying that the applicant is exempt from the payment of the taxes imposed under the Corporation Tax Law pursuant to Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or 23701w of the Revenue and Taxation Code. In lieu of a certificate issued by the Franchise Tax Board, the License Official may refer to the Franchise Tax Board's Internet Web site to verify that the applicant is exempt from the payment of the taxes imposed under the Corporation Tax Law.

(2) Other evidence as the License Official determines is necessary to verify that the applicant is a duly organized mobile home park association of a mobile home park situated in the [City, County, or City and County].

Sec. \_\_.04. License Application: Verification.

The license shall not be issued until the License Official has verified the facts stated in the application and determined that the applicant is qualified.

Sec. \_\_.05. Annual Licenses.

A license issued pursuant to this chapter shall be valid until the end of the calendar year, at which time the license shall expire. A new license shall only be obtained upon filing a new application and payment of the license fee. The fact that a license has been issued to an applicant creates no vested right on the part of the licensee to continue to offer bingo for play. The [Governing Body of the City, County, or City and County] expressly reserves the right to amend or repeal this chapter at any time by resolution. If this chapter is repealed, all licenses issued pursuant to this chapter shall cease to be effective for any purpose on the effective date of the repealing resolution.

Sec. \_\_.06. Conditions of Licensure.

(a) Any license issued pursuant to this chapter shall be subject to the conditions contained in Sections 326.3 and 326.4 of the Penal Code, and each licensee shall comply with the requirements of those provisions.

(b) Each license issued pursuant to this chapter shall be subject to the following additional conditions:

(1) Bingo games shall not be conducted by any licensee on more than two days during any week, except that a licensee may hold one additional game, at its election, in each calendar quarter.

(2) The licensed organization is responsible for ensuring that the conditions of this chapter and Sections 326.3 and 326.4 of the Penal Code are complied with by the organization and its officers and members. A violation of any one or more of those conditions or provisions shall constitute cause for the revocation of the organization's license. At the request of the organization, the [Governing Body of the City, County, or City and County] shall hold a public hearing before revoking any license issued pursuant to this chapter.

(2) Nothing in this section shall require a city, county, or city and county to use this model ordinance in order to authorize remote caller bingo.

(d) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any remote caller bingo game, provided that administrative, managerial, technical, financial, and security personnel employed by the organization conducting the bingo game may be paid reasonable fees for services rendered from the revenues of bingo games, as provided in subdivision (m), except that fees paid under those agreements shall not be determined as a percentage of receipts or other revenues from, or be dependant on the outcome of, the game.

(e) A violation of subdivision (d) shall be punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine shall be deposited in the general fund of the city, county, or city and county that enacted the ordinance authorizing the remote caller

bingo game. A violation of any provision of this section, other than subdivision (d), is a misdemeanor.

(f) The city, county, or city and county that enacted the ordinance authorizing the remote caller bingo game, or the Attorney General, may bring an action to enjoin a violation of this section.

(g) No minors shall be allowed to participate in any remote caller bingo game.

(h) A remote caller bingo game shall not include any site that is not located within this state.

(i) An organization authorized to conduct a remote caller bingo game pursuant to subdivision (b) shall conduct the game only on property that is owned or leased by the organization, or the use of which is donated to the organization. Nothing in this subdivision shall be construed to require that the property that is owned or leased by, or the use of which is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.

(j) (1) All remote caller bingo games shall be open to the public, not just to the members of the authorized organization.

(2) No more than 750 players may participate in a remote caller bingo game in a single location.

(3) If the Governor of California or the President of the United States declares a state of emergency in response to a natural disaster or other public catastrophe occurring in California, an organization authorized to conduct remote caller bingo games may, while that declaration is in effect, conduct a remote caller bingo game pursuant to this section with more than 750 participants in a single venue if the net

proceeds of the game, after deduction of prizes and overhead expenses, are donated to or expended exclusively for the relief of the victims of the disaster or catastrophe, and the organization gives the California Gambling Control Commission at least 10 days' written notice of the intent to conduct that game.

(4) An organization authorized to conduct remote caller bingo games shall provide the commission with at least 30 days' advance written notice of its intent to conduct a remote caller bingo game. That notice shall include all of the following:

(A) The legal name of the organization and the address of record of the agent upon whom legal notice may be served.

(B) The locations of the caller and remote players, whether the property is owned by the organization or donated, and if donated, by whom.

(C) The name of the licensed caller and site manager.

(D) The names of administrative, managerial, technical, financial, and security personnel employed.

(E) The name of the vendor and any person or entity maintaining the equipment used to operate and transmit the game.

(F) The name of the person designated as having a fiduciary responsibility for the game pursuant to paragraph (2) of subdivision (k).

(G) The license numbers of all persons specified in subparagraphs (A) to (F), inclusive, who are required to be licensed.

(H) A copy of the local ordinance for any city, county, or city and county in which the game will be played. The commission shall post the ordinance on its Internet Web site.

(k) (1) A remote caller bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any remote caller bingo game. Only the organization authorized to conduct a remote caller bingo game shall operate that game, or participate in the promotion, supervision, or any other phase of a remote caller bingo game. Subject to the provisions of subdivision (m), this subdivision shall not preclude the employment of administrative, managerial, technical, financial, or security personnel who are not members of the authorized organization at a location participating in the remote caller bingo game by the organization conducting the game. Notwithstanding any other provision of law, exclusive or other agreements between the authorized organization and other entities or persons to provide services in the administration, management, or conduct of the game shall not be considered a violation of the prohibition against holding a legally cognizable financial interest in the conduct of the remote caller bingo game by persons or entities other than the charitable organization, or other entity authorized to conduct the remote caller bingo games, provided that those persons or entities obtain the gambling licenses, the key employee licenses, or the work permits required by, and otherwise comply with, Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code. Fees to be paid under any such agreements shall be reasonable and shall not be determined as a percentage of receipts or other revenues from, or be dependent on the outcome of, the game.

(2) An organization that conducts a remote caller bingo game shall designate a person as having fiduciary responsibility for the game.

(l) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct or participate in a remote caller bingo game, shall hold a legally cognizable financial interest in the conduct of such a game.

(m) An organization authorized to conduct a remote caller bingo game pursuant to this section shall not have overhead costs exceeding 20 percent of gross sales, except that the limitations of this section shall not apply to one-time, nonrecurring capital acquisitions. For purposes of this subdivision, "overhead costs" includes, but is not limited to, amounts paid for rent and equipment leasing and the reasonable fees authorized to be paid to administrative, managerial, technical, financial, and security personnel employed by the organization pursuant to subdivision (d). For the purpose of keeping its overhead costs below 20 percent of gross sales, an authorized organization may elect to deduct all or a portion of the fees paid to financial institutions for the use and processing of credit card sales from the amount of gross revenues awarded for prizes. In that case, the redirected fees for the use and processing of credit card sales shall not be included in "overhead costs" as defined in the California Remote Caller Bingo Act. Additionally, fees paid to financial institutions for the use and processing of credit card sales shall not be deducted from the proceeds retained by the charitable organization.

(n) No person shall be allowed to participate in a remote caller bingo game unless the person is physically present at the time and place where the remote caller bingo game is being conducted. A person shall be deemed to be physically present at the place where the remote caller bingo game is being conducted if he or she is present at

any of the locations participating in the remote caller bingo game in accordance with this section.

(o) (1) An organization shall not cosponsor a remote caller bingo game with one or more other organizations unless one of the following is true:

(A) All of the cosponsors are affiliated under the master charter or articles and bylaws of a single organization.

(B) All of the cosponsors are affiliated through an organization described in paragraph (1) of subdivision (b), and have the same Internal Revenue Service activity code.

(2) Notwithstanding paragraph (1), a maximum of 10 unaffiliated organizations described in paragraph (1) of subdivision (b) may enter into an agreement to cosponsor a remote caller game, provided that the game shall have not more than 10 locations.

(3) An organization shall not conduct remote caller bingo more than two days per week.

(4) Before sponsoring or operating any game authorized under paragraph (1) or (2), each of the cosponsoring organizations shall have entered into a written agreement, a copy of which shall be provided to the commission, setting forth how the expenses and proceeds of the game are to be allocated among the participating organizations, the bank accounts into which all receipts are to be deposited and from which all prizes are to be paid, and how game records are to be maintained and subjected to annual audit.

(p) The value of prizes awarded during the conduct of any remote caller bingo game shall not exceed 37 percent of the gross receipts for that game. When an authorized

organization elects to deduct fees paid for the use and processing of credit card sales from the amount of gross revenues for that game awarded for prizes, the maximum amount of gross revenues that may be awarded for prizes shall not exceed 37 percent of the gross receipts for that game, less the amount of redirected fees paid for the use and processing of credit card sales. Every remote caller bingo game shall be played until a winner is declared. Progressive prizes are prohibited. The declared winner of a remote caller bingo game shall provide his or her identifying information and a mailing address to the onsite manager of the remote caller bingo game. Prizes shall be paid only by check; no cash prizes shall be paid. The organization conducting the remote caller bingo game may issue a check to the winner at the time of the game, or may send a check to the declared winner by United States Postal Service certified mail, return receipt requested. All prize money exceeding state and federal exemption limits on prize money shall be subject to income tax reporting and withholding requirements under applicable state and federal laws and regulations and those reports and withholding shall be forwarded, within 10 business days, to the appropriate state or federal agency on behalf of the winner. A report shall accompany the amount withheld identifying the person on whose behalf the money is being sent. Any game interrupted by a transmission failure, electrical outage, or act of God shall be considered void in the location that was affected. A refund for a canceled game or games shall be provided to the purchasers.

(q) (1) The California Gambling Control Commission shall regulate remote caller bingo, including, but not limited to, licensure and operation. The commission shall establish reasonable criteria regulating, and shall require the licensure of, the following:

(A) Any person who conducts a remote caller bingo game pursuant to this section, including, but not limited to, an employee, a person having fiduciary responsibility for a remote caller bingo game, a site manager, and a bingo caller.

(B) Any person who directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides supplies, devices, services, or other equipment designed for use in the playing of a remote caller bingo game by any nonprofit organization.

(C) Beginning January 31, 2009, or a later date as may be established by the commission, all persons described in subparagraph (A) or (B) may submit to the commission a letter of intent to submit an application for licensure. The letter shall clearly identify the principal applicant, all categories under which the application will be filed, and the names of all those particular individuals who are applying. Each charitable organization shall provide an estimate of the frequency with which it plans to conduct remote caller bingo operations, including the number of locations. The letter of intent may be withdrawn or updated at any time.

(2) (A) The Department of Justice shall conduct background investigations and conduct field enforcement as it relates to remote caller bingo consistent with the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code) and as specified in regulations promulgated by the commission.

(B) Fees to cover background investigation costs shall be paid and accounted for in accordance with Section 19867 of the Business and Professions Code.

(3) (A) Every application for a license or approval shall be submitted to the department and accompanied by a nonrefundable fee, the amount of which shall be adopted by the commission by regulation.

(B) Fees and revenue collected pursuant to this paragraph shall be deposited in the California Bingo Fund, which is hereby created in the State Treasury. The funds deposited in the California Bingo Fund shall be available, upon appropriation by the Legislature, for expenditure by the commission and the department exclusively for the support of the commission and department in carrying out their duties and responsibilities under this section and Section 326.5.

(C) A loan is hereby authorized from the Gambling Control Fund to the California Bingo Fund on or after January 1, 2009, in an amount of up to five hundred thousand dollars (\$500,000) to fund operating, personnel, and other startup costs incurred by the commission and the department relating to this ~~act~~ section. Funds from the California Bingo Fund shall be available to the commission and the department upon appropriation by the Legislature in the annual Budget Act. The loan shall be subject to all of the following conditions:

(i) The loan shall be repaid to the Gambling Control Fund as soon as there is sufficient money in the California Bingo Fund to repay the amount loaned, but no later than five years after the date of the loan.

(ii) Interest on the loan shall be paid from the California Bingo Fund at the rate accruing to moneys in the Pooled Money Investment Account.

(iii) The terms and conditions of the loan are approved, prior to the transfer of funds, by the Department of Finance pursuant to appropriate fiscal standards.

The commission may assess and the department may collect reasonable fees and deposits as necessary to defray the costs of regulation and oversight.

(r) The administrative, managerial, technical, financial, and security personnel employed by an organization that conducts remote caller bingo games shall apply for, obtain, and thereafter maintain valid work permits, as defined in Section 19805 of the Business and Professions Code.

(s) An organization that conducts remote caller bingo games shall retain records in connection with the remote caller bingo game for five years.

(t) (1) All equipment used for remote caller bingo shall be approved in advance by the California Gambling Control Commission pursuant to regulations adopted pursuant to subdivision (r) of Section 19841 of the Business and Professions Code.

(2) The California Gambling Control Commission shall monitor operation of the transmission and other equipment used for remote caller bingo, and monitor the game.

(u) (1) As used in this section, "remote caller bingo game" means a game of bingo, as defined in subdivision (o) of Section 326.5, in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted, and the organization conducting the bingo game uses audio and video technology to link any of its in-state facilities for the purpose of transmitting the remote calling of a live bingo game from a single location to multiple locations owned, leased, or rented by that organization, or as described in subdivision (o) of this section. The audio or video technology used to link the facilities may include cable, Internet, satellite, broadband, or telephone technology, or any other means of

electronic transmission that ensures the secure, accurate, and simultaneous transmission of the announcement of numbers or symbols in the game from the location at which the game is called by a natural person to the remote location or locations at which players may participate in the game. The drawing of each ball bearing a number or symbol by the natural person calling the game shall be visible to all players as the ball is drawn, including through a simultaneous live video feed at remote locations at which players may participate in the game.

(2) The caller in the live game must be licensed by the California Gambling Control Commission. A game may be called by a nonlicensed caller if the drawing of balls and calling of numbers or symbols by that person is observed and personally supervised by a licensed caller.

(3) Remote caller bingo games shall be played using traditional paper or other tangible bingo cards and daubers, and shall not be played by using electronic devices, except card-minding devices, as described in paragraph (1) of subdivision (p) of Section 326.5.

(4) Prior to conducting a remote caller bingo game, the organization that conducts remote caller bingo shall submit to the commission the controls, methodology, and standards of game play, which shall include, but not be limited to, the equipment used to select bingo numbers and create or originate cards, control or maintenance, distribution to participating locations, and distribution to players. Those controls, methodologies, and standards shall be subject to prior approval by the ~~commission~~ department, provided that the controls shall be deemed approved by the ~~commission~~ department after 90 days from the date of submission unless disapproved.

(v) A location shall not be eligible to participate in a remote caller bingo game if bingo games are conducted at that location in violation of Section 326.5 or any regulation adopted by the commission pursuant to Section 19841 of the Business and Professions Code, including, but not limited to, a location at which unlawful electronic devices are used.

(w) (1) The vendor of the equipment used in a remote caller bingo game shall have its books and records audited at least annually by an independent California certified public accountant and shall submit the results of that audit to the ~~California Gambling Control Commission~~ department within 120 days after the close of the vendor's fiscal year. In addition, the ~~California Gambling Control Commission~~ department may audit the books and records of the vendor at any time.

(2) An authorized organization that conducts remote caller bingo games shall provide copies of the records pertaining to those games to the ~~California Gambling Control Commission~~ Department of Justice within 30 days after the end of each calendar quarter. In addition, those records shall be audited by an independent California certified public accountant at least annually and copies of the audit reports shall be provided to the ~~California Gambling Control Commission~~ department within 120 days after the close of the organization's fiscal year. The audit report shall account for the annual amount of fees paid to financial institutions for the use and processing of credit card sales by the authorized organization and the amount of fees for the use and processing of credit card sales redirected from "overhead costs" and deducted from the amount of gross revenues awarded for prizes.

(3) The costs of the licensing and audits required by this section shall be borne by the person or entity required to be licensed or audited. The audit shall enumerate the receipts for remote caller bingo, the prizes disbursed, the overhead costs, and the amount retained by the nonprofit organization. The ~~commission~~ department may audit the books and records of an organization that conducts remote caller bingo games at any time.

(4) If, during an audit, the ~~commission~~ department identifies practices in violation of this section, the license for the audited entity may be suspended pending review and hearing before the commission for a final determination.

(5) No audit required to be conducted by the ~~commission~~ department shall commence before January 1, 2010.

(x) (1) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(2) Notwithstanding paragraph (1), if paragraph (1) or (3) of subdivision (u), or the application of either of those provisions, is held invalid, this entire section shall be invalid.

(y) The commission shall submit a report to the Legislature, on or before January 1, 2012, on the fundraising effectiveness and regulation of remote caller bingo, and other matters that are relevant to the public interest regarding remote caller bingo.

(z) The following definitions apply for purposes of this section:

(1) "Commission" means the California Gambling Control Commission.

(2) "Department" means the Department of Justice.

(2)

(3) “Person” includes a natural person, corporation, limited liability company, partnership, trust, joint venture, association, or any other business organization.

SEC. 297. Section 326.5 of the Penal Code is amended to read:

326.5. (a) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any bingo game that is conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the ~~State~~ California Constitution, if the ordinance allows games to be conducted only in accordance with this section and only by organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701w, and 23701l of the Revenue and Taxation Code and by mobilehome park associations, senior citizens organizations, and charitable organizations affiliated with a school district; and if the receipts of those games are used only for charitable purposes.

(b) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the State Constitution. Security personnel employed by the organization conducting the bingo game may be paid from the revenues of bingo games, as provided in subdivisions (j) and (k).

(c) A violation of subdivision (b) shall be punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine is deposited in the general fund of the city, county, or city and county that enacted the ordinance authorizing the bingo game. A violation of any provision of this section, other than subdivision (b), is a misdemeanor.

(d) The city, county, or city and county that enacted the ordinance authorizing the bingo game may bring an action to enjoin a violation of this section.

(e) No minors shall be allowed to participate in any bingo game.

(f) An organization authorized to conduct bingo games pursuant to subdivision (a) shall conduct a bingo game only on property owned or leased by it, or property whose use is donated to the organization, and which property is used by that organization for an office or for performance of the purposes for which the organization is organized. Nothing in this subdivision shall be construed to require that the property owned or leased by, or whose use is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.

(g) All bingo games shall be open to the public, not just to the members of the authorized organization.

(h) A bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such a game, or participate in the promotion, supervision, or any other phase of a bingo game. This subdivision does not preclude the employment of security personnel who are not members of the authorized organization at a bingo game by the organization conducting the game.

(i) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct a bingo game, shall hold a financial interest in the conduct of a bingo game.

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Those profits shall be used only for charitable purposes.

(k) With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Proceeds are the receipts of bingo games conducted by organizations not within subdivision (j). Those proceeds shall be used only for charitable purposes, except as follows:

(1) The proceeds may be used for prizes.

(2) (A) Except as provided in subparagraph (B), a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or two thousand dollars (\$2,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel.

(B) For the purposes of bingo games conducted by the Lake Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or three thousand dollars (\$3,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel. Any amount of the proceeds that is additional to that permitted under subparagraph (A), up

to one thousand dollars (\$1,000), shall be used for the purpose of financing the rebuilding of the facility and the replacement of equipment that was destroyed by fire in 2007. The exception to subparagraph (A) that is provided by this subparagraph shall remain in effect only until the cost of rebuilding the facility is repaid, or January 1, 2019, whichever occurs first.

(3) The proceeds may be used to pay license fees.

(4) A city, county, or city and county that enacts an ordinance permitting bingo games may specify in the ordinance that if the monthly gross receipts from bingo games of an organization within this subdivision exceed five thousand dollars (\$5,000), a minimum percentage of the proceeds shall be used only for charitable purposes not relating to the conducting of bingo games and that the balance shall be used for prizes, rental of property, overhead, administrative expenses, and payment of license fees. The amount of proceeds used for rental of property, overhead, and administrative expenses is subject to the limitations specified in paragraph (2).

(l) (1) A city, county, or city and county may impose a license fee on each organization that it authorizes to conduct bingo games. The fee, whether for the initial license or renewal, shall not exceed fifty dollars (\$50) annually, except as provided in paragraph (2). If an application for a license is denied, one-half of any license fee paid shall be refunded to the organization.

(2) In lieu of the license fee permitted under paragraph (1), a city, county, or city and county may impose a license fee of fifty dollars (\$50) paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. An additional fee for law enforcement and public safety costs

incurred by the city, county, or city and county that are directly related to bingo activities may be imposed and shall be collected monthly by the city, county, or city and county issuing the license; however, the fee shall not exceed the actual costs incurred in providing the service.

(m) No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place where the bingo game is being conducted.

(n) The total value of prizes available to be awarded during the conduct of any bingo games shall not exceed five hundred dollars (\$500) in cash or kind, or both, for each separate game which is held.

(o) As used in this section, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols that are marked or covered by the player on a tangible card in the player's possession and that conform to numbers or symbols, selected at random and announced by a live caller. Notwithstanding Section 330c, as used in this section, the game of bingo includes tangible cards having numbers or symbols that are concealed and preprinted in a manner providing for distribution of prizes. Electronics or video displays shall not be used in connection with the game of bingo, except in connection with the caller's drawing of numbers or symbols and the public display of that drawing, and except as provided in subdivision (p). The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All preprinted cards shall bear the legend, "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance." Only a covered or marked tangible card possessed by a player and presented to an attendant may be used to claim a prize. It is the intention of the Legislature that

bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law.

(p) (1) Players who are physically present at a bingo game may use hand-held, portable card-minding devices, as described in this subdivision, to assist in monitoring the numbers or symbols announced by a live caller as those numbers or symbols are called in a live game. Card-minding devices may not be used in connection with any game where a bingo card may be sold or distributed after the start of the ball draw for that game. A card-minding device shall do all of the following:

(A) Be capable of storing in the memory of the device bingo faces of tangible cards purchased by a player.

(B) Provide a means for bingo players to input manually each individual number or symbol announced by a live caller.

(C) Compare the numbers or symbols entered by the player to the bingo faces previously stored in the memory of the device.

(D) Identify winning bingo patterns that exist on the stored bingo faces.

(2) A card-minding device shall perform no functions involving the play of the game other than those described in paragraph (1). Card-minding devices shall not do any of the following:

(A) Be capable of accepting or dispensing any coins, currency, or other representative of value or on which value has been encoded.

(B) Be capable of monitoring any bingo card face other than the faces of the tangible bingo card or cards purchased by the player for that game.

(C) Display or represent the game result through any means, including, but not limited to, video or mechanical reels or other slot machine or casino game themes, other than highlighting the winning numbers or symbols marked or covered on the tangible bingo cards or giving an audio alert that the player's card has a prize-winning pattern.

(D) Determine the outcome of any game or be physically or electronically connected to any component that determines the outcome of a game or to any other bingo equipment, including, but not limited to, the ball call station, or to any other card-minding device. No other player-operated or player-activated electronic or electromechanical device or equipment is permitted to be used in connection with a bingo game.

(3) (A) A card-minding device shall be approved in advance by the ~~commission~~ department as meeting the requirements of this section and any additional requirements stated in regulations adopted by the commission. Any proposed material change to the device, including any change to the software used by the device, shall be submitted to the ~~commission~~ department and approved by the ~~commission~~ department prior to implementation.

(B) In accordance with Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code, the commission shall establish reasonable criteria for, and require the licensure of, any person that directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides card-minding devices or other supplies, equipment, or services related to card-minding devices designed for use in the playing of bingo games by any nonprofit organization.

(C) A person or entity that supplies or services any card-minding device shall meet all licensing requirements established by the commission in regulations.

(4) The costs of any testing, certification, license, or determination required by this subdivision shall be borne by the person or entity seeking it.

(5) On and after January 1, 2010, ~~the commission and~~ the Department of Justice may inspect all card-minding devices at any time without notice, and may immediately prohibit the use of any device that does not comply with the requirements of subdivision (r) of Section 19841 of the Business and Professions Code. The Department of Justice may at any time, without notice, impound any device the use of which has been prohibited by the commission.

(6) The California Gambling Control Commission shall issue regulations to implement the requirements of this subdivision and may issue regulations regarding the means by which the operator of a bingo game, as required by applicable law, may offer assistance to a player with disabilities in order to enable that player to participate in a bingo game, provided that the means of providing that assistance shall not be through any electronic, electromechanical, or other device or equipment that accepts the insertion of any coin, currency, token, credit card, or other means of transmitting value, and does not constitute or is not a part of a system that constitutes a video lottery terminal, slot machine, or device prohibited by Chapter 10 (commencing with Section 330).

(7) The following definitions apply for purposes of this subdivision:

(A) "Commission" means the California Gambling Control Commission.

(B) "Department" means the Department of Justice.

(B)

(C) "Person" includes a natural person, corporation, limited liability company, partnership, trust, joint venture, association, or any other business organization.

SEC. 298. Section 12101 of the Public Contract Code is amended to read:

12101. It is the intent of the Legislature that policies developed by the ~~California~~ Department of Technology Agency and procedures developed by the Department of General Services in accordance with Section 12102 provide for the following:

(a) The expeditious and value-effective acquisition of information technology goods and services to satisfy state requirements.

(b) The acquisition of information technology goods and services within a competitive framework.

(c) The delegation of authority by the Department of General Services to each state agency that has demonstrated to the department's satisfaction the ability to conduct value-effective information technology goods and services acquisitions.

(d) The exclusion from state bid processes, at the state's option, of any supplier having failed to meet prior contractual requirements related to information technology goods and services.

(e) The review and resolution of protests submitted by any bidders with respect to any information technology goods and services acquisitions.

SEC. 299. Section 12103 of the Public Contract Code is amended to read:

12103. In addition to the mandatory requirements enumerated in Section 12102, the acquisition policies developed and maintained by the ~~California~~ Department of

Technology Agency and procedures developed and maintained by the Department of General Services in accordance with this chapter may provide for the following:

(a) Price negotiation with respect to contracts entered into in accordance with this chapter.

(b) System or equipment component performance, or availability standards, including an assessment of the added cost to the state to receive contractual guarantee of a level of performance.

(c) Requirement of a bond or assessment of a cost penalty with respect to a contract or consideration of a contract offered by a supplier whose performance has been determined unsatisfactory in accordance with established procedures maintained in the State Administrative Manual as required by Section 12102.

SEC. 300. Section 12104 of the Public Contract Code is amended to read:

12104. (a) (1) Commencing on or before January 1, 2007, the State Contracting Manual shall set forth all procedures and methods that shall be used by the department when seeking to obtain bids for the acquisition of information technology.

(2) Revisions to the manual must be publicly announced, including, but not limited to, postings on the department's Internet homepage.

(b) The department, in consultation with the ~~California~~ Department of Technology Agency, shall develop, implement, and maintain standardized methods for the development of information technology requests for proposals.

(c) All information technology requests for proposals shall be reviewed by the ~~California~~ Department of Technology Agency and the Department of General Services prior to release to the public.

SEC. 301. Section 12105 of the Public Contract Code is amended to read:

12105. The Department of General Services and the ~~California~~ Department of Technology Agency shall coordinate in the development of policies and procedures that implement the intent of this chapter. The ~~California~~ Department of Technology Agency shall have the final authority in the determination of any general policy and the Department of General Services shall have the final authority in the determination of any procedures.

SEC. 302. Section 12120 of the Public Contract Code is amended to read:

12120. The Legislature finds and declares that, with the advent of deregulation in the telecommunications industry, substantial cost savings can be realized by the state through the specialized evaluation and acquisition of alternative telecommunications systems. All contracts for the acquisition of telecommunications services and all contracts for the acquisition of telecommunications goods, whether by lease or purchase, shall be made by, or under the supervision of, the ~~California~~ Department of Technology Agency. All acquisitions shall be accomplished in accordance with Chapter 3 (commencing with Section 12100), relating to the acquisition of information technology goods and services, except to the extent any directive or provision is uniquely applicable to information technology acquisitions. The ~~agency~~ department shall have responsibility for the establishment of policy and procedures for telecommunications. The ~~agency~~ department shall have responsibility for the establishment of tactical policy and procedures for information technology and telecommunications acquisitions consistent with statewide strategic policy. The Trustees of the California State University and the Board of Governors of the California

Community Colleges shall assume the functions of the ~~agency~~ department with regard to acquisition of telecommunications goods and services by the California State University and the California Community Colleges, respectively. The trustees and the board shall each grant to the agency an opportunity to bid whenever the university or the college system solicits bids for telecommunications goods and services.

SEC. 303. Section 12121 of the Public Contract Code is amended to read:

12121. As used in this chapter:

(a) ~~“Agency”~~ “Department” means the ~~California Department of Technology Agency~~.

(b) “Tactical policy” means the policies of an organization necessary to direct operational staff in carrying out their day-to-day activities.

(c) “Strategic policy” means policy which defines the goals and objectives for an organization.

SEC. 304. Section 5075.8 of the Public Resources Code is amended to read:

5075.8. (a) The department may convene a planning task force in order to facilitate the development of a comprehensive plan for the San Joaquin River Parkway.

The task force shall include, but not be limited to, a representative of the following entities:

- (1) State Lands Commission.
- (2) Department of Parks and Recreation.
- (3) Department of Fish and Game.
- (4) State Reclamation Board.
- (5) County of Fresno.

- (6) County of Madera.
- (7) City of Fresno.
- (8) Fresno County and City Chamber of Commerce.
- (9) Fresno Sand and Gravel Producers.
- (10) San Joaquin River Property Owners Association.
- (11) Upper San Joaquin River Association.
- (12) San Joaquin River Parkway and Conservation Trust.
- (13) San Joaquin River Committee.
- ~~(14) Department of Boating and Waterways.~~

(b) The plan shall be submitted to the Legislature not later than June 1, 1991.

SEC. 305. Section 5099.12 of the Public Resources Code is amended to read:

5099.12. Of the annual apportionment of funds received by the director pursuant to this chapter, 60 percent shall be allocated for local governmental agency projects and 40 percent for state agency projects. The state agency share shall be disbursed to the following state agencies in the following percentages: ~~55~~ 60 percent to the Department of Parks and Recreation; 35 percent to the Wildlife Conservation Board or the Department of Fish and Game; and 5 percent to the Department of Water Resources; ~~and 5 percent to the Department of Boating and Waterways.~~ The State Coastal Conservancy established pursuant to Section 31100 is eligible to compete for grants of funds for projects of an outdoor recreational nature from the 6 percent contingency fund established by this section.

If either the state or local governmental agencies are unable to utilize their allocation of funds, the director shall allocate the uncommitted funds to those state or

local governmental agencies that are in position to take advantage of the funds during the year in which they are allocated. The 60-percent allocation for local governmental agency projects and the 40-percent allocation to state agency projects shall not be computed until the costs of maintaining and keeping up to date the plan required pursuant to Section 5099.2 and an additional 6 percent for deposit to a contingency fund have been deducted.

SEC. 306. Section 10002 of the Public Resources Code is amended to read:

10002. The Director of Fish and Game shall prepare proposed streamflow requirements, which shall be specified in terms of cubic feet of water per second, for each stream or watercourse identified pursuant to Section 10001. In developing the requirements for each stream, the director shall consult with the Director of Water Resources, ~~the Director of Boating and Waterways,~~ the Director of Parks and Recreation and with all affected local governments. The Director of Fish and Game may also consult with any private individuals, groups, or organizations as the director deems advisable. Upon completion of the proposed streamflow requirements for any individual stream or watercourse, the Director of Fish and Game shall transmit these proposed requirements to the State Water Resources Control Board. The State Water Resources Control Board shall consider these requirements within a stream as set forth in Section 1257.5 of the Water Code. The Director of Fish and Game shall complete the preparation of proposed requirements for the initial streams not later than July 1, 1989.

The Department of Fish and Game may contract for temporary services for purposes of preparing the proposed streamflow requirements.

SEC. 307. Section 30404 of the Public Resources Code is amended to read:

30404. (a) The commission shall periodically, in the case of the State Energy Resources Conservation and Development Commission, the State Board of Forestry and Fire Protection, the State Water Resources Control Board and the California regional water quality control boards, the State Air Resources Board and air pollution control districts and air quality management districts, the Department of Fish and Game, the Department of Parks and Recreation, ~~the Department of Boating and Waterways~~, the California Geological Survey and the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation, and the State Lands Commission, and may, with respect to any other state agency, submit recommendations designed to encourage the state agency to carry out its functions in a manner consistent with this division. The recommendations may include proposed changes in administrative regulations, rules, and statutes.

(b) Each of those state agencies shall review and consider the commission recommendations and shall, within six months from the date of their receipt, to the extent that the recommendations have not been implemented, report to the Governor and the Legislature its action and reasons therefor. The report shall also include the state agency's comments on any legislation that may have been proposed by the commission.

SEC. 308. Section 36300 of the Public Resources Code is amended to read:

36300. The Ocean Resources Task Force is hereby created in state government. The task force is composed of the following or their designee: the Secretary ~~of~~ for Environmental Affairs Protection, the Secretary of the Natural Resources Agency, the State ~~Director of~~ Public Health Officer Services, the Secretary of ~~the Business~~,

~~Transportation and Housing Agency~~, the Chairperson or Executive Officer of the State Lands Commission as determined by the commission, the Chairperson or Executive Director of the California Coastal Commission as determined by the commission, the Chairperson or Executive Officer of the Coastal Conservancy as determined by the conservancy, the Chairperson or Executive Director of the San Francisco Bay Conservation and Development Commission as determined by the commission, the Director of Conservation, the Director of Fish and Game, ~~the Director of Boating and Waterways~~, the Director of Parks and Recreation, ~~the Chairperson of the Mining and Geology Board~~ Office of Mine Reclamation, the Chairperson or Executive Director of the State Water Resources Control Board as determined by the board, the ~~Executive Officer~~ executive officer of each California regional water quality control board for a coastal region, the Director of Finance, the Chairperson or Executive Director of the State Energy Resources Conservation and Development Commission as determined by the commission, the Chairperson of the State Air Resources Board, the Chairperson of the Senate Committee on Natural Resources and ~~Wildlife~~ Water, the Chairperson of the Assembly Committee on Natural Resources, the President of the University of California, the Chancellor of the California State University, and the Director of the California Sea Grant program.

SEC. 309. Section 40400 of the Public Resources Code is amended to read:

40400. There is in the ~~Natural Resources~~ California Environmental Protection Agency the Department of Resources Recycling and Recovery. The Department of Resources Recycling and Recovery shall be administered under the control of an executive officer known as the Director of Resources Recycling and Recovery. Any

reference in any law or regulation to the State Solid Waste Management Board, the California Waste Management Board, or the California Integrated Waste Management Board shall hereafter apply to the Department of Resources Recycling and Recovery. The Director of Resources Recycling and Recovery shall hear and decide appeals of decisions of the Department of Resources Recycling and Recovery made pursuant to this division.

SEC. 310. Section 883 of the Public Utilities Code is amended to read:

883. (a) The commission shall, on or before February 1, 2001, issue an order initiating an investigation and opening a proceeding to examine the current and future definitions of universal service. That proceeding shall include public hearings that encourage participation by a broad and diverse range of interests from all areas of the state, including, but not limited to, all of the following:

- (1) Consumer groups.
- (2) Communication service providers, including all providers of high-speed access services.
- (3) Facilities-based telephone providers.
- (4) Information service providers and Internet access providers.
- (5) Rural and urban users.
- (6) Public interest groups.
- (7) Representatives of small and large businesses and industry.
- (8) Local agencies.
- (9) State agencies, including, but not limited to, all of the following:
  - (A) ~~The Business, Transportation and Housing Agency.~~

~~(B)~~

~~(A) The State and Consumer Services Government Operations Agency.~~

~~(C)~~

~~(B) The State Department of Education.~~

~~(D)~~

~~(C) The State Department of Public Health Services.~~

~~(E)~~

~~(D) The California State Library.~~

(10) Colleges and universities.

(b) The objectives of the proceeding set forth in subdivision (a) shall include all of the following:

(1) To investigate the feasibility of redefining universal service in light of current trends toward accelerated convergence of voice, video, and data, with an emphasis on the role of basic telecommunications and Internet services in the workplace, in education and workforce training, access to health care, and increased public safety.

(2) To evaluate the extent to which technological changes have reduced the relevance of existing regulatory regimes given their current segmentation based upon technology.

(3) To receive broad-based input from a cross section of interested parties and make recommendations on whether video, data, and Internet service providers should be incorporated into an enhanced Universal Lifeline Service program, as specified, including relevant policy recommendations regarding regulatory and statutory changes

and funding options that are consistent with the principles set forth in subdivision (c) of Section 871.7.

(4) To reevaluate prior definitions of basic service in a manner that will, to the extent feasible, effectively incorporate the latest technologies to provide all California residents with all of the following:

(A) Improved quality of life.

(B) Expanded access to public and private resources for education, training, and commerce.

(C) Increased access to public resources enhancing public health and safety.

(D) Assistance in bridging the “digital divide” through expanded access to new technologies by low income, disabled, or otherwise disadvantaged Californians.

(5) To assess projected costs of providing enhanced universal lifeline service in accordance with the intent of this article, and to delineate the subsidy support needed to maintain the redefined scope of universal service in a competitive market.

(6) To design and recommend an equitable and broad-based subsidy support mechanism for universal service in competitive markets in a manner that conforms with subdivision (c) of Section 871.7.

(7) To develop a process to periodically review and revise the definition of universal service to reflect new technologies and markets consistent with subdivision (c) of Section 871.7.

(8) To consider whether similar regulatory treatment for the provision of similar services is appropriate and feasible.

(c) In conducting its investigation, the commission shall take into account the role played by a number of diverse but convergent industries and providers, even though many of these entities are not subject to economic regulation by the commission or any other government entity.

(d) The recommendations of the commission shall be consistent with state policies for telecommunications as set forth in Section 709, and with all of the following principles:

(1) Universal service shall, to the extent feasible, be provided at affordable prices regardless of linguistic, cultural, ethnic, physical, financial, and geographic considerations.

(2) Consumers shall be provided access to all information needed to allow timely and informed choices about telecommunications products and services that are part of the universal service program and how best to use them.

(3) Education, health care, community, and government institutions shall be positioned as early recipients of new and emerging technologies so as to maximize the economic and social benefits of these services.

(e) The commission shall complete its investigation and report to the Legislature its findings and recommendations on or before January 1, 2002.

SEC. 311. Section 2872.5 of the Public Utilities Code, as amended by Section 64 of Chapter 404 of the Statutes of 2010, is amended to read:

2872.5. (a) The commission, in consultation with the ~~California~~ Office of Emergency Management Agency Services and the ~~California~~ Department of Technology Agency, shall open an investigative proceeding to determine whether standardized

notification systems and protocol should be utilized by entities that are authorized to use automatic dialing-announcing devices pursuant to subdivision (e) of Section 2872, to facilitate notification of affected members of the public of local emergencies. The commission shall not establish standards for notification systems or standard notification protocol unless it determines that the benefits of the standards exceed the costs.

(b) Before January 1, 2008, the commission shall prepare and submit to the Legislature a report on the results of the proceeding, including recommendations for funding notification systems and any statutory modifications needed to facilitate notification of affected members of the public of local emergencies.

SEC. 312. Section 2892 of the Public Utilities Code is amended to read:

2892. (a) A provider of commercial mobile radio service, as defined in Section 216.8, shall provide access for end users of that service to the local emergency telephone systems described in the Warren-911-Emergency Assistance Act (Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code). "911" shall be the primary access number for those emergency systems. A provider of commercial mobile radio service, in accordance with all applicable Federal Communication Commission orders, shall transmit all "911" calls from technologically compatible commercial mobile radio service communication devices without requiring user validation or any similar procedure. A provider of commercial mobile radio service may not charge any airtime, access, or similar usage charge for any "911" call placed from a commercial mobile radio service telecommunications device to a local emergency telephone system.

(b) A “911” call from a commercial mobile radio service telecommunications device may be routed to a public safety answering point other than the Department of the California Highway Patrol only if the alternate routing meets all of the following requirements:

(1) The “911” call originates from a location other than from a freeway, as defined in Section 23.5 of the Streets and Highways Code, under the jurisdiction of the Department of the California Highway Patrol.

(2) The alternate routing is economically and technologically feasible.

(3) The alternate routing will benefit public safety and reduce burdens on dispatchers for the Department of the California Highway Patrol.

(4) The Department of the California Highway Patrol, the ~~California Department of Technology Agency~~, and the proposed alternate public safety answering point, in consultation with the wireless industry, providers of “911” selective routing service, and local law enforcement officials, determine that it is in the best interest of the public and will provide more effective emergency service to the public to route “911” calls that do not originate from a freeway, as defined in Section 23.5 of the Streets and Highways Code, under the jurisdiction of the Department of the California Highway Patrol to another public safety answering point.

SEC. 313. Section 2892.1 of the Public Utilities Code is amended to read:

2892.1. (a) For purposes of this section, “telecommunications service” means voice communication provided by a telephone corporation as defined in Section 234, voice communication provided by a provider of satellite telephone services, voice communication provided by a provider of mobile telephony service, as defined in

Section 2890.2, and voice communication provided by a commercially available facilities-based provider of voice communication services utilizing voice over Internet Protocol or any successor protocol.

(b) The commission, in consultation with the ~~California Office of Emergency Management Agency Services~~ and the ~~California Department of Technology Agency~~, shall open an investigative or other appropriate proceeding to identify the need for telecommunications service systems not on the customer's premises to have backup electricity to enable telecommunications networks to function and to enable the customer to contact a public safety answering point operator during an electrical outage, to determine performance criteria for backup systems, and to determine whether the best practices recommended by the Network Reliability and Interoperability Council in December 2005, for backup systems have been implemented by telecommunications service providers operating in California. If the commission determines it is in the public interest, the commission shall, consistent with subdivisions (c) and (d), develop and implement performance reliability standards.

(c) The commission, in developing any standards pursuant to the proceeding required by subdivision (b), shall consider current best practices and technical feasibility for establishing battery backup requirements.

(d) The commission shall not implement standards pursuant to the proceeding required by subdivision (b) unless it determines that the benefits of the standards exceed the costs.

(e) The commission shall determine the feasibility of the use of zero greenhouse gas emission fuel cell systems to replace diesel backup power systems.

(f) Before January 1, 2008, the commission shall prepare and submit to the Legislature a report on the results of the proceeding.

SEC. 314. Section 7718 of the Public Utilities Code is amended to read:

7718. (a) The Railroad Accident Prevention and Immediate Deployment Force is hereby created in the California Environmental Protection Agency. The force shall be responsible for providing immediate onsite response capability in the event of large-scale releases of toxic materials resulting from surface transportation accidents and for implementing the state hazardous materials incident prevention and immediate deployment plan. This force shall act cooperatively and in concert with existing local emergency response units. The force shall consist of representatives of all of the following:

- (1) Department of Fish and Game.
- (2) California Environmental Protection Agency.
- (3) State Air Resources Board.
- (4) California Integrated Waste Management Board.
- (5) California regional water quality control boards.
- (6) Department of Toxic Substances Control.
- (7) Department of Pesticide Regulation.
- (8) Office of Environmental Health Hazard Assessment.
- (9) State Department of Public Health Services.
- (10) Department of the California Highway Patrol.
- (11) Department of Food and Agriculture.
- (12) Department of Forestry and Fire Protection.

(13) Department of Parks and Recreation.

~~(14) Department of Boating and Waterways.~~

~~(15) California~~

(14) Public Utilities Commission.

~~(16)~~

(15) Any other potentially affected state, local, or federal agency.

~~(17) California~~

(16) Office of Emergency Management Agency Services.

(b) The California Environmental Protection Agency shall develop a state railroad accident prevention and immediate deployment plan in cooperation with the State Fire Marshal, affected businesses, and all of the entities listed in paragraphs (1) to (17), inclusive, of subdivision (a).

(c) The plan specified in subdivision (b) shall be a comprehensive set of policies and directions that every potentially affected state agency and business shall follow if there is a railroad accident to minimize the potential damage to the public health and safety, property, and the environment that might result from accidents involving railroad activities in the state.

SEC. 315. Section 185020 of the Public Utilities Code is amended to read:

185020. (a) There is ~~in state government~~ the Transportation Agency a High-Speed Rail Authority.

(b) (1) The authority is composed of nine members as follows:

(A) Five members appointed by the Governor.

(B) Two members appointed by the Senate Committee on Rules.

(C) Two members appointed by the Speaker of the Assembly.

(2) For the purposes of making appointments to the authority, the Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall take into consideration geographical diversity to ensure that all regions of the state are adequately represented.

(c) Except as provided in subdivision (d), and until their successors are appointed, members of the authority shall hold office for terms of four years. A vacancy shall be filled by the appointing power making the original appointment, by appointing a member to serve the remainder of the term.

(d) (1) On and after January 1, 2001, the terms of all persons who are then members of the authority shall expire, but those members may continue to serve until they are reappointed or until their successors are appointed. In order to provide for evenly staggered terms, persons appointed or reappointed to the authority after January 1, 2001, shall be appointed to initial terms to expire as follows:

(A) Of the five persons appointed by the Governor, one shall be appointed to a term which expires on December 31, 2002, one shall be appointed to a term which expires on December 31, 2003, one shall be appointed to a term which expires on December 31, 2004, and two shall be appointed to terms which expires on December 31, 2005.

(B) Of the two persons appointed by the Senate Committee on Rules, one shall be appointed to a term which expires on December 31, 2002, and one shall be appointed to a term which expires on December 31, 2004.

(C) Of the two persons appointed by the Speaker of the Assembly, one shall be appointed to a term which expires on December 31, 2003, and one shall be appointed to a term which expires on December 31, 2005.

(2) Following expiration of each of the initial terms provided for in this subdivision, the term shall expire every four years thereafter on December 31.

(e) Members of the authority are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

(f) From among its members, the authority shall elect a chairperson, who shall preside at all meetings of the authority, and a vice chairperson to preside in the absence of the chairperson. The chairperson shall serve a term of one year.

(g) Five members of the authority constitute a quorum for taking any action by the authority.

SEC. 316. Section 41030 of the Revenue and Taxation Code is amended to read:

41030. ~~The California Department of Technology Agency~~ shall determine annually, on or before October 1, a surcharge rate that it estimates will produce sufficient revenue to fund the current fiscal year's 911 costs. The surcharge rate shall be determined by dividing the costs (including incremental costs) ~~the California Department of Technology Agency~~ estimates for the current fiscal year of 911 plans approved pursuant to Section 53115 of the Government Code, less the available balance in the State Emergency Telephone Number Account in the General Fund, by its estimate of the charges for intrastate telephone communications services and VoIP service to which the surcharge will apply for the period of January 1 to December 31, inclusive, of the

next succeeding calendar year, but in no event shall such surcharge rate in any year be greater than three-quarters of 1 percent nor less than one-half of 1 percent.

SEC. 317. Section 41031 of the Revenue and Taxation Code is amended to read:

41031. ~~The California~~ Department of Technology Agency shall make its determination of the surcharge rate each year no later than October 1 and shall notify the board of the new rate, which shall be fixed by the board to be effective with respect to charges made for intrastate telephone communication services and VoIP service on or after January 1 of the next succeeding calendar year.

SEC. 318. Section 41032 of the Revenue and Taxation Code is amended to read:

41032. Immediately upon notification by the ~~California~~ Department of Technology Agency and fixing the surcharge rate, the board shall each year no later than November 15 publish in its minutes the new rate, and it shall notify by mail every service supplier registered with it of the new rate.

SEC. 319. Section 41136.1 of the Revenue and Taxation Code is amended to read:

41136.1. For each fiscal year, moneys in the State Emergency Telephone Number Account not appropriated for a purpose specified in Section 41136 shall be held in trust for future appropriation for upcoming, planned "911" emergency telephone number projects that have been approved by the ~~California~~ Department of Technology Agency, even if the projects have not yet commenced.

SEC. 320. Section 41137 of the Revenue and Taxation Code is amended to read:

41137. ~~The California~~ Department of Technology Agency shall pay, from funds appropriated from the State Emergency Telephone Number Account by the Legislature, as provided in Section 41138, bills submitted by service suppliers or communications equipment companies for the installation and ongoing costs of the following communication services provided local agencies by service suppliers in connection with the "911" emergency telephone number system:

- (a) A basic system.
- (b) A basic system with telephone central office identification.
- (c) A system employing automatic call routing.
- (d) Approved incremental costs that have been concurred in by the ~~California~~ Department of Technology Agency.

SEC. 321. Section 41137.1 of the Revenue and Taxation Code is amended to read:

41137.1. ~~The California~~ Department of Technology Agency shall pay, from funds appropriated from the State Emergency Telephone Number Account by the Legislature, as provided in Section 41138, claims submitted by local agencies for approved incremental costs and for the cost of preparation of final plans submitted to the ~~California~~ Department of Technology Agency for approval on or before October 1, 1978, as provided in Section 53115 of the Government Code.

SEC. 322. Section 41138 of the Revenue and Taxation Code is amended to read:

41138. (a) It is the intent of the Legislature that the reimbursement rates for “911” emergency telephone number equipment shall not exceed specified amounts negotiated with each interested supplier and approved by the ~~California Department of Technology Agency~~. The ~~California Technology Agency department~~ shall negotiate supplier pricing to ensure cost effectiveness and the best value for the “911” emergency telephone number system. The ~~California Technology Agency department~~ shall pay those bills as provided in Section 41137 only under the following conditions:

(1) The ~~California Technology Agency department~~ shall have received the local agency’s “911” emergency telephone number system plan by July 1 of the prior fiscal year and approved the plan by October 1 of the prior fiscal year.

(2) The Legislature has appropriated in the Budget Bill an amount sufficient to pay those bills.

(3) The ~~California Technology Agency department~~ has reviewed and approved each line item of a request for funding to ensure the necessity of the proposed equipment or services and the eligibility for reimbursement.

(4) The amounts to be paid do not exceed the pricing submitted by the supplier and approved by the ~~California Technology Agency department~~. Extraordinary circumstances may warrant spending in excess of the established rate, but shall be preapproved by the ~~California Technology Agency department~~. In determining the reimbursement rate, the ~~California Technology Agency department~~ shall utilize the approved pricing submitted by the supplier providing the equipment or service.

(b) Nothing in this section shall be construed to limit an agency’s ability to select a supplier or procure telecommunications equipment as long as the supplier’s pricing

is preapproved by the ~~California Department of Technology Agency~~. Agencies shall be encouraged to procure equipment on a competitive basis. Any amount in excess of the pricing approved by the ~~California Technology Agency department~~ shall not be reimbursed.

SEC. 323. Section 41139 of the Revenue and Taxation Code is amended to read:

41139. From funds appropriated by the Legislature from the Emergency Telephone Number Account, the ~~California Department of Technology Agency~~ shall begin paying bills as provided in Sections 41137, 41137.1, and 41138 in the 1977-78 fiscal year for plans submitted by local agencies by July 1, 1976, to the ~~California Technology Agency which department that the California Technology Agency department~~ has approved.

SEC. 324. Section 41140 of the Revenue and Taxation Code is amended to read:

41140. The ~~California Department of Technology Agency~~ shall reimburse local agencies, from funds appropriated from the Emergency Telephone Number Account by the Legislature, for amounts not previously compensated for by another governmental agency, which have been paid by agencies for approved incremental costs or to service suppliers or communication equipment companies for the following communications services supplied in connection with the "911" emergency telephone number, provided local agency plans had been approved by the ~~California Technology Agency department~~:

- (a) A basic system.
- (b) A basic system with telephone central office identification.

(c) A system employing automatic call routing.

(d) Approved incremental costs.

SEC. 325. Section 41141 of the Revenue and Taxation Code is amended to read:

41141. Claims for reimbursement shall be submitted by local agencies to the ~~California Department of Technology Agency~~, which shall determine payment eligibility and shall reduce the claim for charges that exceed the approved incremental costs, approved contract amounts, or the established tariff rates for costs. No claim shall be paid until funds are appropriated by the Legislature.

SEC. 326. Section 41142 of the Revenue and Taxation Code is amended to read:

41142. Notwithstanding any other provision of this article, if the Legislature fails to appropriate an amount sufficient to pay bills submitted to the ~~California Department of Technology Agency~~ by service suppliers or communications equipment companies for the installation and ongoing communications services supplied local agencies in connection with the "911" emergency telephone number system, and to pay claims of local agencies which, prior to the effective date of this part, paid amounts to service suppliers or communications equipment companies for the installation and ongoing expenses in connection with the "911" emergency telephone number system, the obligation of service suppliers and local agencies to provide "911" emergency telephone service shall terminate and service shall not again be required until the Legislature has appropriated an amount sufficient to pay those bills or claims. Nothing

in this part shall preclude local agencies from purchasing or acquiring any communication equipment from companies other than the telephone service suppliers.

SEC. 327. Section 1500 of the Vehicle Code is amended to read:

1500. There is in the ~~Business, Transportation and Housing~~ Transportation Agency the Department of Motor Vehicles.

SEC. 328. Section 1505 of the Vehicle Code is amended to read:

1505. The director, with the approval of the Governor and the Secretary of ~~the Business, Transportation and Housing Agency~~, shall organize the department in such a manner as that he or she may deem necessary to conduct the work of the department.

SEC. 329. Section 2100 of the Vehicle Code is amended to read:

2100. There is in the ~~Business, Transportation and Housing~~ Transportation Agency the Department of the California Highway Patrol.

SEC. 330. Section 2109 of the Vehicle Code is amended to read:

2109. The commissioner shall organize the department with the approval of the Governor and the Secretary of ~~the Business, Transportation and Housing Agency~~ and may arrange and classify the work of the department and may, with the approval of the Governor and the Secretary of ~~the Business, Transportation and Housing Agency~~, create or abolish divisions thereof.

SEC. 331. Section 2901 of the Vehicle Code is amended to read:

2901. The Governor may appoint a highway safety representative who shall serve in the ~~Business, Transportation and Housing~~ Transportation Agency and who shall, in consultation with the Governor and Secretary of ~~the Business, Transportation and Housing Agency~~ Transportation, prepare the California Traffic Safety Program.

The Governor is responsible for the administration of the program, and has final approval of all phases of the program, and may take all action necessary to secure the full benefits available to the program under the Federal Highway Safety Act of 1966, and any amendments thereto. The highway safety representative serves at the pleasure of the secretary.

SEC. 332. Section 2902 of the Vehicle Code is amended to read:

2902. To the maximum extent permitted by federal law and regulations and the laws of this state, the Governor may delegate to the Secretary of ~~the Business and Transportation Agency~~ and the highway safety representative ~~any power or the authority~~ necessary to administer the program, and the secretary and the representative may exercise ~~such power or this~~ authority once delegated.

SEC. 333. Section 11910 of the Water Code is amended to read:

11910. There shall be incorporated in the planning and construction of each project those features (including, but not limited to, additional storage capacity) that the department, after giving full consideration to any recommendations which may be made by the Department of Fish and Game, the Department of Parks and Recreation, ~~the Department of Boating and Waterways~~, any federal agency, and any local governmental agency with jurisdiction over the area involved, determines necessary or desirable for the preservation of fish and wildlife, and necessary or desirable to permit, on a year-round basis, full utilization of the project for the enhancement of fish and wildlife and for recreational purposes to the extent that those features are consistent with other uses of the project, if any. It is the intent of the Legislature that there shall be full and close coordination of all planning for the preservation and enhancement of

fish and wildlife and for recreation in connection with state water projects by and between the Department of Water Resources, the Department of Parks and Recreation, ~~the Department of Boating and Waterways~~, the Department of Fish and Game, and all appropriate federal and local agencies.

SEC. 334. Section 11910.1 of the Water Code is amended to read:

11910.1. In furtherance of the policies specified in Section 11910, the Department of Fish and Game, the Department of Parks and Recreation, ~~the Department of Boating and Waterways~~, and other governmental agencies shall submit their recommendations or comments on reconnaissance studies or feasibility reports of the Department of Water Resources relating to any project or feature of a project within 60 days following receipt of a formal request for review from the Department of Water Resources.

SEC. 335. (a) Except as provided for in subdivision (b), the provisions of this plan shall become operative on July 1, 2013.

(b) A state agency, department, or entity may take actions prior to July 1, 2013, that are necessary to ensure that the provisions of the plan become operative on July 1, 2013, and are implemented in a timely fashion. These actions may include, but are not limited to, reassignment of duties between state agencies, departments, or entities, activities included in Section 12080.3 of the Government Code, actions relating to planning for the changes provided for in the plan, and the expenditure of funds necessary for the transfer of authority and responsibilities accomplished by the plan.

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Prepared By \_\_\_\_\_

Approved By \_\_\_\_\_

## LEGISLATIVE COUNSEL'S DIGEST

## Governor's Reorganization Plan No. 0 of 2012

General Subject: Governor's reorganization plan: reorganization of executive branch  
of state government.

Under existing law, the executive branch of state government includes the State and Consumer Services Agency; the Business, Transportation and Housing Agency; the California Emergency Management Agency; the California Environmental Protection Agency; the California Health and Human Services Agency; the Labor and Workforce Development Agency; the Natural Resources Agency; and the Corrections and Rehabilitation Agency. Existing law also establishes the Technology Agency, the Department of Food and Agriculture, and the Department of Veterans Affairs, which are headed by secretaries, in the executive branch.

This reorganization plan would revise the agency structure and result in establishing the following agencies in the executive branch of state government: Business and Consumer Services, Government Operations, Corrections and Rehabilitation, Labor and Workforce Development, California Health and Human Services, Environmental Protection, Natural Resources, and Transportation. The departments of Food and Agriculture and Veterans Affairs would also remain in the executive branch and be headed by secretaries. The plan would make the following specific changes with respect to state agencies, departments, and boards:

(1) Under existing law, the State and Consumer Services Agency is comprised of the Department of General Services; the Department of Consumer Affairs; the Franchise Tax Board; the Public Employees' Retirement System; the State Teachers' Retirement System; the Department of Fair Employment and Housing; the Fair Employment and Housing Commission; the California Science Center; the California Victim Compensation and Government Claims Board; the California African American Museum; the California Building Standards Commission; the Alfred E. Alquist Seismic Safety Commission; and the Office of Privacy Protection.

This reorganization plan would eliminate that agency and instead establish in state government the Business and Consumer Services Agency, comprised of the Department of Consumer Affairs, the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Business Oversight, the Department of Alcoholic Beverage Control, the Alcoholic Beverage Control Appeals Board, the California Horse Racing Board, and the Alfred E. Alquist Seismic Safety Commission. The plan would transfer Exposition Park, the

California Science Center, and the California African American Museum, to the Natural Resources Agency.

(2) Existing law creates in the Business, Transportation and Housing Agency the Department of Real Estate and the Office of Real Estate Appraisers.

This plan would abolish those departments and instead establish in the Department of Consumer Affairs the Bureau of Real Estate and the Bureau of Real Estate Appraisers.

(3) Existing law establishes the Structural Pest Control Board in the Department of Pesticide Regulation. Existing law also creates the State Board of Chiropractic Examiners.

The plan would transfer the Structural Pest Control Board from the Department of Pesticide Regulation to the Department of Consumer Affairs. The plan would also provide that the State Board of Chiropractic Examiners is a unit within the Department of Consumer Affairs.

(4) Existing law establishes the California Gambling Control Commission. Existing law vests the commission with jurisdiction over the operation, concentration, and supervision over gambling establishments in the state and over all persons or things having to do with the operation of gambling establishments. Among other duties, existing law authorizes the commission to act as the regulatory body for gambling establishments, proposition players, remote caller bingo, and tribal casinos, as specified, by creating policy, establishing regulations, issuing licenses, and administering certain Indian gaming revenues and trust funds, as defined.

Existing law vests the Department of Justice with law enforcement and investigatory powers pertaining to gambling establishments, gambling licenses, and

work permits. Among other duties, existing law authorizes the department to conduct background investigations, monitor the conduct of licensees, and initiate disciplinary actions for violations of law, as specified.

This plan would consolidate the support, investigatory, auditing, and compliance functions of the California Gambling Control Commission and transfer these duties to the Department of Justice. The commission would retain jurisdiction over the licensing, policies, regulations, criteria, and standards pertaining to gaming.

(5) Existing law creates the Department of Corporations and the Department of Financial Institutions within the Business, Transportation and Housing Agency. The Department of Corporations provides for the licensure and regulation of businesses engaged in financial transactions, including securities brokers and dealers, investment advisors, financial planners, and certain fiduciaries and lenders, as specified. The Department of Financial Institutions oversees the operation of state-chartered financial institutions, including banks, credit unions, and various mortgage and money lenders. The Commissioner of Corporations and the Commissioner of Financial Institutions are responsible for overseeing and carrying out the duties and responsibilities of their respective departments.

This plan would abolish the Department of Corporations and the Department of Financial Institutions and transfer their responsibilities to the Department of Business Oversight, which would be established within the Business and Consumer Services Agency. The executive officer of the new Department of Business Oversight would be the Commissioner of Business Oversight. The department's administration would include a Deputy Commissioner of Business Oversight for the Division of Corporations

and a Deputy Commissioner of Business Oversight for the Division of financial Institutions.

(6) Existing law provides for the governance and finance of state government.

This plan would establish the Government Operations Agency and transfer to that agency the Office of Administrative Law, the Public Employees' Retirement System, the State Teachers' Retirement System, the State Personnel Board, the California Victim Compensation and Government Claims Board, the Department of General Services, a newly created Department of Technology, the Department of Human Resources, and the Franchise Tax Board.

(7) Existing law establishes within state government the California Emergency Management Agency, which is governed by the Secretary of California Emergency Management.

This plan would recast the agency as the Office of Emergency Services within the office of the Governor and the secretary as the Director of Emergency Services.

(8) Existing law establishes within state government the California Technology Agency, which governs, among others, the Office of Information Security and the Office of Technology Services. The agency is governed by the Secretary of California Technology. The offices are governed by directors.

This plan would recast the office as the Department of Technology within the Government Operations Agency and the secretary as the Director of Technology.

(9) Existing law establishes the California Infrastructure and Economic Development Bank, the Office of Tourism, the California Film Commission, the Film

California First Program, and the Small Business Loan Guarantee Program within the Business, Transportation and Housing Agency.

This plan would transfer these state entities to the Governor's Office of Business and Economic Development.

(10) Existing law establishes the Department of Transportation, the Department of Motor Vehicles, the Department of the California Highway Patrol, and the Board of Pilot Commissioners, among others, in the Business, Transportation and Housing Agency and a California Transportation Commission and a High-Speed Rail Authority in state government.

This plan would include all the above entities within the Transportation Agency.

(11) Existing law establishes the Department of Boating and Waterways in the Natural Resources Agency and charges the department with duties related to beach erosion, harbors, and recreational boat trails. Existing law establishes the Boating and Waterways Commission to provide advice to the department.

This plan would transfer the department into the Department of Parks and Recreation as a division of that department and eliminate the Boating and Waterways Commission.

(12) Existing law establishes the California Housing Finance Agency within the Business, Transportation and Housing Agency, and authorizes the California Housing Finance Agency to carry out various powers and duties relating to meeting the housing needs of persons and families of low or moderate income.

This plan would instead provide that the California Housing Finance Agency is within the Department of Housing and Community Development and make various conforming changes.

(13) Existing law establishes the Department of Resources Recycling and Recovery, a department charged with the responsibility of regulating solid waste disposal, in the Natural Resources Agency.

This plan would transfer the Department of Resources Recycling and Recovery to the California Environmental Protection Agency.

(14) Existing law establishes the California Traffic Safety Program, which consists of a comprehensive plan to reduce traffic accidents, deaths, injuries, and property damage resulting from accidents. Existing law authorizes the Governor to appoint a highway safety representative in the Business, Transportation and Housing, who serves at the pleasure of the Secretary of Business, Transportation and Housing Agency and who is required to prepare the program. Existing law authorizes, to the maximum extent authorized by federal law, the Governor to delegate to the agency and the representative any power or authority to administer the program.

This plan would instead authorize the Governor to appoint the highway safety representative in the Transportation Agency who would serve at the pleasure of the Secretary of Transportation. The plan would authorize the Governor to delegate power and authority to the Secretary of Transportation to administer the program.

(15) This reorganization plan would become operative on July 1, 2013, and would authorize a state agency, department, or entity to take actions prior to July 1,

2013, that are necessary to ensure that the provisions of the plan become operative on July 1, 2013.

DRAFT