

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 08/15)

Fiscal Year 2016-17	Business Unit 7760	Department General Services	Priority No.
Budget Request Name 7760-002-BCP-BR-2016-GB		Program 6330 - STATEWIDE SUPPORT SERVICES	Subprogram 6330028 - RISK & INSURANCE MANAGEMENT

Budget Request Description
 Transfer of the Government Claims Program to Department of General Services

Budget Request Summary

The 2015-16 budget process included approval for the Victim Compensation and Government Claims Board to shift the Government Claims Program to the Department of General Services effective July 1, 2016. In conjunction with VCGCB's approved proposal, DGS requests to establish the Government Claims Program within its Office of Risk and Insurance Management. This represents a shift in source of funding from the Victim Compensation and Government Claims Board to the Department of General Services' Service Revolving Fund in the amount of \$1,162,000 for the support of nine existing program positions. The program will be funded through an existing \$25 filing fee and the Department of General Services' statewide surcharge.

Statutory code sections relevant to the Government Claims Program will also be transferred to the Department of General Services with the exception of Penal Code section 4900 claims, which the Victim Compensation and Government Claims Board will retain. Statutory changes are outlined in the attached trailer bill language (Attachment I).

Requires Legislation <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date
For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance. <input type="checkbox"/> FSR <input type="checkbox"/> SPR Project No. Date:		

If proposal affects another department, does other department concur with proposal? Yes No
Attach comments of affected department, signed and dated by the department director or designee.

Prepared By Kim Hunt	Date 12-31-15	Reviewed By Miles Burnett	Date 12/31/15
Department Director Daniel Kim	Date 12/31/15	Agency Secretary Marybel Batjer	Date 12-31-15

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE CALSTARS Dept. of Technology

BCP Type: Policy Workload Budget per Government Code 13308.05

PPBA	Date submitted to the Legislature 1/7/16
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BCP Fiscal Detail Sheet

BCP Title: Transfer of the Government Claims Program to the Department of General Services

DP Name: 7760-002-BCP-DP-2016-GB

Budget Request Summary

	FY16					
	CY	BY	BY+1	BY+2	BY+3	BY+4
Positions - Permanent	0.0	9.0	9.0	9.0	9.0	9.0
Total Positions	0.0	9.0	9.0	9.0	9.0	9.0
Salaries and Wages						
Earnings - Permanent	0	499	499	499	499	499
Total Salaries and Wages	\$0	\$499	\$499	\$499	\$499	\$499
Total Staff Benefits	0	259	259	259	259	259
Total Personal Services	\$0	\$758	\$758	\$758	\$758	\$758
Operating Expenses and Equipment						
6301 - General Expense	0	142	142	142	142	142
5302 - Printing	0	9	9	9	9	9
5304 - Communications	0	13	13	13	13	13
5322 - Training	0	5	5	5	5	5
5324 - Facilities Operation	0	108	108	108	108	108
5326 - Utilities	0	27	27	27	27	27
5340 - Consulting and Professional Services - External	0	50	50	50	50	50
5346 - Information Technology	0	32	32	32	32	32
5368 - Non-Capital Asset Purchases - Equipment	0	18	18	18	18	18
Total Operating Expenses and Equipment	\$0	\$404	\$404	\$404	\$404	\$404
Total Budget Request	\$0	\$1,162	\$1,162	\$1,162	\$1,162	\$1,162

Fund Summary

Fund Source - State Operations						
0666 - Service Revolving Fund	0	1,162	1,162	1,162	1,162	1,162
Total State Operations Expenditures	\$0	\$1,162	\$1,162	\$1,162	\$1,162	\$1,162
Total All Funds	\$0	\$1,162	\$1,162	\$1,162	\$1,162	\$1,162

Program Summary

Program Funding						
6330028 - Risk and Insurance Management	0	1,162	1,162	1,162	1,162	1,162
9900100 - Administration	0	115	115	115	115	115
9900200 - Administration - Distributed	0	-115	-115	-115	-115	-115
Total All Programs	\$0	\$1,162	\$1,162	\$1,162	\$1,162	\$1,162

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A. Budget Request Summary

The 2015-16 budget process included approval for the Victim Compensation and Government Claims Board (VCGCB) to shift the Government Claims Program to the Department of General Services (DGS) effective July 1, 2016. In conjunction with VCGCB's approved proposal, DGS requests to establish the Government Claims Program within its Office of Risk and Insurance Management. This represents a shift in source of funding from VCGCB to DGS' Service Revolving Fund in the amount of \$1,162,000 for the support of nine existing program positions. The program will be funded through an existing \$25 filing fee estimated to generate approximately \$90,000 annually and an increase to the statewide surcharge of approximately \$1,072,000 annually.

Statutory code sections relevant to the Government Claims Program will also be transferred to DGS with the exception of Penal Code section 4900 claims, which VCGCB will retain. Statutory changes are outlined in the attached trailer bill language (Attachment I).

B. Background/History

The Tort Claims Act of 1963 established the manner in which claims against the State are handled and defined the administrative role and remedies offered by the Government Claims Program. Pursuant to the Government Code, those who wish to file a lawsuit against the state or its employees must first pursue an administrative remedy through the Government Claims Program. The Government Claims Program's process provides the state an opportunity to investigate and possibly settle claims without incurring litigation expenses. Claimants can only proceed with legal action against the state if the claim is rejected or denied. VCGCB's approved 2015-16 proposal statutorily establishes the Government Claims Program within DGS.

C. State Level Considerations

The Government Claims Program is valuable in that it provides an administrative remedy for claims that would otherwise require claimants to go to court. However, a more stable funding source is needed in order for the program to continue operating successfully. DGS' statewide surcharge is assessed annually to executive branch entities based on their number of positions. Funding the Government Claims Program through the statewide surcharge will provide funding stability while still requiring state departments to pay for the costs of this program.

D. Justification

The 2015-16 budget process included the approval of a proposal to shift the Government Claims Program from VCGCB to DGS effective July 1, 2016. This represents a shift in the source of funding from VCGCB to DGS' Service Revolving Fund in the amount of \$1,162,000 for the support of nine existing program positions. Approval of the 2016-17 proposal will provide a stable revenue source for the Government Claims Program within DGS in compliance with the approved transfer in VCGCB's 2015-16 proposal entitled *Shift Funding for the Government Claims Program to the Department of General Services*.

E. Outcomes and Accountability

This proposal will establish the Government Claims Program in DGS and transfer the program's statutory authorities to DGS with the exception of Penal Code section 4900 claims. In addition, DGS will address statutory changes necessary to eliminate surcharges collected by the program (the program will continue to assess a \$25 filing fee) and delegate stale dated warrants to the departments.

F. Analysis of All Feasible Alternatives

Alternative 1: Approve augmentation of Service Revolving Fund expenditure authority in DGS' Office of Risk and Insurance Management in the amount of \$1,162,000 and the transfer of nine positions. This will transfer all relevant statutory authorities and program activities to DGS, with the exception of Penal Code section 4900 claims and stale dated warrants.

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Pros:

- Government Claims Program funding will be stabilized and the services it provides to the state and the public will be secure.
- The state's legal defenses against litigation stemming from government claims will be preserved.

Cons:

- Slightly increases DGS' statewide surcharge to state agencies.

Alternative #2: Eliminate the filing fee (estimated annual revenue of \$90,000) and surcharge revenue and establish a General Fund appropriation for the program's operating costs.

Pros:

- Government Claims Program funding will be stabilized and the functions it provides to the state and the public will be secured.
- The state's legal defenses against litigation stemming from government claims will be preserved.

Cons:

- Increases General Fund expenditures.

Alternative #3: Increase the current filing fee and surcharge to generate a sufficient level of revenue to cover the program's operating costs.

Pros:

- The Government Claims Program would generate sufficient revenue to be self-supporting.

Cons:

- Increasing fees and surcharges to sufficient levels may make the program inaccessible to claimants and deter departments from utilizing the program's services.

G. Implementation Plan

The establishment of the Government Claims Program within DGS will become effective July 1, 2016.

Transferring the Government Claims Program to DGS will require the following: (1) a thirty-day notification to impacted bargaining units stating that represented staff will be relocated to another department and facility; (2) work with the Government Claims Program to transfer its data to the Office of Risk and Insurance Management's proprietary claims system; and (3) work with the Government Claims Program on any remaining aspects of the program.

H. Supplemental Information

None.

I. Recommendation

DGS recommends approval of Alternative #1, the permanent augmentation of Service Revolving Fund expenditure authority in DGS' Office of Risk and Insurance Management in the amount of \$1,162,000 and nine positions. The 2015-16 budget process included approval to shift the Government Claims Program from the VCGCB to DGS effective July 1, 2016. In conjunction with VCGCB 2015-16 proposal, DGS requests to establish the Government Claims Program under the Service Revolving Fund.

This transfer will provide the Government Claims Program with a stable funding source for the submittal of claims against the state.

**PROPOSED LANGUAGE TO TRANSFER TO DGS THE GOVERNMENT CLAIMS DUTIES
OF THE VICTIMS COMPENSATION BOARD.**

“An act to amend Sections 77, 1345, 1346, 1370, 1371, 1375, 1379, 1563, of the Code of Civil Procedure; to amend Sections 846.1, 1789.37, of the Civil Code; to amend Sections 12117, 24618, 89750.5, of the Education Code; to amend Sections 14978.2, 52295, 3955, of the Food and Agriculture Code; to amend Sections 1122, 15512, of the Fish and Game Code; to amend Section 800 of Division 3.5; Sections 850.6, 900.2, 905.2, 905.3, 906, 911.2, 920, 925, 927.13, 935.7, 965, 965.1, 965.5, 997.1, 998, 998.2, of Division 3.6; Sections 1151, 3515.7, of Division 4, Title 1; to amend Sections 8652, 8902, 11007.6, 11014, 11030.1, 11030.2, 11031, 11275, 13312, 13332.09, 14084, 14600, 15202; of Division 3, Title 2; to amend Sections 13920, 13923, 13928, 13941, 13942, 13943, 13943.2, 13944, of Division 3, Title 2; to amend Sections 16302.1, 16304.6, 16383, 16431, 17051.5, 17201, 17570, of Division 4, Title 2; to amend Sections 18708, 19815.4, 20163, 21223, 21265 of Division 5, Title 2; to amend section 26749 of Division 2, Title 3; to amend sections 68503, 68506, 68543, 68543.5, 68543.8, 68565, of Title 8, of the Government Code; to amend Sections 13052, 11502, 25370, 121265, 121270, of the Health and Safety Code; to amend Sections 11580.1, 11872, of the Insurance Code; to amend Sections 4724, 4725, 4726, of the Labor Code; to amend Sections 987.9, 1557, 2786, 11163, 11172, of the Penal Code; to amend Sections 4116, 4602.6, 30171.2, of the Public Resources Code; to amend Section 30162 of the Streets and Highways Code; to amend Sections 4461, 14171.5, 13171.6, 15634, of the Welfare and Institutions Code; to amend Sections 10301, 10306, 10308, 10311, 10326.2, 12102.2, of the Public Contract Code; To add Sections 905.2 (b)(2)(A) of Division 3.6; Sections 14659, 14659.01, 14659.02, 14659.03, 14659.04, 14659.05, 14659.06, 14659.07 of the Government Code.”

SEC. 1. Sections 14659, 14659.01 14659.02, 14659.03, 14659.04 14659.05, 14659.06 and 14659.07 of the Government Code are added to read:

14659. In addition to the duties, powers, purposes, responsibilities, and jurisdiction vested in the Director of General Services or the Department of General Services pursuant to Section 14651, the Department of General Services and its director succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the California Victims Compensation and Government Claims Board, or its executive officer, under the following statutes:

- a) **Sections 77, Chapter 4, Title 1, Part 1; 1345 and 1346 of Article 2, Chapter 3, Title 10, Part 3; 1370, 1371, 1375, 1379, of Article 3, Chapter 4, Title 10,**

Part 3; 1563 of Article 5, Chapter 7, Title 10, Part 3, of the Code of Civil Procedure.

- b) Sections 846.1 of Chapter 2, Title 3, Part 2, Division 2; 1789.37 of Title 1.6, Part 4, Division 3, of the Civil Code.
- c) Sections 12117 of Article 7, Chapter 1, Part 8, Division 1; 24618 of Chapter 31, Part 13, Division 1, of Title 1; 89750.5 of Article 4, Chapter 6, Part 55, Division 8; of Title 3, of the Education Code.
- d) Sections 14978.2 of Article 4, Chapter 6, Division 7; 52295 of Article 2.5, Chapter 2, Division 18; 3955 of Chapter 3, Part 3, Division 3, of the Food and Agriculture Code.
- e) Sections 1122 of Article 3, Chapter 3, Division 2; 15512 of Chapter 6, Division 12, of the Fish and Game Code.
- f) Sections 800 of Division 3.5; 850.6 of Chapter 4, Part 2; 905.2, 905.3, 906, of Article 2, Chapter 1; 911.2 of Article 1, Chapter 2; 920, 925 of Chapter 3, 927.13 of Chapter 4.5; 935.7 of Chapter 6, of Part 3; 965, 965.1, 965.5, of Chapter 1, of Part 5; 997.1 of Part 8; 998, 998.2, of Part 9, of Division 3.6; 1151 of Article 6, Chapter 1; 3515.7 of Chapter 10.3, of Division 4, of Title 1; 8652 of Article 16, Chapter 7, Division 1; 8902 of Article 1, Chapter 1, Part 1, Division 2; 11007.6, 11014, of Article 1, Chapter 1, Part 1; 11030.1, 11030.2, 11031, of Article 3, Chapter 1, Part 1; 11275 of Article 2, Chapter 3, Part 1; 13312 of Article 1; 13332.09 of Article 2.5, of Chapter 3, Part 3; 13920, 13923, 13928, of Chapter 2, Part 4; 13941, 13942, 13943, 13943.2, 13944, of Chapter 3, Part 4; 14084 of Article 6, Chapter 1, Part 5; 14600 of Chapter 1, Part 5.5; 15202 of Chapter 3, Part 6, of Division 3; 16302.1 and 16304.6 of Chapter 1; 16383 of Article 3, Chapter 2; 16431 of Article 1, Chapter 3; of Part 2; 17051.5 of Article 3, Chapter 1; 17201 of Article 1, Chapter 2; of Part 4; 17570 of Article 1, Chapter 4, Part 7; of Division 4; 18708 of Article 3, Chapter 2, Part 2; 19815.4 of Article 1, Chapter 1, Part 2.6; 20163 of Article 4, Chapter 2; 21223 of Article 8, Chapter 12; 21265 of Article 1, Chapter 13 of Part 3; of Division 5, of Title 2; 26749 of Article 7, Chapter 2 of Part 3, Division 2, Title 3; 68503 and 68506 of Article 1; 68543, 68543.5, 68543.8, of Article 2; 68565 of Article 4; of Chapter 2 of Title 8 of the Government Code.
- g) Sections 13052 of Article 2, Chapter 2, Part 1 Division 12; 11502 of Chapter 9, Division 10; 25370 of Article 7, Chapter 6.8, Division 20; 121265 and 121270 of Chapter 13, Part 4, Division 105 of the Health and Safety Code.

- h) Sections 11580.1 of Article 2, Chapter 1; 11872 of Article 5, Chapter 4; of Part 3, Division 2, of the Insurance Code.
- i) Sections 4724, 4725, 4726, of Article 4.5, Chapter 2, Part 2, Division 4 of the Labor Code.
- j) Sections 987.9 of Chapter 1, Title 6; 1557 of Chapter 4, Title 12 of Part 2; 2786 of Article 5, Chapter 5, Title 1 of Part 3; 11163 of Article 2; 11172 of Article 2.5 of Chapter 2, Title 1, Part 4 of the Penal Code.
- k) Sections 4116 of Article 2, Chapter 1; 4602.6 of Article 8, Chapter 8, of Part 2, Division 4; 30171.2 of Chapter 2.5, Division 20 of the Public Resources Code.
- l) Section 30162 of Article 4, Chapter 1, Division 17 of the Streets and Highways Code.
- m) Sections 4461 of Chapter 1, Part 2, Division 4.1; 14171.5 and 13171.6 of Article 5.3, Chapter 7; 15634 of Article 4, Chapter 11; of Part 3, Division 9 of the Welfare and Institutions Code.
- n) Sections 10301, 10306, 10308, 10311, 10326.2 of Article 3 Chapter 2; 12102.2 of Chapter 3, of Part 2, Division 2 of the Public Contract Code.
- o) Sections 216 of Part 4, Division 2; 9202 of Chapter 5, Part 4, Division 7; of the Public Resources Code.

14659.01. Any reference in the Government Code, or in any other Codes, statutes, or regulations, to the California Victims Compensation Board, or the State Board of Control with respect to the statutory powers and duties vested in the Department of General Services pursuant to section 14659 shall be construed to refer to the Department of General Services.

14659.02. The Department of General Services may assign any matter related to the statutes vested in the Department of General Services pursuant to section 14659, to the Office of Risk and Insurance Management, or to any office so designated.

14659.03. The evidence in any investigation, inquiry, or hearing may be taken by the Department of General Services or in its behalf, by the office designated for that purpose. Every finding, opinion, and order, made pursuant to an investigation, inquiry, or hearing, when approved or confirmed by the

department, or office so designated, is the finding, opinion, or order of the Department of General Services.

14659.04. The Office of Risk and Insurance Management, or any office so designated, or their designees, shall keep a full and true record of all proceedings, issue all necessary process, writs, warrants, and notices, and perform those other prescribed duties, pursuant to section 14659.

14659.05. The Director of General Services, Office of Risk and Insurance Management, any office so designated, or their designees, may administer oaths, certify to all official acts, issue subpoenas for the attendance of witnesses and production of papers, books, accounts, documents, and testimony, in any inquiry, investigations, hearings, or proceedings, conducted in accordance with section 14659.

14659.06. The Department of General Services, Office of Risk and Insurance Management, any office so designated, or their designees, may administer oaths, examine witnesses, issue subpoenas, receive evidence, under such rules and regulations, pursuant to Section 14659, as the Department of General Services may adopt.

14659.07. The department shall have a seal, bearing the following inscription: Department of General Services.” The seal shall be fixed to all writs and authentications of copies of records and to other instruments that the department directs.

SEC. 2. Sections 77, 1345, 1370, 1371, 1375, 1379 and 1563 of the Code of Civil Procedures are amended to read:

77. (a) In every county and city and county, there is an appellate division of the superior court consisting of three judges or, when the Chief Justice finds it necessary, four judges.

The Chief Justice shall assign judges to the appellate division for specified terms pursuant to rules, not inconsistent with statute, adopted by the Judicial Council to promote the independence and quality of each appellate division. Each judge assigned to the appellate division of a superior court shall be a judge of that court, a judge of the superior court of another county, or a judge retired from the superior court or a court of higher jurisdiction in this state.

(b) In each appellate division, no more than three judges shall participate in a hearing or decision. The presiding judge of the division shall designate the three judges who shall participate.

(c) In addition to their other duties, the judges designated as members of the appellate division of the superior court shall serve for the period specified in the order of designation.

Whenever a judge is designated to serve in the appellate division of the superior court of a county other than the county in which that judge was elected or appointed as a superior court judge, or if the judge is retired, in a county other than the county in which the judge resides, the judge shall receive expenses for travel, board, and lodging. If the judge is out of the judge's county overnight or longer, by reason of the designation, that judge shall be paid a per diem allowance in lieu of expenses for board and lodging in the same amounts as are payable for those purposes to justices of the Supreme Court under the rules of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services. In addition, a retired judge shall receive for the time so served, amounts equal to that which the judge would have received if the judge had been assigned to the superior court of the county.

(d) The concurrence of two judges of the appellate division of the superior court shall be necessary to render the decision in every case in, and to transact any other business except business that may be done at chambers by the presiding judge of, the division. A judgment of the appellate division in an appeal shall contain a brief statement of the reasons for the judgment. A judgment stating only "affirmed" or "reversed" is insufficient. The presiding judge shall convene the appellate division when necessary. The presiding judge shall also supervise its business and transact any business that may be done at chambers.

(e) The appellate division of the superior court has jurisdiction on appeal in all cases in which an appeal may be taken to the superior court or the appellate division of the superior court as provided by law, except where the appeal is a retrial in the superior court.

(f) The powers of each appellate division shall be the same as are now or may hereafter be provided by law or rule of the Judicial Council relating to appeals to the appellate division of the superior courts.

(g) The Judicial Council shall promulgate rules, not inconsistent with law, to promote the independence of, and govern the practice and procedure and the disposition of the business of, the appellate division.

(h) Notwithstanding subdivisions (b) and (d), appeals from convictions of traffic infractions may be heard and decided by one judge of the appellate division of the superior court.

1345. If any person has erroneously delivered any unclaimed moneys or other unclaimed property to the state or any officer or employee thereof, and the moneys or other property is deposited in the Unclaimed Property Fund or is held by the Controller

or Treasurer in the name of any account in that fund pursuant to this title, the moneys or other property delivered in error may be refunded or returned to that person on order of the Controller, with the approval of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services.

1346. If any person has erroneously delivered any unclaimed moneys or other unclaimed property to the state or any officer or employee thereof, and the moneys or other property is deposited in, or transferred to, the General Fund, or is held by the Controller or Treasurer in the name of that fund, pursuant to this title, the moneys or other property delivered in error, if cash, shall on order of the Controller, be transferred from the General Fund to the Unclaimed Property Fund, and, if other than cash, the records of the Controller and Treasurer shall be adjusted to show that it is held in the name of the proper account in the Unclaimed Property Fund; and the moneys or other property may be refunded or returned to that person on order of the Controller, with the approval of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services.

1370. The Controller, with the prior approval of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services, may sell or lease personal property at any time, and in any manner, and may execute those leases on behalf and in the name of the State of California.

1371. The Controller, with the prior approval of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services, may sell, cash, redeem, exchange, or otherwise dispose of any securities and all other classes of personal property, and may sell, cash, redeem, exchange, compromise, adjust, settle, or otherwise dispose of any accounts, debts, contractual rights, or other choses in action if, in his or her opinion, that action on his or her part is necessary or will tend to safeguard and conserve the interests of all parties, including the state, having any vested or expectant interest in the property.

1375. With the approval of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services, any real property may be sold or leased by the Controller at private sale without published notice.

1379. With the prior approval of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services, the Controller may destroy or otherwise dispose of any personal property other than cash deposited in the State Treasury under this title, if that property is determined by him or her to be valueless or of such little value that the costs of conducting a sale would probably exceed the amount that would be realized from the sale, and neither the Treasurer nor Controller shall be held to respond in damages at the suit of any person claiming loss by reason of that destruction or disposition.

1563. (a) Except as provided in subdivisions (b) and (c), all escheated property delivered to the Controller under this chapter shall be sold by the Controller to the highest bidder at public sale in whatever city in the state affords in his or her judgment the most favorable market for the property involved, or the Controller may conduct the sale by electronic media, including, but not limited to, the Internet, if in his or her judgment it is cost effective to conduct the sale of the property involved in that manner. However, no sale shall be made pursuant to this subdivision until 18 months after the final date for filing the report required by Section 1530. The Controller may decline the highest bid and reoffer the property for sale if he or she considers the price bid insufficient. The Controller need not offer any property for sale if, in his or her opinion, the probable cost of sale exceeds the value of the property. Any sale of escheated property held under this section shall be preceded by a single publication of notice thereof, at least one week in advance of sale, in an English language newspaper of general circulation in the county where the property is to be sold.

(b) Securities listed on an established stock exchange shall be sold at the prevailing prices on that exchange. Other securities may be sold over the counter at prevailing prices or, with prior approval of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services, by any other method that the Controller may determine to be advisable. These securities shall be sold by the Controller no sooner than 18 months, but no later than 20 months, after the final date for filing the report required by Section 1530. If securities delivered to the Controller by a holder of the securities remain in the custody of the Controller, a person making a valid claim for those securities under this chapter shall be entitled to receive the securities from the Controller. If the securities have been sold, the person shall be entitled to receive the net proceeds received by the Controller from the sale of the securities. United States government savings bonds and United States war bonds shall be presented to the United States for payment. Subdivision (a) does not apply to the property described in this subdivision.

(c) (1) All escheated property consisting of military awards, decorations, equipment, artifacts, memorabilia, documents, photographs, films, literature, and any other item relating to the military history of California and Californians that is delivered to the Controller is exempt from subdivision (a) and shall be held in trust for the Controller at the California State Military Museum and Resource Center. All escheated property held in trust pursuant to this subdivision is subject to the applicable regulations of the United States Army governing Army museum activities as described in Section 179 of the Military and Veterans Code. Any person claiming an interest in the escheated property may file a claim to the property pursuant to Article 4 (commencing with Section 1540).

(2) The California State Military Museum and Resource Center shall be responsible for the costs of storage and maintenance of escheated property delivered by the Controller under this subdivision.

(d) The purchaser at any sale conducted by the Controller pursuant to this chapter shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The Controller shall execute all documents necessary to complete the transfer of title.

SEC. 3. Sections 846.7 and 1789.37 of the Civil Code are amended to read:

846.1. (a) Except as provided in subdivision (c), an owner of any estate or interest in real property, whether possessory or nonpossessory, who gives permission to the public for entry on or use of the real property pursuant to an agreement with a public or nonprofit agency for purposes of recreational trail use, and is a defendant in a civil action brought by, or on behalf of, a person who is allegedly injured or allegedly suffers damages on the real property, may present a claim to the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services** for reasonable attorney's fees incurred in this civil action if any of the following occurs:

(1) The court has dismissed the civil action upon a demurrer or motion for summary judgment made by the owner or upon its own motion for lack of prosecution.

(2) The action was dismissed by the plaintiff without any payment from the owner.

(3) The owner prevails in the civil action.

(b) Except as provided in subdivision (c), a public entity, as defined in Section 831.5 of the Government Code, that gives permission to the public for entry on or use of real property for a recreational purpose, as defined in Section 846, and is a defendant in a civil action brought by, or on behalf of, a person who is allegedly injured or allegedly suffers damages on the real property, may present a claim to the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services** for reasonable attorney's fees incurred in this civil action if any of the following occurs:

(1) The court has dismissed the civil action upon a demurrer or motion for summary judgment made by this public entity or upon its own motion for lack of prosecution.

(2) The action was dismissed by the plaintiff without any payment from the public entity.

(3) The public entity prevails in the civil action.

(c) An owner of any estate or interest in real property, whether possessory or nonpossessory, or a public entity, as defined in Section 831.5 of the Government Code,

that gives permission to the public for entry on, or use of, the real property for a recreational purpose, as defined in Section 846, pursuant to an agreement with a public or nonprofit agency, and is a defendant in a civil action brought by, or on behalf of, a person who seeks to restrict, prevent, or delay public use of that property, may present a claim to the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services** for reasonable attorney's fees incurred in the civil action if any of the following occurs:

(1) The court has dismissed the civil action upon a demurrer or motion for summary judgment made by the owner or public entity or upon its own motion for lack of prosecution.

(2) The action was dismissed by the plaintiff without any payment from the owner or public entity.

(3) The owner or public entity prevails in the civil action.

(d) The ~~California Victim Compensation and Government Claims Board~~ **Department of General Services** shall allow the claim if the requirements of this section are met. The claim shall be paid from an appropriation to be made for that purpose. Reasonable attorney's fees, for purposes of this section, may not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made, and may not exceed an aggregate amount of twenty-five thousand dollars (\$25,000). This subdivision shall not apply if a public entity has provided for the defense of this civil action pursuant to Section 995 of the Government Code. This subdivision shall also not apply if an owner or public entity has been provided a legal defense by the state pursuant to any contract or other legal obligation.

(e) The total of claims allowed by the ~~board~~ **Department of General Services** pursuant to this section shall not exceed two hundred thousand dollars (\$200,000) per fiscal year.

1789.37.

(a) Every owner of a check casher's business shall obtain a permit from the Department of Justice to conduct a check casher's business.

(b) All applications for a permit to conduct a check casher's business shall be filed with the department in writing, signed by the applicant, if an individual, or by a member or officer authorized to sign, if the applicant is a corporation or other entity, and shall state the name of the business, the type of business engaged in, and the business address. Each applicant shall be fingerprinted.

(c) Each applicant for a permit to conduct a check casher's business shall pay a fee not to exceed the cost of processing the application, fingerprinting the applicant, and checking or obtaining the criminal record of the applicant, at the time of filing the application.

(d) Each applicant shall annually, beginning one year from the date of issuance of a check casher's permit, file an application for renewal of the permit with the department, along with payment of a renewal fee not to exceed the cost of processing the application for renewal and checking or obtaining the criminal record of the applicant.

(e) The department shall deny an application for a permit to conduct a check casher's business, or for renewal of a permit, if the applicant has a felony conviction involving dishonesty, fraud, or deceit, if the crime is substantially related to the qualifications, functions, or duties of a person engaged in the business of check cashing.

(f) The department shall adopt regulations to implement this section and shall determine the amount of the application fees required by this section. The department shall prescribe forms for the applications and permit required by this section, which shall be uniform throughout the state.

(g) In any action brought by a city attorney or district attorney to enforce a violation of this section, an owner of a check casher's business who engages in the business of check cashing without holding a current and valid permit issued by the department pursuant to this section is subject to a civil penalty, as follows:

(1) For the first offense, not more than one thousand dollars (\$1,000).

(2) For the second offense, not more than five thousand dollars (\$5,000).

(h) Any person who has twice been found in violation of subdivision (g) and who, within 10 years of the date of the first offense, engages in the business of check cashing without holding a current and valid permit issued by the department pursuant to this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding five thousand dollars (\$5,000), or by both that fine and imprisonment.

(i) All civil penalties, forfeited bail, or fines received by any court pursuant to this section shall, as soon as practicable after the receipt thereof, be deposited with the county treasurer of the county in which the court is situated. Fines and forfeitures deposited shall be disbursed pursuant to the Penal Code. Civil penalties deposited shall be paid at least once a month as follows:

(1) Fifty percent to the Treasurer by warrant of the county auditor drawn upon the requisition of the clerk or judge of the court, to be deposited in the State Treasury on order of the Controller.

(2) Fifty percent to the city treasurer of the city, if the offense occurred in a city, otherwise to the treasurer of the county in which the prosecution is conducted. Any money deposited in the State Treasury under this section that is determined by the Controller to have been erroneously deposited shall be refunded, subject to

approval of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services prior to the payment of the refund, out of any money in the State Treasury that is available by law for that purpose.

(j) This section shall become operative December 31, 2004.

SEC. 4. Sections 12117, 24618 and 89750.5 of the Education Code are amended to read:

12117. (a) The State Agency for Donated Food Distribution may, without at the time furnishing vouchers or itemized statements, draw from the Donated Food Revolving Fund for use as a departmental revolving fund either of the following:

(1) A sum not to exceed thirty thousand dollars (\$30,000).

(2) With the approval of the Department of Finance, a sum in excess of thirty thousand dollars (\$30,000).

(b) Any moneys withdrawn pursuant to subdivision (a) may only be used, in accordance with law and the ~~California Victim Compensation and Government Claims Board~~ Department of General Services rules, for payment of compensation earned, traveling expense, traveling expense advances, or where immediate payment is otherwise necessary. All disbursements from the revolving fund shall be substantiated by vouchers filed with and audited by the Controller. From time to time, disbursements, supported by vouchers, may be reported to the Controller in connection with claims for reimbursement of the departmental revolving fund. At any time upon the demand of the Department of Finance or the Controller, the revolving fund shall be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the Controller.

24618. Losses or gains resulting from overpayment or underpayment of contributions or other amounts under this part within the limits set by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services for automatic writeoff, and losses or gains in greater amounts specifically approved for writeoffs by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services, shall be debited or credited, as the case may be, to the appropriate reserve in the retirement fund.

89750.5. (a) Notwithstanding Sections 948 and 965.2 of the Government Code or any other provision of law, the trustees may settle, adjust, or compromise any pending action or final judgment, without the need for a recommendation, certification, or approval from any other state officer or entity. The Controller shall draw a warrant for the payment of any settlement, adjustment, or compromise, or final judgment against

the trustees if the trustees certify that a sufficient appropriation for the payment of the settlement, adjustment, compromise, or final judgment exists.

(b) Notwithstanding paragraph (3) of subdivision (b) of Section 905.2 of the Government Code or any other provision of law, the trustees may pay any claim for money or damages on express contract or for an injury for which the trustees or their officers or employees are liable, without approval of the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services**, if the trustees determine that payment of the claim is in the best interests of the California State University and that funds are available to pay the claim. The authority of the trustees conferred by this subdivision does not alter any other requirements governing claims in the Government Claims Act (Division 3.6 (commencing with Section 810) of Title 1 of the Government Code), except to grant the trustees authority to pay these claims.

(c) Notwithstanding Chapter 3 (commencing with Section 13940) of Part 4 of Division 3 of Title 2 of the Government Code, the trustees may discharge from accountability the sum of one thousand dollars (\$1,000) or less, owing to the California State University, if the trustees determine that the money is uncollectible or the amount does not justify the cost of collection. A discharge of accountability by the trustees does not release any person from the payment of any moneys due the California State University.

SEC. 5. Sections 14978.2, 52295 and 3955 of the Food and Agriculture Code are amended to read:

14978.2. (a) The board may establish the Commercial Feed Inspection Committee as an entity to administer this chapter. The committee shall consist of eight persons appointed by the board who shall be licensed under this chapter. The committee may, with the concurrence of the director, appoint one additional member to the committee, who shall be a public member. The public member shall be a citizen and resident of California who is not subject to the licensing requirements of this chapter, and who has no financial interest in any person licensed under this chapter.

(b) Each member shall have an alternate member appointed in the same manner as the member, who shall serve in the absence of the member for whom they are designated as alternate and who shall have all the duties and exercise the full rights and privileges of members.

(c) The committee may appoint its own officers, including a chairperson, one or more vice chairpersons, and other officers as it deems necessary. The officers shall have the powers and duties delegated to them by the committee.

(d) The members and alternate members, when acting as members, shall serve without compensation but shall be reimbursed for expenses necessarily incurred by them in the

performance of their duties in accordance with the rules of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services.

(e) A quorum of the committee shall be five members. A vote of the majority of the members present at a meeting at which there is a quorum shall constitute the act of the committee.

(f) No member or alternate member, or any employee or agent thereof, shall be personally liable for the actions of the committee or responsible individually in any way for errors in judgment, mistakes, or other acts, either by commission or omission, except for his or her own individual acts of dishonesty or crime.

52295. Members of the board shall receive no salary but may be allowed per diem in accordance with ~~California Victim Compensation and Government Claims Board~~ Department of General Services rules for attendance at meetings and other board activities authorized by the board and approved by the director.

3955. Claims against an association shall be presented to ~~California Victim Compensation and Government Claims Board~~ Department of General Services in accordance with Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

SEC. 6. Sections 1122 and 15512 of the Fish and Game Code are amended to read:

1122. Any claim for damages arising against the state under Section 1121 shall be presented to the ~~California Victim Compensation and Government Claims Board~~ Department of General Services in accordance with Section 905.2 of the Government Code, and if not covered by insurance provided pursuant to Section 1121, the claim shall be payable only out of funds appropriated by the Legislature for that purpose. If the state elects to insure its liability under Section 1121, the ~~California Victim Compensation and Government Claims Board~~ Department of General Services may automatically deny the claim.

15512. (a) If aquatic plants or animals are destroyed pursuant to subdivision (e) of Section 15505, the owner shall be promptly paid from the General Fund an amount equal to 75 percent of the replacement value of the plants or animals, less the value determined by the department of any replacement stock provided by the department under subdivision (b) if the claim is submitted pursuant to Section 15513. If the replacement value is not settled between the owner and the department, the replacement value shall be determined by an appraiser appointed by the director and an appraiser appointed by the owner. Appraiser's fees shall be paid by the appointing

party. Disputes between these two appraisers shall be submitted to arbitration under the Commercial Arbitration Rules of the American Arbitration Association.

(b) If the department provides replacement stock to an aquaculturist whose plants or animals are destroyed pursuant to subdivision (e) of Section 15505, the amount to be paid to the aquaculturist pursuant to this section shall be reduced by the value of the replacement stock, as determined by the department.

(c) The result of the arbitration or the amount settled between the owner and the department, reduced by the value determined by the department of any replacement stock provided under subdivision (b), may be submitted as a claim by the owner to the ~~California Victim Compensation and Government Claims Board~~ Department of General Services pursuant to Section 15513.

SEC. 7. Sections 800, 850.6, 900.2, 905.3, 906, 911.2, 920, 925, 927.13, 935.7, 965, 965.1, 965.5, 997.1, 998, 998.2, 1151, 3515.7, 8652, 8902, 11007.6, 11014, 11030.1, 11030.2, 11031, 11275, 13312, 13332.09, 14084, 14600, 15202, 13920, 13923, 13928, 13941, 13942, 13943, 13943.2, 13944, 16302.1, 16304.6, 16383, 16431, 17051.5, 17201, 17570, 18708, 19815.4, 20163, 21223, 21265, 26749, 68503, 68506, 68546.5, 68543.8 and 68565 of the Government Code are amended to read:

800. (a) In any civil action to appeal or review the award, finding, or other determination of any administrative proceeding under this code or under any other provision of state law, except actions resulting from actions of the ~~Victim Compensation and Government Claims Board~~ Department of General Services, if it is shown that the award, finding, or other determination of the proceeding was the result of arbitrary or capricious action or conduct by a public entity or an officer thereof in his or her official capacity, the complainant if he or she prevails in the civil action may collect from the public entity reasonable attorney's fees, computed at one hundred dollars (\$100) per hour, but not to exceed seven thousand five hundred dollars (\$7,500), if he or she is personally obligated to pay the fees in addition to any other relief granted or other costs awarded.

(b) This section is ancillary only, and shall not be construed to create a new cause of action.

(c) The refusal by a public entity or officer thereof to admit liability pursuant to a contract of insurance shall not be considered arbitrary or capricious action or conduct within the meaning of this section.

850.6. (a) Whenever a public entity provides fire protection or firefighting service outside of the area regularly served and protected by the public entity providing that service, the public entity providing the service is liable for any injury for which liability is imposed by statute caused by its act or omission or the act or omission of its employee occurring in the performance of that fire protection or firefighting service. Notwithstanding any other law, the public entity receiving the fire protection or firefighting service is not liable for any act or omission of the public entity providing the service or for any act or omission

of an employee of the public entity providing the service; but the public entity providing the service and the public entity receiving the service may by agreement determine the extent, if any, to which the public entity receiving the service will be required to indemnify the public entity providing the service.

(b) Notwithstanding any other provision of this section, any claims against the state shall be presented to the ~~Victim Compensation and Government Claims Board~~ **Department of General Services** in accordance with Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1.

900.2. "Board" means:

(a) In the case of a local public entity, the governing body of the local public entity.

(b) In the case of the state, except as provided by subdivisions (c) and (d), the ~~Victim Compensation and Government Claims Board~~ **Department of General Services**.

(c) In the case of a judicial branch entity or judge of one of those entities, the Judicial Council.

(d) In the case of the California State University, the Trustees of the California State University.

905.2. (a) This section shall apply to claims against the state filed with the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services** *except as provided in section 905.2 (b)(2)(A).*

(b) There shall be presented in accordance with this chapter and Chapter 2 (commencing with Section 910) all claims for money or damages against the state:

(1) For which no appropriation has been made or for which no fund is available but the settlement of which has been provided for by statute or constitutional provision.

(2) For which the appropriation made or fund designated is exhausted.

(A) Claims for reissuance of stale dated or replacement warrants shall be filed with the state entity that originally issued the warrant and, if allowed, shall be paid from the issuing entity's current year appropriation.

(3) For money or damages on express contract, or for an injury for which the state is liable.

(4) For which settlement is not otherwise provided for by statute or constitutional provision.

(c) Claimants shall pay a filing fee of twenty-five dollars (\$25) for filing a claim described in subdivision (b). This fee shall be deposited into the General Fund and may be appropriated in support of the ~~board~~ **Department of General Services** as reimbursements to Item 7870-001-0001 of Section 2.00 of the annual Budget Act.

(1) The fee shall not apply to the following persons:

(A) Persons who are receiving benefits pursuant to the Supplemental Security Income (SSI) and State Supplementary Payment (SSP) programs (Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code), the California Work Opportunity and Responsibility to Kids Act (CalWORKs) program (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the federal Supplemental Nutrition Assistance Program (SNAP; 7 U.S.C. Sec. 2011 et seq.), or Section 17000 of the Welfare and Institutions Code.

(B) Persons whose monthly income is 125 percent or less of the current monthly poverty line annually established by the Secretary of California Health and Human Services pursuant to the federal Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), as amended.

(C) Persons who are sentenced to imprisonment in a state prison or confined in a county jail, or who are residents in a state institution and, within 90 days prior to the date the claim is filed, have a balance of one hundred dollars (\$100) or less credited to the inmate's or resident's trust account. A certified copy of the statement of the account shall be submitted.

(2) Any claimant who requests a fee waiver shall attach to the application a signed affidavit requesting the waiver and verification of benefits or income and any other required financial information in support of the request for the waiver.

(3) Notwithstanding any other law, an applicant shall not be entitled to a hearing regarding the denial of a request for a fee waiver.

(d) The time for the ~~board~~ **Department of General Services** to determine the sufficiency, timeliness, or any other aspect of the claim shall begin when any of the following occur:

(1) The claim is submitted with the filing fee.

(2) The fee waiver is granted.

(3) The filing fee is paid to the ~~board~~ **department** upon the ~~board's~~ **department's** denial of the fee waiver request, so long as payment is received within 10 calendar days of the mailing of the notice of the denial.

(e) Upon approval of the claim by the ~~board~~ **Department of General Services**, the fee shall be reimbursed to the claimant, except that no fee shall be reimbursed if the approved claim was for the payment of an expired warrant. Reimbursement of the filing fee shall be paid by the state entity against which the approved claim was filed. If the claimant was granted a fee waiver pursuant to this section, the amount of the fee shall be paid by the state entity to the ~~board~~ **department**. The reimbursement to the claimant or the payment to the ~~board~~ **department** shall be made at the time the claim is paid by

the state entity, or shall be added to the amount appropriated for the claim in an equity claims bill.

~~(f) The board may assess a surcharge to the state entity against which the approved claim was filed in an amount not to exceed 15 percent of the total approved claim. The board shall not include the refunded filing fee in the surcharge calculation. This surcharge shall be deposited into the General Fund and may be appropriated in support of the board as reimbursements to Item 7870 001 0001 of Section 2.00 of the annual Budget Act.~~

~~(1) The surcharge shall not apply to approved claims to reissue expired warrants.~~

~~(2) (f) Upon the request of the **board department** in a form prescribed by the Controller, the Controller shall transfer the surcharges and fees from the state entity's appropriation to the appropriation for the support of the **board department**. However, the **board department** shall not request an amount that shall be submitted for legislative approval pursuant to Section 13928.~~

(g) The filing fee required by subdivision (c) shall apply to all claims filed after June 30, 2004, or the effective date of this statute. The surcharge authorized by subdivision (f) may be calculated and included in claims paid after June 30, 2004, or the effective date of the statute adding this subdivision.

(h) This section shall not apply to claims made for a violation of the California Whistleblower Protection Act (Article 3 (commencing with Section 8547) of Chapter 6.5 of Division 1 of Title 2).

905.3. Notwithstanding any other provision of law to the contrary, no claim shall be submitted by a local agency or school district, nor shall a claim be considered by the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services** pursuant to Section 905.2, if that claim is eligible for consideration by the Commission on State Mandates pursuant to Article 1 (commencing with Section 17550) of Chapter 4 of Part 7 of Division 4 of Title 2.

906. (a) As used in this section, "amount allowed on the claim" means the amount allowed by the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services** on a claim allowed, in whole or in part, or the amount offered by the **board department** to settle or compromise a claim.

(b) Except as otherwise provided in this subdivision, no interest is payable on the amount allowed on the claim if payment of the claim is subject to approval of an appropriation by the Legislature. If an appropriation is made for the payment of a claim described in this subdivision, interest on the amount appropriated for the payment of the claim commences to accrue 180 days after the effective date of the act by which the appropriation is enacted.

911.2. (a) A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Article 2

(commencing with Section 915) not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with Section 915) not later than one year after the accrual of the cause of action.

(b) For purposes of determining whether a claim was commenced within the period provided by law, the date the claim was presented to the ~~California Victim Compensation and Government Claims Board~~ Department of General Services is one of the following:

- (1) The date the claim is submitted with a twenty-five dollar (\$25) filing fee.
- (2) If a fee waiver is granted, the date the claim was submitted with the affidavit requesting the fee waiver.
- (3) If a fee waiver is denied, the date the claim was submitted with the affidavit requesting the fee waiver, provided the filing fee is paid to the ~~board~~ department within 10 calendar days of the mailing of the notice of the denial of the fee waiver.

920. As used in this chapter, "omnibus claim appropriation" means an act of appropriation, or an item of appropriation in a budget act, by which the Legislature appropriates a lump sum to pay the claim of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services or its secretary against the state in an amount that the Legislature has determined is properly chargeable to the state.

925. As used in this chapter, "board" shall be construed to mean means the ~~California Victim Compensation and Government Claims Board~~ Department of General Services.

927.13. (a) Unless otherwise provided for by statute, any state agency that fails to submit a correct claim schedule to the Controller within 30 days of receipt of a notice of refund or other payment due, and fails to issue payment within 45 days from the notice of refund or other payment due, shall be liable for penalties on the undisputed amount pursuant to this section. The penalties shall be paid out of the agency's funds at a rate equal to the Pooled Money Investment Account daily rate on June 30 of the prior fiscal year minus 1 percent. The penalties shall cease to accrue on the date full payment or refund is made. If the amount of the penalty is ten dollars (\$10) or less, the penalty shall be waived and not paid by the state agency. On an exception basis, state agencies may avoid payment of penalties for failure to submit a correct claim schedule to the Controller by paying the claimant directly from the state agency's revolving fund within 45 calendar days following the agency's receipt of the notice of refund or other payment due.

(b) The Controller shall pay claimants within 15 calendar days of receipt of a correct claim schedule from the state agency. If the Controller fails to make payment within 15 calendar days of receipt of the claim schedule from a state agency, and payment is not issued within 45 calendar days following the agency's receipt of a notice of refund or undisputed payment due, the Controller shall pay applicable penalties to the claimant. Penalties shall cease to accrue on the date full payment is made, and shall be paid out

of the Controller's funds. If the amount of the penalty is ten dollars (\$10) or less, the penalty shall be waived and not paid by the Controller.

(c) No person shall receive an interest payment pursuant to this section if it is determined that the person has intentionally overpaid on a liability solely for the purpose of receiving a penalty payment.

(d) No penalty shall accrue during any time period for which there is no Budget Act in effect, nor on any payment or refund that is the result of a federally mandated program or that is directly dependent upon the receipt of federal funds by a state agency.

(e) This section shall not apply to any of the following:

(1) Payments, refunds, or credits for income tax purposes.

(2) Payment of claims for reimbursement for health care services or mental health services provided under the Medi-Cal program, pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(3) Any payment made pursuant to a public social service or public health program to a recipient of benefits under that program.

(4) Payments made on claims by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services.

(5) Payments made by the Commission on State Mandates.

(6) Payments made by the Department of Human Resources pursuant to Section 19823.

935.7. (a) Notwithstanding Section 935.6, the Department of Transportation may deny or adjust and pay any claim arising out of the activities of the department without the prior approval of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services if both of the following conditions exist:

(1) The amount claimed is equal to or less than the amount specified as the small claims court jurisdictional amount in Section 116.221 of the Code of Civil Procedure.

(2) The Director of Finance or the Director of Transportation certifies that a sufficient appropriation for the payment of the claim exists.

(b) If the department elects not to pay any claim, the department shall provide the notice required by Section 913.

(c) Any person who submits any claim arising out of any activity of the Department of Transportation shall comply with every other applicable provision of this part relating to claims against state agencies.

965. (a) Upon the allowance by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services of all or part of a claim for which the Director of Finance certifies that a sufficient appropriation for the payment of the claim exists, and the execution and presentation of documents the ~~board~~ department may require that discharge the state of all liability under the claim, the ~~board~~ department shall designate the fund from which the claim is to be paid, and the state agency concerned shall pay the claim from that fund. If there is no sufficient appropriation for the payment available, the ~~board~~ department shall report to the Legislature in accordance with Section 912.8. Claims arising out of the activities of the State Department of Transportation may be paid if either the Director of Transportation or the Director of Finance certifies that a sufficient appropriation for the payment of the claim exists.

(b) Notwithstanding subdivision (a), if there is no sufficient appropriation for the payment of claims, settlements, or judgments against the state arising from an action in which the state is represented by the Attorney General, the Attorney General shall report the claims, settlements, and judgments to the chairperson of either the Senate Committee on Appropriations or the Assembly Committee on Appropriations, who shall cause to be introduced legislation appropriating funds for the payment of the claims, settlements, or judgments.

(c) Notwithstanding subdivision (a) or (b), claims, settlements, or judgments arising out of the activities of a judicial branch entity, as defined by Sections 900.3 and 940.3, or a judge thereof may be paid if the Judicial Council authorizes payment and the Administrative Director of the Courts certifies that sufficient funds for that payment exist from funds allocated to settlement, adjustment, and compromise of actions and claims. If sufficient funds for payment of settlements or judgments do not exist, the Administrative Director of the Courts shall report the settlements and judgments to the chairperson of either the Senate Committee on Appropriations or the Assembly Committee on Appropriations, who shall cause to be introduced legislation appropriating funds for the payment of the settlements or judgments. If sufficient funds for payment of claims do not exist, the Administrative Director of the Courts shall report the claims to the ~~California Victim Compensation and Government Claims Board~~ Department of General Services, which shall have 90 days to object to payment. The Administrative Director of the Courts shall confer with the ~~Chairperson~~ Director of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services regarding any objection received during the 90-day period. If the ~~California Victim Compensation and Government Claims Board~~ Department of General Services withdraws the objection, or if no objection was received, the Administrative Director of the Courts shall report the claims to the chairperson of either the Senate Committee on Appropriations or the Assembly Committee on Appropriations, who shall cause to be introduced legislation appropriating funds for the payment of the claims. The Judicial Council may authorize any committee of the Judicial Council or any employee of the Administrative Office of the Courts to perform the functions of the

Judicial Council under this section. The Administrative Director of the Courts may designate an executive staff member of the Administrative Office of the Courts to perform the functions of the Administrative Director of the Courts under this section.

965.1. ~~Pursuant to Section 13909, the California Victim Compensation and Government Claims Board~~ Department of General Services may delegate to the ~~executive officer~~ its director the authority to allow a claim filed pursuant to subdivision (c) of Section 905.2 if the settlement amount of that claim does not exceed fifty thousand dollars (\$50,000), or to reject any claim as so described.

965.5. (a) A judgment for the payment of money against the state or a state agency is enforceable until 10 years after the time the judgment becomes final or, if the judgment is payable in installments, until 10 years after the final installment becomes due.

(b) A judgment for the payment of money against the state or a state agency is not enforceable under Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure, but is enforceable under this chapter.

(c) Interest on the amount of a judgment or settlement for the payment of moneys against the state shall commence to accrue 180 days from the date of the final judgment or settlement.

(d) Unless another statute provides a different interest rate, interest on a tax or fee judgment for the payment of moneys against the state shall accrue at a rate equal to the weekly average one year constant maturity United States Treasury yield at the time of the judgment plus 2 percent, but shall not exceed 7 percent per annum.

(e) Subdivisions (c) and (d) shall not apply to any claim approved by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services.

997.1. (a) Any person may file an application with the ~~California Victim Compensation and Government Claims Board~~ Department of General Services for compensation based on personal property loss, personal injury, or death, including noneconomic loss, arising from the Bay Bridge or I-880 Cypress structure collapse caused by the October 17, 1989, earthquake. Any application made pursuant to this section shall be presented to the ~~board~~ department no later than April 18, 1990, on forms prescribed and provided by the ~~board~~ department, except that a late claim may be presented to the ~~board~~ department pursuant to the procedure specified by Section 911.4. Each presented application shall be verified under penalty of perjury and shall contain all of the following information:

(1) The name of the injured party or in the event of loss of life, the name and age of the decedent and the names and ages of heirs as defined in subdivision (b) of Section 377 of the Code of Civil Procedure.

(2) An authorization permitting the **board department** to obtain relevant medical and employment records.

(3) A brief statement describing when, where, and how the injury or death occurred.

(4) A statement as to whether the applicant wishes to apply for emergency relief provided pursuant to Section 997.2.

(b) Upon receipt of an application, the **board department** shall evaluate the application and may require the applicant to submit additional information or documents that are necessary to verify and evaluate the application. The **board department** shall resolve an application within six months from the date of presentation of the application unless this period of time is extended by mutual agreement between the **board department** and the applicant. Any application that is not resolved within this resolution period shall be deemed denied.

(c) Following resolution of an application, if the applicant desires to pursue additional remedies otherwise provided by this division, the applicant shall file a court action within six months of the mailing date of the **board department's** rejection or denial of the application or the applicant's rejection of the **board department's** offer.

(d) Any claim pursuant to Part 3 (commencing with Section 900) made before or after the effective date of this part for personal property loss, personal injury, or death resulting from the collapse of the Bay Bridge or the I-880 Cypress structure against the State of California, its agencies, officers, or employees, shall be deemed to be an application under this part and subject to the provisions set forth in this part. Additionally, any application made pursuant to this part shall be deemed to be in compliance with Part 3 (commencing with Section 900).

(e) Notwithstanding any other provision of law, resolution of applications pursuant to the provisions of this part is a condition precedent to the filing of any action for personal property loss, personal injury, or death resulting from the collapse of the Bay Bridge or the I-880 Cypress structure in any court of the State of California against the State of California, its agencies, officers, or employees. Any suit filed by an applicant in any court of this state against the State of California or its agencies, officers, or employees shall be stayed pending resolution of the application.

998. The Legislature finds and declares that in order to alleviate the economic and social disruptions arising out of the Lake Davis Northern Pike Eradication Project, it is necessary and appropriate to create a special account within the Special Deposit Fund for payment of economic and infrastructure assistance to the City of Portola and the County of Plumas, and for all other claims arising out of that project. The Legislature hereby appropriates to the office of the Attorney General in the Department of Justice the sum of nine million one hundred seventy-six thousand dollars (\$9,176,000) from the General Fund to the special account within the Special Deposit Fund, to be known as

the Lake Davis Northern Pike Eradication Project Relief Account, to pay these claims as apportioned in Section 998.1.

It is the purpose of this part to compensate the above claimants without regard to legal liability, fault, or responsibility, and without the necessity of litigation against the State of California, or its agencies, officers, or employees. It is the further intent of the Legislature that all valid claims shall be negotiated for settlement purposes fairly and promptly. Nothing in this part shall be construed as an admission of legal liability, responsibility, or fault on the part of the State of California, or any of its agencies, officers, or employees.

998.2. (a) Any person or business may file an application with the ~~California Victim Compensation and Government Claims Board~~ Department of General Services for compensation based on personal injury, property loss, business loss, or other economic loss, claimed to have been incurred as a result of the Lake Davis Northern Pike Eradication Project. Any application made pursuant to this section shall be presented to the ~~board~~ department in accordance with this division. A late claim may be presented to the ~~board~~ department pursuant to the procedure specified by Section 911.4. Each application shall contain, in addition to the information required by Section 910, all of the following:

- (1) The legal name of any business claiming a loss, as well as the names of the owners and officers of the business.
- (2) For any property owner claiming diminution of property value, the names of all persons holding a legal interest in the property.
- (3) The name of any person claiming to have suffered personal injury.
- (4) An authorization permitting the office of the Attorney General or its designee to obtain relevant medical, employment, business, property, and tax records.
- (5) A brief statement describing when, where, and how the injury, loss, or diminution in market value occurred.

(b) Upon receipt of an application presented pursuant to this section from the ~~California Victim Compensation and Government Claims Board~~ Department of General Services, the office of the Attorney General or its designee shall examine the application and may require the applicant to submit additional information or documents that are necessary to verify and evaluate the application. The office of the Attorney General or its designee shall attempt to resolve an application within six months from the effective date of this part unless this period of time is extended by mutual agreement between the office of the Attorney General or its designee and the applicant. Any application that does not result in a final settlement agreement within the resolution

period shall be deemed denied, allowing the claimant to proceed with a court action pursuant to Chapter 2 (commencing with Section 945) of Part 4.

(c) The office of the Attorney General or its designee shall adopt guidelines in consultation with one representative designated by the City of Portola, one representative designated by the County of Plumas, and one member of the public to be selected jointly by the city and the county. Any guidelines so developed shall be used to evaluate and settle claims filed pursuant to this part. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, any regulations adopted thereunder by the Attorney General in order to implement this section shall not be subject to the review and approval of the Office of Administrative Law, nor subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2).

(d) Any court action following denial of an application, including denial pursuant to subdivision (b), shall be filed within six months of the mailing date of the **board's department's** rejection or denial of the application or the applicant's rejection of the **board's department's** offer pursuant to Section 945.6 or subdivision (b) of Section 998.3.

(e) Any claim pursuant to Part 3 (commencing with Section 900) made before or after the effective date of this part for personal injury, property loss, business loss, or other economic loss resulting from the Lake Davis Northern Pike Eradication Project against the State of California, its agencies, officers, or employees, shall be deemed to be an application under this part and is subject to the provisions set forth in this part. Additionally, any application made pursuant to this part shall be deemed to be in compliance with Part 3 (commencing with Section 900).

(f) Notwithstanding any other provision of law, the resolution or denial of an application pursuant to this part is a condition precedent to the filing of any action for personal injury, property damage, business loss, or other economic loss, resulting from the Lake Davis Northern Pike Eradication Project in any court of the State of California, against the State of California, its agencies, officers, or employees. Any suit filed by an applicant in any court of this state against the State of California or its agencies, officers, or employees shall be stayed pending resolution or denial of the application.

1151. State employees may authorize deductions to be made from their salaries or wages for payment of one or more of the following:

(a) Insurance premiums or other employee benefit programs sponsored by a state agency under appropriate statutory authority.

- (b) Premiums on National Service Life Insurance or United States Government Converted Insurance.
- (c) Shares or obligations to any regularly chartered credit union.
- (d) Recurrent fees or charges payable to a state agency for a program that has a purpose related to government, as determined by the Controller.
- (e) The purchase of United States savings bonds in accordance with procedures established by the Controller.
- (f) Payment of charitable contributions under any plan approved by the **California ~~Victim Compensation and Government Claims Board~~ Department of General Services** in accordance with procedures established by the Controller.
- (g) Passes, tickets, or tokens issued for a period of one month, or more, by a public transportation system.
- (h) Deposit into an employee's account with a state or federal bank or savings and loan association located in this state, for services offered by that bank or savings and loan association.
- (i) The purchase of any investment or thrift certificate issued by an industrial loan company licensed by this state.

3515.7. (a) Once an employee organization is recognized as the exclusive representative of an appropriate unit it may enter into an agreement with the state employer providing for organizational security in the form of maintenance of membership or fair share fee deduction.

(b) The state employer shall furnish the recognized employee organization with sufficient employment data to allow the organization to calculate membership fees and the appropriate fair share fees, and shall deduct the amount specified by the recognized employee organization from the salary or wages of every employee for the membership fee or the fair share fee. These fees shall be remitted monthly to the recognized employee organization along with an adequate itemized record of the deductions, including, if required by the recognized employee organization, machine readable data. Fair share fee deductions shall continue until the effective date of a successor agreement or implementation of the state's last, best, and final offer, whichever occurs first. The Controller shall retain, from the fair share fee deduction, an amount equal to the cost of administering this section. The state employer shall not be liable in any action by a state employee seeking recovery of, or damages for, improper use or calculation of fair share fees.

(c) Notwithstanding subdivision (b), any employee who is a member of a religious body whose traditional tenets or teachings include objections to joining or financially supporting employee organizations shall not be required to financially support the recognized employee organization. That employee, in lieu of a membership fee or a fair

share fee deduction, shall instruct the employer to deduct and pay sums equal to the fair share fee to a nonreligious, nonlabor organization, charitable fund approved by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services for receipt of charitable contributions by payroll deductions.

(d) A fair share fee provision in a memorandum of understanding that is in effect may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding, provided that: (1) a request for the vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit; (2) the vote is by secret ballot; and (3) the vote may be taken at any time during the term of the memorandum of understanding, but in no event shall there be more than one vote taken during the term. If the ~~board~~ Department of General Services determines that the appropriate number of signatures have been collected, it shall conduct the vote in a manner that it shall prescribe. Notwithstanding this subdivision, the state employer and the recognized employee organization may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on a fair share fee provision.

(e) Every recognized employee organization that has agreed to a fair share fee provision shall keep an adequate itemized record of its financial transactions and shall make available annually, to the ~~board~~ Department of General Services and to the employees in the unit, within 90 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its president and treasurer or comparable officers. In the event of failure of compliance with this section, any employee in the unit may petition the ~~board~~ Department of General Services for an order compelling this compliance, or the ~~board~~ department may issue a compliance order on its own motion.

(f) If an employee who holds conscientious objections pursuant to subdivision (c) requests individual representation in a grievance, arbitration, or administrative hearing from the recognized employee organization, the recognized employee organization is authorized to charge the employee for the reasonable cost of the representation.

(g) An employee who pays a fair share fee shall be entitled to fair and impartial representation by the recognized employee organization. A breach of this duty shall be deemed to have occurred if the employee organization's conduct in representation is arbitrary, discriminatory, or in bad faith.

8652. Before payment may be made by the state to any person in reimbursement for taking or damaging private property necessarily utilized by the Governor in carrying out his or her responsibilities under this chapter during a state of war emergency or state of emergency, or for services rendered at the instance of the Governor under those conditions, the person shall present a claim to the ~~California Victim Compensation and Government Claims Board~~ Department of General Services in accordance with

the provisions of the Government Code governing the presentation of claims against the state for the taking or damaging of private property for public use, which provisions shall govern the presentment, allowance, or rejection of the claims and the conditions upon which suit may be brought against the state. Payment for property or services shall be made from any funds appropriated by the state for that purpose.

8902. During those times that a Member of the Legislature is required to be in Sacramento to attend a session of the Legislature and during those times that a member is traveling to and from, or is in attendance at, any meeting of a committee of which he or she is a member or is attending to any other legislative function or responsibility as authorized or directed by the rules of the house of which he or she is a member or by the joint rules, he or she shall be entitled to reimbursement of his or her living expenses at a rate established by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services that is not less than the rate provided to federal employees traveling to Sacramento.

11007.6. Any state agency may, subject to rules and regulations of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services, insure its officers and employees not covered by Part 2.6 (commencing with Section 19815) of Division 5 against injury or death incurred while flying on state business in any, except regularly scheduled, passenger aircraft.

11014. (a) In exercising the powers and duties granted to and imposed upon it, any state agency may construct and maintain communication lines as may be necessary. (b) In providing communications and necessary powerlines in connection with activities under subdivision (a), the agency, with the approval of the Department of General Services, may enter into contracts with owners of similar facilities for use of their facilities, such as pole lines, and provisions may be made for indemnification and holding harmless of the owners of those facilities by reason of this use. Insurance may be purchased by the Department of General Services, upon request of the agency, to protect the state against loss or expense arising out of the contract.

(c) Any claim for damages arising against the state under this section shall be presented to the ~~California Victim Compensation and Government Claims Board~~ Department of General Services in accordance with Sections 905.2 and 945.4, and if not covered by insurance as provided under subdivision (b), the claim shall be payable only out of funds appropriated by the Legislature for this purpose. If the state elects to insure its liability under this section, the ~~California Victim Compensation and Government Claims Board~~ Department of General Services may automatically deny that claim.

11030.1. When a state employee not covered by Part 2.6 (commencing with Section 19815) of Division 5 dies while traveling on official state business, the state shall, under rules and regulations adopted by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services, pay the traveling expenses necessary to return the body to his or her official headquarters or the place of burial. This subdivision shall not be construed to authorize the payment of the traveling expenses, either going or returning, of one accompanying that body.

11030.2. Any state officer or employee not covered by Part 2.6 (commencing with Section 19815) of Division 5 when working overtime at his or her headquarters on state business may receive his or her actual and necessary expenses, during his or her regular workweek, subject to rules and regulations adopted by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services limiting the amount of the expenses and prescribing the conditions under which the expenses may be paid. However, each state agency may determine the necessity for and limit these expenses of its employees in a manner that does not conflict with and is within the limitations prescribed by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services.

11031. The headquarters of elective constitutional officers, other than Members of the Legislature, shall be established by the filing of a written statement with the ~~California Victim Compensation and Government Claims Board~~ Department of General Services that certifies that the selected headquarters is the place where the officer spends the largest portion of his or her regular workdays or working time.

11275. If, upon receipt of the statement provided in Section 11274, the state agency does not have funds available by law for the payment of the administrative costs, or if it has any other reason why the payment of those costs should not be made at the time specified on the statement, the state agency shall, prior to the expiration of the 30-day period referred to in the statement, file with the Controller, in duplicate, a written request to defer payment of those administrative costs, which request shall set forth the reasons why that payment should be deferred. Upon receipt of any request filed because of lack of availability of funds, the Controller shall forthwith transmit one copy of that request to the Department of Finance and shall defer action to effect the transfer of funds covering the administrative costs referred to in the request until the transfer has been approved by the Director of Finance. The Department of Finance shall notify the Controller of the approval of the deferral request. Upon receipt of any request filed because of any reason other than lack of availability of funds, the Controller shall forthwith transmit one copy of that request to the ~~California Victim Compensation and Government Claims Board~~ Department of General Services and shall defer action to effect the transfer of funds until that transfer has been approved by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services.

13312. (a) (1) Commencing with the 2008–09 fiscal year, and notwithstanding any other provision of law, if after the annual Budget Act is enacted, the Director of Finance determines that General Fund total available resources for the fiscal year will decline substantially below the estimate of General Fund total resources available upon which the Budget Act was based, or that General Fund expenditures will increase substantially above that estimate of General Fund total resources available, the director may make reductions pursuant to subdivision (b).

(2) For purposes of this subdivision, “total resources available” includes prior year balance and revenues and transfers for the fiscal year.

(b) Upon making a determination as described in subdivision (a), the Director of Finance, in consultation with agency secretaries and other cabinet members, may reduce General Fund items of appropriation, subject to both of the following:

(1) The Director of Finance shall not reduce, pursuant to this section, the amounts appropriated for any of the following:

(A) The Legislature.

(B) Constitutional officers.

(C) Transfers pursuant to the Article XIX B of the California Constitution.

(D) Debt service, including, but not limited to, tobacco settlement revenue shortfalls, payment of interest on General Fund loans, and interest payments to the federal government.

(E) Health and dental benefits for annuitants.

(F) Equity claims before the ~~California Victim Compensation and Government Claims Board~~ Department of General Services.

(G) Augmentations for contingencies or emergencies.

(H) Local assistance appropriations.

(I) Any collective bargaining agreement with a recognized state employee organization.

(2) A General Fund state operations or capital outlay item of appropriation, and a program or category designated in any line of any schedule set forth by that appropriation, may not be reduced by more than 7 percent.

(c) Notwithstanding any provision of law to the contrary, any cost-of-living adjustment or rate increase funded in an annual Budget Act shall be subject to the following conditions:

(1) If the Director of Finance determines that suspension by up to 120 days of the effective date of a cost-of-living adjustment or rate increase funded in an annual Budget Act is necessary to mitigate conditions that would authorize the issuance of a proclamation declaring a fiscal emergency pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution, that cost-of-living adjustment or rate increase shall not take effect during that time.

(2) (A) If the Governor issues a proclamation declaring a fiscal emergency pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution, then no cost-of-living adjustment or rate increase funded in the annual Budget Act for that fiscal year shall take effect until the Legislature passes and sends to the Governor a bill or bills to address the fiscal emergency.

(B) Commencing with the 2009–10 fiscal year, the annual Budget Act shall include a section specifying the cost-of-living adjustments or rate increases included in the Budget Act or authorized by other statutes which may be suspended pursuant to this paragraph.

(d) The Director of Finance shall report to the Chair of the Joint Legislative Budget Committee and the chairs of the committees of each house of the Legislature that consider appropriations not less than 30 days prior to making reductions pursuant to this section. The report shall list the specific reductions, by department, agency, and program, and state the programmatic effects and impacts of each reduction.

(e) Cost-of-living adjustments for purposes of this section shall not include any apportionments made to fund a cost-of-living adjustment to augment appropriations made pursuant to Section 2558 of the Education Code, for county office of education revenue limits, or Section 42238 of the Education Code, for school district revenue limits, nor shall it include a cost-of-living adjustment negotiated in a collective bargaining agreement with a recognized state employee organization.

(f) Nothing within this section shall be construed to confer any authority upon the Director of Finance to modify or eliminate any provision of existing law.

(g) This section shall only become operative if either Senate Constitutional Amendment 1 or Assembly Constitutional Amendment 1 in the 2009–10 Third Extraordinary Session is submitted to, and approved by, the voters at a statewide election.

13332.09. (a) A purchase order or other form of documentation for acquisition or replacement of motor vehicles shall not be issued against any appropriation until the Department of General Services has investigated and established the necessity therefor.

(b) A state agency shall not acquire surplus mobile equipment from any source for program support until the Department of General Services has investigated and established the necessity therefor.

(c) Notwithstanding any other law, any contract for the acquisition of a motor vehicle or general use mobile equipment for a state agency shall be made by or under the supervision of the Department of General Services. Pursuant to Section 10298 of the Public Contract Code, the Department of General Services may collect a fee to offset the cost of the services provided.

(d) Any passenger-type motor vehicle purchased for a state officer, except a constitutional officer, or a state employee shall be an American-made vehicle of the light class, as defined by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services, unless excepted by the Director of General Services on the basis of unusual requirements, including, but not limited to, use by the

California Highway Patrol, that would justify the need for a motor vehicle of a heavier class.

(e) General use mobile equipment having an original purchase price of twenty-five thousand dollars (\$25,000) or more shall not be rented or leased from a nonstate source and payment therefor shall not be made from any appropriation for the use of the Department of Transportation, without the prior approval of the Department of General Services after a determination that comparable state-owned equipment is not available, unless obtaining approval would endanger life or property, in which case the transaction and the justification for not having sought prior approval shall be reported immediately thereafter to the Department of General Services.

(f) As used in this section:

(1) "General use mobile equipment" means equipment that is listed in the Mobile Equipment Inventory of the State Equipment Council and capable of being used by more than one state agency, and shall not be deemed to refer to equipment having a practical use limited to the controlling state agency only. Section 575 of the Vehicle Code shall have no application to this section.

(2) "State agency" means a state agency, as defined pursuant to Section 11000. The University of California is requested and encouraged to have the Department of General Services perform the tasks identified in this section with respect to the acquisition or replacement of motor vehicles by the University of California. "State agency" does not include a district agricultural association, as defined in Section 3951 of the Food and Agricultural Code.

(g) This section shall become operative on July 1, 2015.

14084. If at any time, in carrying out any agreement made pursuant to Section 14081, the required payment of reimbursements becomes a matter in dispute that cannot be resolved by the governing body and the director, it shall be brought before the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services**, which shall conduct the necessary audits and interviews to determine the facts, hear both parties to the dispute, and make a final determination as to the reimbursement actually due.

14600. The Legislature declares that a centralization of business management functions and services of state government is necessary to take advantage of specialized techniques and skills, provide uniform management practices, and to insure a continuing high level of efficiency and economy. A Department of General Services is created to provide centralized services including, but not limited to, planning, acquisition, construction, and maintenance of state buildings and property; purchasing; printing; architectural services; administrative hearings; **government claims**, and accounting services. The Department of General Services shall develop and enforce policy and procedures and shall institute or cause the institution of those investigations

and proceedings as it deems proper to assure effective operation of all functions performed by the department and to conserve the rights and interests of the state.

15202. (a) A county that is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of the costs incurred by the county in excess of the amount of money derived by the county from a tax of 0.0125 of 1 percent of the full value of property assessed for purposes of taxation within the county.

(b) The formula in this section shall apply to any homicide trial in which the commission of the crime occurred on or after January 1, 2005. Homicide trials for which the crime was committed before January 1, 2005, shall qualify under the reimbursement statute in effect before that date.

(c) The Controller shall not reimburse any county for costs that exceed the **California Victim Compensation and Government Claims Board Department of General Services**'s standards for travel and per diem expenses. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient justification of the need for these expenditures. Nothing in this section shall permit the reimbursement of costs for travel in excess of 1,000 miles on any single round trip, without the prior approval of the Attorney General.

(d) Reimbursement funds appropriated pursuant to this section are available for three fiscal years from the date of the appropriation. After three fiscal years, any unused funds shall revert back to the General Fund.

16302.1. (a) Whenever any person pays to any state agency pursuant to law an amount covering taxes, penalties, interest, license, or other fees, or any other payment, and it is subsequently determined by the state agency responsible for the collection thereof that this amount includes an overpayment of ten dollars (\$10) or less of the amount due the state pursuant to the assessment, levy, or charge to which the payment is applicable, the amount of the overpayment may be disposed of in either of the following ways:

(1) The state agency responsible for the collection to which the overpayment relates may apply the amount of the overpayment as a payment by the person on any other taxes, penalties, interest, license, or other fees, or any other amount due the state from that person if the state agency is responsible by law for the collection to which the overpayment is to be applied as a payment.

(2) Upon written request of the state agency responsible for the collection to which the overpayment relates, the amount of the overpayment shall, on order of the Controller, be deposited as revenue in the fund in the State Treasury into which the collection, exclusive of overpayments, is required by law to be deposited.

(b) The ~~California Victim Compensation and Government Claims Board~~ Department of General Services may adopt rules and regulations to permit state agencies to retain these overpayments where a demand for refund permitted by law is not made within six months after the refund becomes due, and the retained overpayments shall belong to the state.

(c) Except as provided in subdivision (b), this section shall not affect the right of any person making overpayment of any amount to the state to make a claim for refund of the overpayment, nor the authority of any state agency or official to make payment of any amount so claimed, if otherwise authorized by law.

16304.6. Within the time during which the appropriation is available for expenditure, the ~~California Victim Compensation and Government Claims Board~~ Department of General Services at the request of the director of the department concerned and with the approval of the Director of Finance, may authorize that unneeded funds in any appropriation for the support of an institution, school, or college or for family care or private home care or for parole supervision activities within any of the following departments shall be available and be deemed appropriated for the support of any institution, school, or college or for family care or private home care or for parole supervision activities within the same department:

(a) Department of Corrections and Rehabilitation.

(b) Department of the Youth Authority.

(c) State Department of Education.

(d) State Department of State Hospitals.

16383. Warrants may be drawn by the Controller against the General Cash Revolving Fund, to the extent of the amounts available, in accordance with demands audited pursuant to law and rules and regulations prescribed from time to time by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services, and also to meet other payments provided by law to be made from the General Fund. The Treasurer may pay from the General Cash Revolving Fund the warrants so drawn.

16431. (a) Notwithstanding any other provisions of this code, funds held by the state pursuant to a written agreement between the state and employees of the state to defer a portion of the compensation otherwise receivable by the state's employees and pursuant to a plan for that deferral as adopted by the state and approved by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services, may be invested in the types of investments set forth in Sections 53601 and 53602, and may additionally be invested in corporate stocks, bonds, and

securities, mutual funds, savings and loan accounts, credit union accounts, annuities, mortgages, deeds of trust, or other security interests in real or personal property. Nothing in this section shall be construed to permit any type of investment prohibited by the California Constitution.

(b) Deferred compensation funds are public pension or retirement funds for the

17051.5. A state agency shall notify the Treasurer not to pay a warrant drawn by the Controller upon that agency's request whenever that agency has reason to believe that the Controller has drawn or is about to draw his or her warrant without legal authority, for a larger amount than is owed by the state, or in a manner not in conformity with the regulations adopted by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services for the presentation and audit of claims. Upon notification from a state agency as described in this section, the Treasurer shall refuse payment of the subject warrant until he or she is otherwise directed by the agency or the Legislature.

17201. The ~~California Victim Compensation and Government Claims Board~~ Department of General Services may make rules and regulations governing the issuance and sale of registered warrants.

17570. (a) For purposes of this section the following definitions shall apply:

(1) "Mandates law" means published court decisions arising from state mandate determinations by the ~~State Board of Control~~ Department of General Services or the Commission on State Mandates, or that address this part or Section 6 of Article XIII B of the California Constitution. "Mandates law" also includes statutory amendments to this part and amendments to Section 6 of Article XIII B of the California Constitution.

(2) "Subsequent change in law" is a change in law that requires a finding that an incurred cost is a cost mandated by the state, as defined by Section 17514, or is not a cost mandated by the state pursuant to Section 17556, or a change in mandates law, except that a "subsequent change in law" does not include the amendments to Section 6 of Article XIII B of the California Constitution that were approved by the voters on November 2, 2004. A "subsequent change in law" also does not include a change in the statutes or executive orders that impose new state-mandated activities and require a finding pursuant to subdivision (a) of Section 17551.

(3) "Test claim decision" means a decision of the Commission on State Mandates on a test claim filed pursuant to Section 17551 or a decision of the ~~State Board of Control~~ Department of General Services on a claim for state reimbursement filed pursuant to Article 1 (commencing with Section 2201), Article 2 (commencing with Section 2227), and Article 3 (commencing with Section 2240) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code prior to January 1, 1985.

(b) The commission may adopt a new test claim decision to supersede a previously adopted test claim decision only upon a showing that the state's liability for that test claim decision pursuant to subdivision (a) of Section 6 of Article XIII B of the California Constitution has been modified based on a subsequent change in law.

(c) A local agency or school district, statewide association of local agencies or school districts, or the Department of Finance, the Controller, or other affected state agency may file a request with the commission to adopt a new test claim decision pursuant to this section.

(d) The commission shall adopt procedures for receiving requests to adopt a new test claim decision pursuant to this section and for providing notice and a hearing on those requests. The procedures shall do all of the following:

(1) Specify that all requests for adoption of a new test claim decision shall be filed on a form prescribed by the commission that shall contain at least the following elements and documents:

(A) The name, case number, and adoption date of the prior test claim decision.

(B) A detailed analysis of how and why the state's liability for mandate reimbursement has been modified pursuant to subdivision (a) of Section 6 of Article XIII B of the California Constitution based on a subsequent change in law.

(C) The actual or estimated amount of the annual statewide change in the state's liability for mandate reimbursement pursuant to subdivision (a) of Section 6 of Article XIII B of the California Constitution based on a subsequent change in law.

(D) Identification of all of the following, if relevant:

(i) Dedicated state funds appropriated for the program.

(ii) Dedicated federal funds appropriated for the program.

(iii) Fee authority to offset the costs of the program.

(iv) Federal law.

(v) Court decisions.

(vi) State or local ballot measures and the corresponding date of the election.

(E) All assertions of fact shall be supported with declarations made under penalty of perjury, based on the declarant's personal knowledge, information, or belief, and be signed by persons who are authorized and competent to do so, including, but not limited to, the following:

(i) Declarations of actual or estimated annual statewide costs that will or will not be incurred to implement the alleged mandate.

(ii) Declarations identifying all local, state, or federal funds, or fee authority that may or may not be used to offset the increased costs that will or will not be incurred by claimants to implement the alleged mandate or result in a finding of no costs mandated by the state pursuant to Section 17556.

(iii) Declarations describing new activities performed to implement specific provisions of the test claim statute or executive order alleged to impose a reimbursable state-mandated program.

(F) Specific references shall be made to chapters, articles, sections, or page numbers that are alleged to impose or not impose a reimbursable state-mandated program.

(2) Require that a request for the adoption of a new test claim decision be signed at the end of the document, under penalty of perjury, by the requester or its authorized representative, along with a declaration that the request is true and complete to the best of the declarant's personal knowledge, information, or belief. The procedures shall also require that the date of signing, the declarant's title, address, telephone number, facsimile machine telephone number, and electronic mail address be included.

(3) Provide that the commission shall return a submitted request that is incomplete to the requester and allow the requester to remedy the deficiencies. The procedures shall also provide that the commission may disallow the original filing if a complete request is not received by the commission within 30 calendar days from the date that the incomplete request was returned to the requester.

(4) Establish a two-step hearing process to consider requests for adoption of a new test claim decision pursuant to this section. As the first step, the commission shall conduct a hearing to determine if the requester has made a showing that the state's liability pursuant to subdivision (a) of Section 6 of Article XIII B of the California Constitution has been modified based on a subsequent change in law. If the commission determines that the requester has made this showing, then pursuant to the commission's authority in subdivision (b) of this section, the commission shall notice the request for a hearing to determine if a new test claim decision shall be adopted to supersede the previously adopted test claim decision.

(5) Provide for presentation of evidence and legal argument at the hearings by the requester, interested parties, the Department of Finance, the Controller, any other affected state agency, and interested persons.

(6) Permit a hearing to be postponed at the request of any party, without prejudice, until the next scheduled hearing.

(e) To implement the procedures described in subdivision (d), the commission shall initially adopt regulations as emergency regulations and, for purposes of Section 11349.6, the adoption of the regulations shall be considered by the Office of

Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall be repealed within 180 days after their effective date, unless the commission complies with Chapter 3.5 (commencing with Section 11340) of Part 1 as provided in subdivision (e) of Section 11346.1.

(f) A request for adoption of a new test claim decision shall be filed on or before June 30 following a fiscal year in order to establish eligibility for reimbursement or loss of reimbursement for that fiscal year.

(g) The commission shall notify interested parties, the Controller, the Department of Finance, affected state agencies, and the Legislative Analyst of any complete request for the adoption of a new test claim decision that the commission receives.

(h) If the commission determines that the requester has made a showing that the state's liability pursuant to subdivision (a) of Section 6 of Article XIII B of the California Constitution has been modified based on a subsequent change in law, and the commission notices the request for a hearing to determine whether a new test claim decision shall be adopted that supersedes a prior test claim decision, the Controller shall notify eligible claimants that the request has been filed with the commission and that the original test claim decision may be superseded by a new decision adopted by the commission. The notification may be included in the next set of claiming instructions issued to eligible claimants.

(i) If the commission adopts a new test claim decision that supersedes the previously adopted test claim decision, the commission shall adopt new parameters and guidelines or amend existing parameters and guidelines or reasonable reimbursement methodology pursuant to Sections 17557, 17557.1, and 17557.2.

(j) Any new parameters and guidelines adopted or amendments made to existing parameters and guidelines or a reasonable reimbursement methodology shall conform to the new test claim decision adopted by the commission.

(k) The Controller shall follow the procedures in Sections 17558, 17558.5, 17560, 17561, and 17561.5, as applicable, for a new test claim decision adopted by the commission pursuant to this section.

(l) If the commission adopts a new test claim decision that will result in reimbursement pursuant to Section 6 of Article XIII B of the California Constitution because a cost is a cost mandated by the state, as defined in Section 17514, the commission shall determine the amount to be subvended to local agencies and school districts by adopting a new statewide cost estimate pursuant to Section 17557.

(m) In addition to the reports required pursuant to Sections 17600 and 17601, the commission shall notify the Legislature within 30 days of adopting a new test claim

decision that supersedes a prior test claim decision and determining the amount to be subvended to local agencies and school districts for reimbursement pursuant to this section.

18708. The ~~board~~ **Department of General Services** shall cooperate with the Director of Finance, the Department of Human Resources, the California Victim Compensation and Government Claims Board, the Controller, and other state agencies, in matters not covered by this part, and not inconsistent with this part, to promote the efficient and economical administration of the state's business.

20163. (a) If more or less than the correct amount of contribution required of members, the state, or any contracting agency, is paid, proper adjustment shall be made in connection with subsequent payments, or the adjustments may be made by direct cash payments between the member, state, or contracting agency concerned and the board or by adjustment of the employer's rate of contribution. Adjustments to correct any other errors in payments to or by the board, including adjustments of contributions, with interest, that are found to be erroneous as the result of corrections of dates of birth, may be made in the same manner. Adjustments to correct overpayment of a retirement allowance may also be made by adjusting the allowance so that the retired person or the retired person and his or her beneficiary, as the case may be, will receive the actuarial equivalent of the allowance to which the member is entitled. Losses or gains resulting from error in amounts within the limits set by the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services** for automatic writeoff, and losses or gains in greater amounts specifically approved for writeoff by the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services**, shall be debited or credited, as the case may be, to the reserve against deficiencies in interest earned in other years, losses under investments, and other contingencies.

(b) No adjustment shall be made because less than the correct amount of normal contributions was paid by a member if the board finds that the error was not known to the member and was not the result of erroneous information provided by him or her to this system or to his or her employer. The failure to adjust shall not preclude action under Section 20160 correcting the date upon which the person became a member.

(c) The actuarial equivalent under this section shall be computed on the basis of the mortality tables and actuarial interest rate in effect under this system on December 1, 1970, for retirements effective through December 31, 1979. Commencing with retirements effective January 1, 1980, and at corresponding 10-year intervals thereafter, or more frequently at the board's discretion, the board shall change the basis for calculating actuarial equivalents under this article to agree with the interest rate and mortality tables in effect at the commencement of each 10-year or succeeding interval.

21223. A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided under this system upon approval of the Director of Human Resources or the governing body of a contracting agency, as the case may be, under employment by any state or contracting agency in which he or she previously

served while a member of this system, where by reason of actual litigation, or a proceeding before the ~~California Victim Compensation and Government Claims Board~~ Department of General Services or the governing body of a contracting agency, as the case may be, or where the state or contracting agency desires to perpetuate testimony in connection with any anticipated litigation involving the state or contracting agency, and adverse interests, the services of the person are or may be necessary in preparing for trial or in testifying as to matters within or based upon his or her knowledge acquired while employed. He or she may be paid a per diem and actual and necessary traveling expenses, but he or she shall not be paid at a greater rate of compensation per diem than the rate ordinarily paid other persons by state agencies or the contracting agency for similar services. However, there shall be deducted from the per diem compensation sums equal to the retirement annuity allocable to the days of actual employment under this section.

21265. Retired members of this system, and beneficiaries who are entitled to receive allowances or benefits under this part, may authorize deductions to be made from their retirement allowance payments or from the allowances and benefits, respectively, or from either or both when both are being received in accordance with regulations established by the board for the payment of charitable contributions under any plan approved by the board. In lieu of approving individual plans, the board, at its discretion, may adopt by reference those plans approved by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services under Section 13923. The board shall determine the additional cost involved in making deductions under this section, and the agency to receive the contributions shall pay the amount of the additional cost to the board for deposit in the retirement fund.

26749. The sheriff shall receive expenses necessarily incurred in conveying persons to and from the state hospitals and in conveying persons to and from the state prisons or other state institutions, or to other destinations for the purpose of deportation to other states, or in advancing actual traveling expenses to any person committed to a state institution who is permitted to report to an institution without escort, which expenses shall be allowed as provided by Chapter 6 (commencing with Section 4750) of Title 5 of Part 3 of the Penal Code for cases subject to that chapter, and, otherwise, by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services and paid by the state.

68503. Members of committees appointed pursuant to Section 68501 shall receive no compensation from the state for their services. When called into session by the Chairperson of the Judicial Council, members shall receive their actual and necessary expenses for travel, board, and lodging, which shall be paid from the funds appropriated to the use of the council. These expenses shall be approved in the manner that the council directs, and shall be audited by the Controller in accordance with the rules of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services.

68506. All salaries and expenses incurred by the council pursuant to this article, including the necessary expenses for travel, board, and lodging of the members of the council and its officers, assistants, and other employees incurred in the performance of the duties and business of the council, shall be paid from the funds appropriated for the

use of the council. The salaries and expenses shall be approved in the manner that the council directs, and shall be audited by the Controller in accordance with the rules of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services.

68543. The extra compensation and expenses for travel, board, and lodging of judges sitting in the Supreme Court and courts of appeal under assignments made by the Chairperson of the Judicial Council shall be paid by the state under the rules adopted by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services that are applicable to officers of the state provided for in Article VI of the California Constitution while traveling on official state business.

68543.5. (a) Whenever a judge who has retired under the Judges' Retirement System or the Judges' Retirement System II is assigned to serve in a court of record, the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, without loss or interruption of retirement benefits, unless the judge waives compensation under this section. Whenever a retired judge of a justice court who is not a member of the Judges' Retirement System nor the Judges' Retirement System II is assigned to serve in a court of record, the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, or the compensation specified in Section 68541, whichever is greater. The compensation shall be paid by the Judicial Council out of any appropriation for extra compensation of judges assigned by the Chairperson of the Judicial Council.

(b) If a judge who has retired under the Judges' Retirement System or the Judges' Retirement System II is assigned to serve in a court of record, the 8-percent difference between the compensation of the retired judge while so assigned and the compensation of a judge of the court to which the retired judge is assigned shall be paid to the Judges' Retirement Fund or the Judges' Retirement System II Fund, as applicable.

(c) During the period of assignment, a retired judge shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed expenses for travel and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services that are applicable to officers of the state provided for in Article VI of the California Constitution while traveling on official state business.

(d) Notwithstanding subdivisions (a), (b), and (c) pertaining to compensation, a retired judge on senior judge status shall receive compensation from the state as provided in Sections 75028 and 75028.2, and shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment as provided in this section.

68543.8. (a) The Legislature finds that there is a shortage of judicial officers available to provide temporary assistance to courts in rural counties, under assignment by the chief justice. When courts are unable to obtain temporary assistance, delay of both civil trials and case settlements occur. The availability of an assigned judge can substantially

reduce these delays. The purpose of this section is to make judicial assistance more available.

(b) The Judicial Council shall contract with up to 10 retired judges who shall be available to be assigned up to 110 court days each year by the Chairperson of the Judicial Council to courts in counties that have requested these judges for purposes of reducing delays in civil trials in those courts. If counties request more than 10 retired judges pursuant to this section, the Judicial Council shall give priority in assigning the retired judges to counties with fewer than 10 judges.

A judge under contract pursuant to this section shall serve as assigned during the period of the contract and waives any right to refuse assignment as otherwise provided by law. This section shall not be construed to limit the authority of the Chief Justice to make assignments to expedite judicial business and to equalize the workload of judges.

(c) Notwithstanding Section 68543.5, each judge under contract pursuant to this section shall receive one-half of the daily salary of a superior court judge for each day of service, in addition to any retirement benefits to which the judge may be entitled.

(d) The assigned judge's salary shall be paid by the state. A retired judge under contract pursuant to this section shall be allowed expenses for travel, board, and lodging incurred in the discharge of each assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed necessary and reasonable expenses for travel and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services** that are applicable to officers of the state provided for in Article VI of the California Constitution while traveling on official state business.

68565. (a) The Judicial Council may establish a court interpreters advisory panel to assist the council in performing its duties under this article. The panel shall include a majority of court interpreters and may include judges and court administrators, members of the bar, and others interested in interpreter services in the courts. The panel shall develop operating guidelines and procedures for Judicial Council approval.

(b) The panel shall seek the advice of judges, attorneys, court administrators, court interpreters, providers of legal services, and individuals and organizations representing the interests of foreign language users.

(c) Panel members shall receive no compensation for their services but shall be allowed necessary expenses for travel, board, and lodging incurred in the discharge of their duties under the rules adopted by the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services**.

SEC. 8. Sections 13052, 11502, 25370, 121265 and 121270 of the Health and Safety Code are amended to read:

13052. (a) The public entity rendering the service may present a claim to the public entity liable therefor. If the claim is approved by the head of the fire department, if any, in the public entity to which the claim is presented, and by its governing body, it shall be paid in the same manner as other charges and if the claim is not paid, an action may be brought for its collection.

(b) Notwithstanding any other provision of this section, any claims against the state shall be presented to the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services** in accordance with Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code.

11502. (a) All moneys, forfeited bail, or fines received by any court under this division shall as soon as practicable after the receipt thereof be deposited with the county treasurer of the county in which the court is situated. Amounts so deposited shall be paid at least once a month as follows: 75 percent to the State Treasurer by warrant of the county auditor drawn upon the requisition of the clerk or judge of the court to be deposited in the State Treasury on order of the State Controller; and 25 percent to the city treasurer of the city, if the offense occurred in a city, otherwise to the treasurer of the county in which the prosecution is conducted.

(b) Any money deposited in the State Treasury under this section that is determined by the State Controller to have been erroneously deposited therein shall be refunded by him or her, subject to the approval of the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services** prior to the payment of the refund, out of any moneys in the State Treasury that are available by law for that purpose.

25370. "Board," as used in this article, **shall be construed to mean means** the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services**.

121270. (a) There is hereby created the AIDS Vaccine Victims Compensation Fund.

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

(1) "AIDS vaccine" means a vaccine that (A) has been developed by any manufacturer and (B) is approved by the FDA or the department pursuant to Part 5 (commencing with Section 109875) of Division 104 as a safe and efficacious vaccine for the purpose of immunizing against AIDS.

(2) "Board" **shall be construed to mean means** the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services**.

(3) "Damages for personal injuries" means the direct medical costs for the care and treatment of injuries to any person, including a person entitled to recover damages under Section 377 of the Code of Civil Procedure, proximately caused by an AIDS vaccine, the loss of earnings caused by the injuries, and the amount necessary, but not to exceed five hundred fifty thousand dollars (\$550,000), to compensate for noneconomic losses, including pain and suffering caused by the injuries.

(4) "Fund" means the AIDS Vaccine Victims Compensation Fund.

(c) The board shall pay from the fund, contingent entirely upon the availability of moneys as provided in subdivision (o), damages for personal injuries caused by an AIDS vaccine that is sold in or delivered in California, and administered or dispersed in California to the injured person except that no payment shall be made for any of the following:

(1) Damages for personal injuries caused by the vaccine to the extent that they are attributable to the comparative negligence of the person making the claim.

(2) Damages for personal injuries in any instance when the manufacturer has been found to be liable for the injuries in a court of law.

(3) Damages for personal injuries due to a vaccination administered during a clinical trial.

(d) An application for payment of damages for personal injuries shall be made on a form prescribed by the board within one year of the date that the injury and its cause are discovered. This application may be required to be verified. Upon receipt, the board may require the submission of additional information necessary to evaluate the claim.

(e) (1) Within 45 days of the receipt of the application and the submission of any additional information, the board shall do either of the following:

(A) Allow the claim in whole or part.

(B) Disallow the claim.

(2) In those instances of unusual hardship to the victim, the board may grant an emergency award to the injured person to cover immediate needs upon agreement by the injured person to repay in the event of a final determination denying the claim.

(3) If the claim is denied in whole or part, the victim may apply within 60 days of denial for a hearing. The hearing shall be held within 60 days of the request for a hearing unless the injured person requests a later hearing.

(f) At the hearing, the injured person may be represented by counsel and may present relevant evidence as defined in subdivision (c) of Section 11513 of the Government Code. The board may consider additional evidence presented by its staff. If the injured

person declines to appear at the hearing, the board may act solely upon the application, the staff report, and other evidence that appears on the record.

(g) The board may delegate the hearing of applications to hearing examiners.

(h) The decision of the board shall be in writing and shall be delivered or mailed to the injured person within 30 days of the hearing. Upon the request by the applicant within 30 days of delivery or mailing, the board may reconsider its decision.

(i) Judicial review of a decision shall be under Section 1094.5 of the Code of Civil Procedure, and the court shall exercise its independent judgment. A petition for review shall be filed as follows:

(1) If no request for reconsideration is made, within 30 days of personal delivery or mailing of the board's decision on the application.

(2) If a timely request for reconsideration is filed and rejected by the board, within 30 days of personal delivery or mailing of the notice of rejection.

(3) If a timely request for reconsideration is filed and granted by the board, or reconsideration is ordered by the board, within 30 days of personal delivery or mailing of the final decision on the reconsidered application.

(j) The board shall adopt regulations to implement this section, including those governing discovery.

(k) The fund is subrogated to any right or claim that any injured person may have who receives compensation pursuant to this section, or any right or claim that the person's personal representative, legal guardian, estate, or survivor may have, against any third party who is liable for the personal injuries caused by the AIDS vaccine, and the fund shall be entitled to indemnity from that third party. The fund shall also be entitled to a lien on the judgment, award, or settlement in the amount of any payments made to the injured person.

(l) In the event that the injured person, or his or her guardian, personal representative, estate, or survivors, or any of them, bring an action for damages against the person or persons liable for the injury or death giving rise to an award by the board under this section, notice of institution of legal proceedings and notice of any settlement shall be given to the board in Sacramento except in cases where the board specifies that notice shall be given to the Attorney General. All notices shall be given by the attorney employed to bring the action for damages or by the injured person, or his or her guardian, personal representative, estate, or survivors, if no attorney is employed.

(m) This section is not intended to affect the right of any individual to pursue claims against the fund and lawsuits against manufacturers concurrently, except that the fund shall be entitled to a lien on the judgment, award, or settlement in the amount of any payments made to the injured party by the fund.

(n) There is hereby created the AIDS Vaccine Injury Compensation Policy Review Task Force consisting of 14 members. The task force shall be composed of 10 members appointed by the Governor, of which two shall be from a list provided by the California Trial Lawyers Association, one from the department, the Director of Finance, one unspecified member, and one attorney with experience and expertise in products liability and negligence defense work, two representing recognized groups that represent victims of vaccine induced injuries or AIDS victims, or both, and two representing manufacturers actively engaged in developing an AIDS vaccine. In addition four Members of the Legislature or their designees shall be appointed to the task force, two of which shall be appointed by the Speaker of the Assembly and two of which shall be appointed by the Senate Committee on Rules. The chairperson of the task force shall be appointed by the Governor from the membership of the task force. The task force shall study and make recommendations on the legislative implementation of the fund created by subdivision (a). These recommendations shall at least address the following issues:

- (1) The process by which victims are to be compensated through the fund.
- (2) The procedures by which the fund will operate and the governance of the fund.
- (3) The method by which manufacturers are to pay into the fund and the amount of that payment.
- (4) The procedural relationship between a potential victim's claim through the fund and a court claim made against the manufacturer.
- (5) Other issues deemed appropriate by the task force.

The task force shall make its recommendations to the Legislature on or before June 30, 1987.

(o) The fund shall be funded wholly by a surcharge on the sale of an AIDS vaccine, that has been approved by the FDA, or by the department pursuant to Part 5 (commencing with Section 109875) of Division 104, in California in an amount to be determined by the department. The surcharge shall be levied on the sale of each unit of the vaccine sold or delivered, administered, or dispensed in California. The appropriate amount of the surcharge shall be studied by the AIDS Vaccine Injury Compensation Policy Review Task Force, which shall recommend the appropriate amount as part of its report, with the amount of the surcharge not to exceed ten dollars (\$10) per unit of vaccine. Expenditures of the task force shall be made at the discretion of the Director of Finance or the director's designee.

(p) For purposes of this section, claims against the fund are contingent upon the existing resources of the fund as provided in subdivision (o), and in no case shall the state be liable for any claims in excess of the resources in the fund.

SEC. 9. Sections 11580.1 and 11872 of the Insurance Code are amended to read:

11580.1. (a) No policy of automobile liability insurance described in Section 16054 of the Vehicle Code covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be issued or delivered in this state on or after the effective date of this section unless it contains the provisions set forth in subdivision (b). However, none of the requirements of subdivision (b) shall apply to the insurance afforded under the policy (1) to the extent that the insurance exceeds the limits specified in subdivision (a) of Section 16056 of the Vehicle Code, or (2) if the policy contains an underlying insurance requirement, or provides for a retained limit of self-insurance, equal to or greater than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code.

(b) Every policy of automobile liability insurance to which subdivision (a) applies shall contain all of the following provisions:

(1) Coverage limits not less than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code.

(2) Designation by explicit description of, or appropriate reference to, the motor vehicles or class of motor vehicles to which coverage is specifically granted.

(3) Designation by explicit description of the purposes for which coverage for those motor vehicles is specifically excluded.

(4) Provision affording insurance to the named insured with respect to any owned or leased motor vehicle covered by the policy, and to the same extent that insurance is afforded to the named insured, to any other person using the motor vehicle, provided the use is by the named insured or with his or her permission, express or implied, and within the scope of that permission, except that: (A) with regard to insurance afforded for the loading or unloading of the motor vehicle, the insurance may be limited to apply only to the named insured, a relative of the named insured who is a resident of the named insured's household, a lessee or bailee of the motor vehicle, or an employee of any of those persons; and (B) the insurance afforded to any person other than the named insured need not apply to: (i) any employee with respect to bodily injury sustained by a fellow employee injured in the scope and course of his or her employment, or (ii) any person, or to any agent or employee thereof, employed or otherwise engaged in the business of selling, repairing, servicing, delivering, testing, road-testing, parking, or storing automobiles with respect to any accident arising out of the maintenance or use of a motor vehicle in connection therewith. As used in this chapter, "owned motor vehicle" includes all motor vehicles described and rated in the policy.

(c) In addition to any exclusion provided in paragraph (3) of subdivision (b), the insurance afforded by any policy of automobile liability insurance to which subdivision

(a) applies, including the insurer's obligation to defend, may, by appropriate policy provision, be made inapplicable to any or all of the following:

- (1) Liability assumed by the insured under contract.
- (2) Liability for bodily injury or property damage caused intentionally by or at the direction of the insured.
- (3) Liability imposed upon or assumed by the insured under any workers' compensation law.
- (4) Liability for bodily injury to any employee of the insured arising out of and in the course of his or her employment.
- (5) Liability for bodily injury to an insured or liability for bodily injury to an insured whenever the ultimate benefits of that indemnification accrue directly or indirectly to an insured.
- (6) Liability for damage to property owned, rented to, transported by, or in the charge of, an insured. A motor vehicle operated by an insured shall be considered to be property in the charge of an insured.
- (7) Liability for any bodily injury or property damage with respect to which insurance is or can be afforded under a nuclear energy liability policy.
- (8) Any motor vehicle or class of motor vehicles, as described or designated in the policy, with respect to which coverage is explicitly excluded, in whole or in part.

"The insured" as used in paragraphs (1), (2), (3), and (4) shall mean only that insured under the policy against whom the particular claim is made or suit brought. "An insured" as used in paragraphs (5) and (6) shall mean any insured under the policy including those persons who would have otherwise been included within the policy's definition of an insured but, by agreement, are subject to the limitations of paragraph (1) of subdivision (d).

(d) Notwithstanding paragraph (4) of subdivision (b), or Article 2 (commencing with Section 16450) of Chapter 3 of Division 7 of, or Article 2 (commencing with Section 17150) of Chapter 1 of Division 9 of, the Vehicle Code, the insurer and any named insured may, by the terms of any policy of automobile liability insurance to which subdivision (a) applies, or by a separate writing relating thereto, agree as to either or both of the following limitations, the agreement to be binding upon every insured to whom the policy applies and upon every third-party claimant:

- (1) That coverage and the insurer's obligation to defend under the policy shall not apply nor accrue to the benefit of any insured or any third-party claimant while any motor vehicle is being used or operated by a natural person or persons designated by name. These limitations shall apply to any use or operation of a motor vehicle, including the

negligent or alleged negligent entrustment of a motor vehicle to that designated person or persons. This agreement applies to all coverage provided by that policy and is sufficient to comply with the requirements of paragraph (2) of subdivision (a) of Section 11580.2 to delete coverage when a motor vehicle is operated by a natural person or persons designated by name. The insurer shall have an obligation to defend the named insured when all of the following apply to that designated natural person:

- (A) He or she is a resident of the same household as the named insured.
- (B) As a result of operating the insured motor vehicle of the named insured, he or she is jointly sued with the named insured.
- (C) He or she is an insured under a separate automobile liability insurance policy issued to him or her as a named insured, which policy does not provide a defense to the named insured.

An agreement made by the insurer and any named insured more than 60 days following the inception of the policy excluding a designated person by name shall be effective from the date of the agreement and shall, with the signature of a named insured, be conclusive evidence of the validity of the agreement.

That agreement shall remain in force as long as the policy remains in force, and shall apply to any continuation, renewal, or replacement of the policy by the named insured, or reinstatement of the policy within 30 days of any lapse thereof.

(2) That with regard to a policy issued to a named insured engaged in the business of leasing vehicles for those vehicles that are leased for a term in excess of six months, or selling, repairing, servicing, delivering, testing, road-testing, parking, or storing automobiles, coverage shall not apply to any person other than the named insured or his or her agent or employee, except to the extent that the limits of liability of any other valid and collectible insurance available to that person are not equal to the limits of liability specified in subdivision (a) of Section 16056 of the Vehicle Code. If the policy is issued to a named insured engaged in the business of leasing vehicles, which business includes the lease of vehicles for a term in excess of six months, and the lessor includes in the lease automobile liability insurance, the terms and limits of which are not otherwise specified in the lease, the named insured shall incorporate a provision in each vehicle lease contract advising the lessee of the provisions of this subdivision and the fact that this limitation is applicable except as otherwise provided for by statute or federal law.

(e) Nothing in this section or in Section 16054 or 16450 of the Vehicle Code shall be construed to constitute a homeowner's policy, personal and residence liability policy, personal and farm liability policy, general liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any policy or endorsement where automobile liability coverage is offered as

incidental to some other basic coverage as an “automobile liability policy” within the meaning of Section 16054 of the Vehicle Code, or as a “motor vehicle liability policy” within the meaning of Section 16450 of the Vehicle Code, nor shall this section apply to a policy that provides insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle in the Republic of Mexico issued or delivered in this state by a nonadmitted Mexican insurer, notwithstanding that the policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(f) (1) On and after January 1, 1976, no policy of automobile liability insurance described in subdivision (a) shall be issued, amended, or renewed in this state if it contains any provision that expressly or impliedly excludes from coverage under the policy the operation or use of an insured motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing social service transportation. This subdivision shall not apply in any case in which the named insured receives any remuneration of any kind other than reimbursement for actual mileage driven in the performance of those services at a rate not to exceed the following:

(A) For the 1980–81 fiscal year, the maximum rate authorized by the California Victim Compensation and Government Claims Board, which shall also be known as the “base rate.”

(B) For each fiscal year thereafter, the greater of either (A) the maximum rate authorized by the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services** or (B) the base rate as adjusted by the California Consumer Price Index.

(2) No policy of insurance issued under this section may be canceled by an insurer solely for the reason that the named insured is performing volunteer services for a nonprofit charitable organization or governmental agency consisting of providing social service transportation.

(3) For the purposes of this section, “social service transportation” means transportation services provided by private nonprofit organizations or individuals to either individuals who are senior citizens or individuals or groups of individuals who have special transportation needs because of physical or mental conditions and supported in whole or in part by funding from private or public agencies.

(g) Notwithstanding paragraph (4) of subdivision (b), or Article 2 (commencing with Section 16450) of Chapter 3 of Division 7 of, or Article 2 (commencing with Section 17150) of Chapter 1 of Division 9 of, the Vehicle Code, a Mexican nonadmitted insurer and any named insured may, by the terms of any policy of automobile insurance for use solely in the Republic of Mexico to which subdivision (a) applies, or by a separate

writing relating thereto, agree to the limitation that coverage under that policy shall not apply to any person riding in or occupying a vehicle owned by the insured or driven by another person with the permission of the insured. The agreement shall be binding upon every insured to whom the policy applies and upon any third-party claimant.

(h) No policy of automobile insurance that provides insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle solely in the Republic of Mexico issued by a nonadmitted Mexican insurance company, shall be subject to, or provide coverage for, those coverages provided in Section 11580.2.

11872. The fund may annually enter into agreements with state agencies for service to be rendered to the fund. These state agencies include, but shall not be limited to: the Department of Finance, Department of General Services, State Personnel Board, and the Public Employees' Retirement System. If these agencies and the fund cannot agree upon the cost of services provided by the agreements, the ~~California Victim Compensation and Government Claims Board~~ Department of General Services shall be requested to arrive at an equitable settlement.

SEC. 10. Sections 4724, 4725 and 4726 of the Labor Code are amended to read:

4724. The person or persons to whom the special death benefit is payable pursuant to Section 4722 shall file a claim therefor with the ~~State Board of Control~~ Department of General Services, which shall be processed pursuant to the provisions of Chapter 3 (commencing with Section 900) of Part 2 of Division 3.6 of Title 1 of the Government Code.

4725. The State Compensation Insurance Fund shall be the disbursing agent for payments made pursuant to this article and shall receive a fee for its services to be negotiated by the ~~State Board of Control~~ Department of General Services. Unless otherwise provided herein, payments shall be made in accordance with the provisions of this division.

4726. The ~~State Board of Control~~ Department of General Services and the Administrative Director of the Division of Workers' Compensation shall jointly adopt rules and regulations as may be necessary to carry out the provisions of this article. (Amended by Stats. 1994, Ch. 146, Sec. 150. Effective January 1, 1995.)

SEC. 11. Sections 987.9, 1557, 2786, 11163 and 11172 of the Penal Code are amended to read:

987.9. (a) In the trial of a capital case or a case under subdivision (a) of Section 190.05, the indigent defendant, through the defendant's counsel, may request the court for funds for the specific payment of investigators, experts, and others for the

preparation or presentation of the defense. The application for funds shall be by affidavit and shall specify that the funds are reasonably necessary for the preparation or presentation of the defense. The fact that an application has been made shall be confidential and the contents of the application shall be confidential. Upon receipt of an application, a judge of the court, other than the trial judge presiding over the case in question, shall rule on the reasonableness of the request and shall disburse an appropriate amount of money to the defendant's attorney. The ruling on the reasonableness of the request shall be made at an in camera hearing. In making the ruling, the court shall be guided by the need to provide a complete and full defense for the defendant.

(b) (1) The Controller shall not reimburse any county for costs that exceed **California Victim Compensation and Government Claims Board Department of General Services** standards for travel and per diem expenses. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient documentation of the need for those expenditures.

(2) At the termination of the proceedings, the attorney shall furnish to the court a complete accounting of all moneys received and disbursed pursuant to this section.

(c) The Controller shall adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, controlling reimbursements under this section. The regulations shall consider compensation for investigators, expert witnesses, and other expenses that may or may not be reimbursable pursuant to this section. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the Controller shall follow any regulations adopted until final approval by the Office of Administrative Law.

(d) The confidentiality provided in this section shall not preclude any court from providing the Attorney General with access to documents protected by this section when the defendant raises an issue on appeal or collateral review where the recorded portion of the record, created pursuant to this section, relates to the issue raised. When the defendant raises that issue, the funding records, or relevant portions thereof, shall be provided to the Attorney General at the Attorney General's request. In this case, the documents shall remain under seal and their use shall be limited solely to the pending proceeding.

1557. (a) This section shall apply when this state or a city, county, or city and county employs a person to travel to a foreign jurisdiction outside this state for the express purpose of returning a fugitive from justice to this state when the Governor of this state, in the exercise of the authority conferred by Section 2 of Article IV of the United States Constitution, or by the laws of this state, has demanded the surrender of the fugitive from the executive authority of any state of the United States, or of any foreign government.

(b) Upon the approval of the Governor, the State Controller shall audit and pay out of the State Treasury as provided in subdivision (c) or (d) the accounts of the person employed to bring back the fugitive, including any money paid by that person for all of the following:

(1) Money paid to the authorities of a sister state for statutory fees in connection with the detention and surrender of the fugitive.

(2) Money paid to the authorities of the sister state for the subsistence of the fugitive while detained by the sister state without payment of which the authorities of the sister state refuse to surrender the fugitive.

(3) Where it is necessary to present witnesses or evidence in the sister state, without which the sister state would not surrender the fugitive, the cost of producing the witnesses or evidence in the sister state.

(4) Where the appearance of witnesses has been authorized in advance by the Governor, who may authorize the appearance in unusual cases where the interests of justice would be served, the cost of producing witnesses to appear in the sister state on behalf of the fugitive in opposition to his or her extradition.

(c) No amount shall be paid out of the State Treasury to a city, county, or city and county except as follows:

(1) When a warrant has been issued by any magistrate after the filing of a complaint or the finding of an indictment and its presentation to the court and filing by the clerk, and the person named therein as defendant is a fugitive from justice who has been found and arrested in any state of the United States or in any foreign government, the county auditor shall draw his or her warrant and the county treasurer shall pay to the person designated to return the fugitive, the amount of expenses estimated by the district attorney to be incurred in the return of the fugitive.

(2) If the person designated to return the fugitive is a city officer, the city officer authorized to draw warrants on the city treasury shall draw his or her warrant and the city treasurer shall pay to that person the amount of expenses estimated by the district attorney to be incurred in the return of the fugitive.

(3) The person designated to return the fugitive shall make no disbursements from any funds advanced without a receipt being obtained therefor showing the amount, the purpose for which the sum is expended, the place, the date, and to whom paid.

(4) A receipt obtained pursuant to paragraph (3) shall be filed by the person designated to return the fugitive with the county auditor or appropriate city officer or State Controller, as the case may be, together with an affidavit by the person that the expenditures represented by the receipts were necessarily made in the performance of duty, and when the advance has been made by the county or city treasurer to the

person designated to return the fugitive, and has thereafter been audited by the State Controller, the payment thereof shall be made by the State Treasurer to the county or city treasury that has advanced the funds.

(5) In every case where the expenses of the person employed to bring back the fugitive as provided in this section, are less than the amount advanced on the recommendation of the district attorney, the person employed to bring back the fugitive shall return to the county or city treasurer, as appropriate, the difference in amount between the aggregate amount of receipts so filed by him or her, as herein employed, and the amount advanced to the person upon the recommendation of the district attorney.

(6) When no advance has been made to the person designated to return the fugitive, the sums expended by him or her, when audited by the State Controller, shall be paid by the State Treasurer to the person so designated.

(7) Any payments made out of the State Treasury pursuant to this section shall be made from appropriations for the fiscal year in which those payments are made.

(d) Payments to state agencies will be made in accord with the rules of the ~~California Victim Compensation and Government Claims Board~~ Department of General Services No city, county, or other jurisdiction may file, and the state may not reimburse, a claim pursuant to this section that is presented to the Department of Corrections and Rehabilitation or to any other agency or department of the state more than six months after the close of the month in which the costs were incurred.

2786. All money received pursuant to this article in the Inmate Welfare Fund of the Department of Corrections and Rehabilitation is hereby appropriated for educational, recreational, and other purposes described in Section 5006 at the various prison camps established under this article and shall be expended by the secretary upon warrants drawn upon the State Treasury by the Controller after approval of the claims by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services. It is the intent of the Legislature that moneys in this fund only be expended on services other than those that the department is required to provide to inmates.

11163. (a) The Legislature finds and declares that even though the Legislature has provided for immunity from liability, pursuant to Section 11161.9, for persons required or authorized to report pursuant to this article, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of abuse pursuant to other laws.

In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibility, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions.

(b) (1) Therefore, a health practitioner may present a claim to the ~~California Victim Compensation and Government Claims Board~~ Department of General Services for reasonable attorney's fees incurred in any action against that person on the basis of that person reporting in accordance with this article if the court dismisses the action upon a demurrer or motion for summary judgment made by that person or if that person prevails in the action.

(2) The ~~California Victim Compensation and Government Claims Board~~ Department of General Services shall allow the claim pursuant to paragraph (1) if the requirements of paragraph (1) are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorney's fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000).

(3) This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

11172. (a) No mandated reporter shall be civilly or criminally liable for any report required or authorized by this article, and this immunity shall apply even if the mandated reporter acquired the knowledge or reasonable suspicion of child abuse or neglect outside of his or her professional capacity or outside the scope of his or her employment. Any other person reporting a known or suspected instance of child abuse or neglect shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false or was made with reckless disregard of the truth or falsity of the report, and any person who makes a report of child abuse or neglect known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse or neglect, or causing photographs to be taken of a suspected victim of child abuse or neglect, without parental consent, or for disseminating the photographs, images, or material with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any person, who, pursuant to a request from a government agency investigating a report of suspected child abuse or neglect, provides the requesting agency with access to the victim of a known or suspected instance of child abuse or neglect shall not incur civil or criminal liability as a result of providing that access.

(c) Any commercial computer technician, and any employer of any commercial computer technician, who, pursuant to a warrant from a law enforcement agency investigating a report of suspected child abuse or neglect, provides the law enforcement agency with a computer or computer component which contains possible evidence of a

known or suspected instance of child abuse or neglect, shall not incur civil or criminal liability as a result of providing that computer or computer component to the law enforcement agency.

(d) (1) The Legislature finds that even though it has provided immunity from liability to persons required or authorized to make reports pursuant to this article, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required or authorized reports. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a mandated reporter may present a claim to the **California Victim Compensation and Government Claims Board Department of General Services** for reasonable attorney's fees and costs incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The **California Victim Compensation and Government Claims Board Department of General Services** shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorney's fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000).

(2) This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(e) A court may award attorney's fees and costs to a commercial film and photographic print processor when a suit is brought against the processor because of a disclosure mandated by this article and the court finds this suit to be frivolous.

SEC. 12. Sections 987.9, 1557, 2786, 11163 and 11172 of the Public Resources Code are amended to read:

4116. Any claim for damages arising against the state under Section 4114 or 4115 shall be presented to the **California Victim Compensation and Government Claims Board Department of General Services** in accordance with Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code and, if not covered by insurance, shall be payable only out of funds appropriated by the Legislature for that purpose. If the state has elected to acquire liability insurance, the **California Victim Compensation and Government Claims Board Department of General Services** may automatically deny this claim.

4602.6. (a) If a timber operator believes that a forest officer lacked reasonable cause to issue or extend a stop order pursuant to Section 4602.5, the timber operator may present a claim to the ~~California Victim Compensation and Government Claims Board~~ Department of General Services pursuant to Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code for compensation and damages resulting from the stopping of timber operations.

(b) If the ~~board~~ Department of General Services finds that the forest officer lacked reasonable cause to issue or extend the stop order, the ~~board~~ department shall award a sum of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) per day for each day the order was in effect.

30171.2. (a) Except as provided in subdivision (b), on and after January 1, 1985, no agricultural conversion fees may be levied or collected under the agricultural subsidy program provided in the local coastal program of the City of Carlsbad that was adopted and certified pursuant to Section 30171. All other provisions of that program shall continue to be operative, including the right to develop designated areas as provided in the program.

(b) This section shall not affect any right or obligation under any agreement or contract entered into prior to January 1, 1985, pursuant to that agricultural subsidy program, including the payment of any fees and the right of development in accordance with the provisions of the agreement or contract. As to these properties, the agricultural subsidy fees in existence as of December 31, 1984, shall be paid and allocated within the City of Carlsbad, or on projects outside the city that benefit agricultural programs within the city, in accordance with the provisions of the agricultural subsidy program as it existed on September 30, 1984.

(c) Any agricultural conversion fees collected pursuant to the agricultural subsidy program and not deposited in the agricultural improvement fund in accordance with the local coastal program or that have not been expended in the form of agricultural subsidies assigned to landowners by the local coastal program land use policy plan on January 1, 1985, shall be used by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services to reimburse the party that paid the fees if no agreements or contracts have been entered into or to the original parties to the agreements or contracts referred to in subdivision (b) in proportion to the amount of fees paid by the parties. However, if the property subject to the fee was under option at the time that the original agreement or contract was entered into and the optionee was a party to the agricultural subsidy agreement, payments allocable to that property shall be paid to the optionee in the event the optionee has exercised the option. Reimbursements under this section shall be paid within 90 days after January 1, 1985, or payment of the fee, whichever occurs later, and only after waiver by the party being reimbursed of any potential legal rights resulting from enactment of this section.

(d) (1) Any person entitled to reimbursement of fees under subdivision (c) shall file a claim with the ~~California Victim Compensation and Government Claims Board~~ Department of General Services, which shall determine the validity of the claim and pay that person a pro rata share based on the relative amounts of fees paid under the local coastal program or any agreement or contract entered pursuant thereto.

(2) There is hereby appropriated to the ~~California Victim Compensation and Government Claims Board~~ Department of General Services the fees referred to in subdivision (c), for the purpose of making refunds under this section.

(e) Notwithstanding any geographical limitation contained in this division, funds deposited pursuant to subdivision (b) may be expended for physical or institutional development improvements needed to facilitate long-term agricultural production within the City of Carlsbad. These funds may be used to construct improvements outside the coastal zone boundaries in San Diego County if the improvements are not inconsistent with the Carlsbad local coastal program and the State Coastal Conservancy determines that the improvements will benefit agricultural production within the coastal zone of the City of Carlsbad.

SEC. 13. Section 30162 of the Streets and Highway Code is amended to read:

30162. If the department is unable to collect any tolls due to insolvency of the obligor, or if the cost of collection of any tolls would be excessive by reason of the smallness of the amount due, the department may apply to the ~~California Victim Compensation and Government Claims Board~~ Department of General Services for discharge from accountability for the collection thereof in the manner provided in Sections 13940 to 13943, inclusive, of the Government Code.

SEC. 14. Sections 4461, 14171.5, 13171.6 and 15634 of the Welfare and Institutions Code are amended to read:

4461. (a) All expenses incurred in returning such persons to other states shall be paid by this state, the person, or his or her relatives, but the expense of returning residents of this state shall be borne by the state making the returns.

(b) The cost and expense incurred in effecting the transportation of the nonresident persons to the states in which they have residence shall be advanced from the funds appropriated for that purpose or, if necessary, from the money appropriated for the care of developmentally disabled persons upon vouchers approved by the ~~California Victim Compensation and Government Claims Board~~ Department of General Services.

14171.5. Any institutional provider of health care services that obtained reimbursement under this chapter to which it is not entitled shall be subject to the following interest charges or penalties:

(a) When it is established upon audit that the provider has claimed payments under this chapter to which it is not entitled, the provider shall pay, in addition to the amount improperly received, interest at the rate specified by subdivision (h) of Section 14171.

(b) When it is established upon audit that the provider claimed payments related to services or costs that the department had previously notified the provider in an audit report that the costs or services were not reimbursable, the provider shall pay in addition to the amount improperly claimed, a penalty of 10 percent of the amount improperly claimed after this notice, plus the cost of the audit. In addition, interest shall be assessed at the rate specified in subdivision (h) of Section 14171. Providers who wish to preserve appeal rights or to challenge the department's positions regarding appeal issues, may claim the cost or services and not be reimbursed therefor if they are identified and presented separately on the cost report.

(c) When it is established that the provider fraudulently claimed and received payments under this chapter, the provider shall pay a penalty of 25 percent of the amount improperly claimed, plus the cost of the audit, in addition to the amount thereof. In addition, interest will be assessed at the rate specified by subdivision (h) of Section 14171. A fraudulent claim is a claim upon which the provider has been convicted of fraud upon the program. Nothing in this section shall prevent the imposition of any other civil or criminal penalties to which the provider may be liable.

(d) Appeals to action taken in subdivisions (a), (b), and (c) of Section 14171.5 above are subject to the administrative appeals process provided by Section 14171.

(e) Penalties paid by providers under subdivisions (a), (b), and (c) of Section 14171.5 are not reimbursable by the program.

(f) As used in this section, "the cost of the audit" includes actual hourly wages, travel, and incidental expenses at rates allowable by ~~California Victim Compensation and Government Claims Board~~ Department of General Services rules, and applicable overhead costs.

14171.6. (a) (1) Any provider, as defined in paragraph (3), that obtains reimbursement under this chapter to which it is not entitled shall be subject to interest charges or penalties as specified in this section.

(2) When it is established upon audit that the provider has not received reimbursement to which the provider is entitled, the department shall pay the provider interest assessed at the rate, and in the manner, specified in subdivision (g) of Section 14171.

(3) For purposes of this section, "provider" means any provider, as defined in Section 14043.1.

(b) When it is established upon audit that the provider has claimed payments under this chapter to which it is not entitled, the provider shall pay, in addition to the amount improperly received, interest at the rate specified by subdivision (h) of Section 14171.

(c) (1) When it is established upon audit that the provider claimed payments related to services or costs that the department had previously notified the provider in an audit report that the costs or services were not reimbursable, the provider shall pay, in addition to the amount improperly claimed, a penalty of 10 percent of the amount improperly claimed after receipt of the notice, plus the cost of the audit.

(2) In addition to the penalty and costs specified by paragraph (1), interest shall be assessed at the rate specified in subdivision (h) of Section 14171.

(3) Providers that wish to preserve appeal rights or to challenge the department's positions regarding appeal issues may claim the costs or services and not be reimbursed therefor if they are identified and presented separately on the cost report.

(d) (1) When it is established that the provider fraudulently claimed and received payments under this chapter, the provider shall pay, in addition to that portion of the claim that was improperly claimed, a penalty of 300 percent of the amount improperly claimed, plus the cost of the audit.

(2) In addition to the penalty and costs specified by paragraph (1), interest shall be assessed at the rate specified by subdivision (h) of Section 14171.

(3) For purposes of this subdivision, a fraudulent claim is a claim upon which the provider has been convicted of fraud upon the Medi-Cal program.

(e) Nothing in this section shall prevent the imposition of any other civil or criminal penalties to which the provider may be liable.

(f) Any appeal to any action taken pursuant to subdivision (b), (c), or (d) is subject to the administrative appeals process provided by Section 14171.

(g) As used in this section, "cost of the audit" includes actual hourly wages, travel, and incidental expenses at rates allowable by rules adopted by the ~~California Victim Compensation and Government Claims Board~~ **Department of General Services** and applicable overhead costs that are incurred by employees of the state in administering this chapter with respect to the performance of audits.

(h) This section shall not apply to any clinic licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code, clinics exempt from licensure under Section 1206 of the Health and Safety Code, health facilities licensed under Chapter 2

(commencing with Section 1250) of Division 2 of the Health and Safety Code, or to any provider that is operated by a city, county, or school district.

15634. (a) No care custodian, clergy member, health practitioner, mandated reporter of suspected financial abuse of an elder or dependent adult, or employee of an adult protective services agency or a local law enforcement agency who reports a known or suspected instance of abuse of an elder or dependent adult shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of abuse of an elder or dependent adult shall not incur civil or criminal liability as a result of any report authorized by this article, unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, or any person taking photographs at his or her discretion, shall incur any civil or criminal liability for taking photographs of a suspected victim of abuse of an elder or dependent adult or causing photographs to be taken of such a suspected victim or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) No care custodian, clergy member, health practitioner, mandated reporter of suspected financial abuse of an elder or dependent adult, or employee of an adult protective services agency or a local law enforcement agency who, pursuant to a request from an adult protective services agency or a local law enforcement agency investigating a report of known or suspected abuse of an elder or dependent adult, provides the requesting agency with access to the victim of a known or suspected instance of abuse of an elder or dependent adult, shall incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that, even though it has provided immunity from liability to persons required to report abuse of an elder or dependent adult, immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a care custodian, clergy member, health practitioner, or an employee of an adult protective services agency or a local law enforcement agency may present to the ~~California Victim Compensation and Government Claims Board~~ Department of General Services a claim for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made

by that person, or if he or she prevails in the action. The ~~California Victim Compensation and Government Claims Board~~ Department of General Services shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000). This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

SEC. 15. Sections 10301, 10306, 10308, 10311, 10326.2 and 12102.2 of the Public Contract Code are amended to read:

10301. Except in cases when the agency and the department agree that an article of a specified brand or trade name is the only article that will properly meet the needs of the agency, or in cases where the ~~State Board of Control~~ Department of General Services has made a determination pursuant to Section 10308, all contracts for the acquisition or lease of goods in an amount of twenty-five thousand dollars (\$25,000), or a higher amount as established by the director, shall be made or entered into with the lowest responsible bidder meeting specifications.

For purposes of determining the lowest bid, the amount of sales tax shall be excluded from the total amount of the bid.

10306. Whenever a contract or purchase order under this article is not to be awarded to the lowest bidder, the bidder shall be notified 24 hours prior to awarding the contract or purchase order to another bidder. Upon written request by any bidder who has submitted a bid, notice of the proposed award shall be posted in a public place in the offices of the department at least 24 hours prior to awarding the contract or purchase order. If prior to making the award, any bidder who has submitted a bid files a protest with the department against the awarding of the contract or purchase order on the ground that he or she is the lowest responsible bidder meeting specifications, the contract or purchase order shall not be awarded until either the protest has been withdrawn or the ~~State Board of Control~~ Department of General Services has made a final decision as to the action to be taken relative to the protest. In computing the 24-hour periods provided for in this section, Saturdays, Sundays, and legal holidays shall be excluded.

Within 10 days after filing a protest, the protesting bidder shall file with the ~~State Board of Control~~ Department of General Services a full and complete written statement specifying in detail the ground of the protest and the facts in support thereof.

10308. Except as provided otherwise in this chapter, every acquisition of goods in excess of one hundred dollars (\$100) for any state agency shall be made by or under

the supervision of the department. However, the state agency may specify the quality of the goods to be acquired. If the department determines that the quality specified by the agency is inconsistent with the statewide standards established by the director under Section 10307, it shall change the request to make it consistent with the standards, and it shall notify the state agency, within a reasonable time, before a contract is issued. If the agency is of the opinion the interests of the state would not be served by the acquisition of goods of a lesser quality or different than that specified by the agency, the agency may request a hearing before the ~~State Board of Control~~ Department of General Services and the ~~board~~ department shall determine which goods will best serve the interests of the state, whereupon the department shall issue a contract for the goods specified by the ~~State Board of Control~~ Department of General Services.

10311. (a) An estimate or requisition approved by the state agency in control of the appropriation or fund against which an acquisition is to be charged, is full authority for any contract for goods of the quality specified by the agency or determined by the ~~State Board of Control~~ Department of General Services as provided in this article made pursuant thereto by the department.

(b) The department shall issue a call for bids within 30 days after receiving a requisition for any goods that are regularly acquired within this state. The period of closing time designated in the invitations for bids shall be exclusive of holidays and shall be extended to the next working day after a holiday.

(c) Except as provided in subdivision (d), after the closing date for receiving any bids within or without this state, the contract shall be awarded or the bids shall be rejected within 45 days unless a protest is filed as provided in Section 10306.

(d) After the 45-day time period prescribed by subdivision (c), the department may in its sound discretion either award the contract to the lowest responsible bidder meeting specifications who remains willing to accept the award or else reject all bids.

(e) The amendments made to this section at the 1987–88 Regular Session of the Legislature do not constitute a change in, but are declaratory of, existing law.

10326.2. (a) As used in this section, “best value procurement” means a contract award determined by objective criteria related to price, features, functions, and life-cycle costs that may include the following:

(1) Total cost of ownership, including warranty, under which all repair costs are borne solely by the warranty provider, repair costs, maintenance costs, fuel consumption, and salvage value.

(2) Product performance, productivity, and safety standards.

(3) The supplier’s ability to perform to the contract requirements.

(4) Environmental benefits, including reduction of greenhouse gas emissions, reduction of air pollutant emissions, or reduction of toxic or hazardous materials.

(b) The department may purchase and equip heavy mobile fleet vehicles and special equipment for use by the Department of Transportation by means of best value procurement, using specifications and criteria developed in consultation with the Department of Transportation.

(c) In addition to disclosure of the minimum requirements for qualification, the solicitation document shall specify what business performance measures in addition to price shall be given a weighted value. The department shall use a scoring method based on those factors and price in determining the successful bid. Any evaluation and scoring method shall ensure substantial weight is given to the contract price. The solicitation document shall provide for submission of sealed price information. Evaluation of all criteria other than price shall be completed before the opening of price information.

(d) Upon written request of any bidder who has submitted a bid, notice of the proposed award shall be posted in a public place in the offices of the department at least 24 hours before awarding the contract or purchase order. If, before making an award, any bidder who has submitted a bid files a protest with the department against the awarding of the contract or purchase order on the ground that his or her bid should have been selected in accordance with the selection criteria in the solicitation document, the contract or purchase order shall not be awarded until either the protest has been withdrawn or the ~~California Victim Compensation and Government Claims Board~~ Department of General Services has made a final decision as to the action to be taken relative to the protest. Within 10 days after filing a protest, the protesting bidder shall file with the ~~California Victim Compensation and Government Claims Board~~ Department of General Services a full and complete written statement specifying in detail the ground of the protest and the facts in support thereof.

(e) The total value of vehicles and equipment purchased through best value procurement pursuant to this section shall be limited to twenty million dollars (\$20,000,000) annually.

(f) On or before June 1, 2020, the Department of General Services shall prepare an evaluation of the best value procurement pilot authorized by this section, including a recommendation on whether or not the process should be continued. The evaluation shall be posted on the Department of Transportation's Internet Web site on or before June 30, 2020.

(g) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

12102.2. (a) Contract awards for all large-scale systems integration projects shall be based on the proposal that provides the most value-effective solution to the state's requirements, as determined by the evaluation criteria contained in the solicitation document. Evaluation criteria for the acquisition of information technology goods and services, including systems integration, shall provide for the selection of a contractor on an objective basis not limited to cost alone.

(1) The Department of Technology shall invite active participation, review, advice, comment, and assistance from the private sector and state agencies in developing procedures to streamline and to make the acquisition process more efficient, including, but not limited to, consideration of comprehensive statements in the request for proposals of the business needs and governmental functions, access to studies, planning documents, feasibility study reports and draft requests for proposals applicable to solicitations, minimizing the time and cost of the proposal submittal and selection process, and development of a procedure for submission and evaluation of a single proposal rather than multiple proposals.

(2) Solicitations for acquisitions based on evaluation criteria other than cost alone shall provide that sealed cost proposals shall be submitted and that they shall be opened at a time and place designated in the solicitation for bids and proposals. Evaluation of all criteria, other than cost, shall be completed prior to the time designated for public opening of cost proposals, and the results of the completed evaluation shall be published immediately before the opening of cost proposals. The state's contact person for administration of the solicitation shall be identified in the solicitation for bids and proposals, and that person shall execute a certificate under penalty of perjury, which shall be made a permanent part of the official contract file, that all cost proposals received by the state have been maintained sealed and under lock and key until the time cost proposals are opened.

(b) The acquisition of hardware acquired independently of a system integration project may be made on the basis of lowest cost meeting all other specifications.

(c) The 5 percent small business preference provided for in Chapter 6.5 (commencing with Section 14835) of Part 5.5 of Division 3 of Title 2 of the Government Code and the regulations implementing that chapter shall be accorded to all qualifying small businesses.

(d) For all transactions formally advertised, evaluation of bidders' proposals for the purpose of determining contract award for information technology goods shall provide for consideration of a bidder's best financing alternatives, including lease or purchase alternatives, if any bidder so requests, not less than 30 days prior to the date of final bid submission, unless the acquiring agency can prove to the satisfaction of the Department of General Services that a particular financing alternative should not be so considered.

(e) Acquisition authority may be delegated by the Director of General Services to any state agency that has been determined by the Department of General Services to be capable of effective use of that authority. This authority may be limited by the Department of General Services. Acquisitions conducted under delegated authority shall be reviewed by the Department of General Services on a selective basis.

(f) To the extent practical, the solicitation documents shall provide for a contract to be written to enable acquisition of additional items to avoid essentially redundant acquisition processes when it can be determined that it is economical to do so.

(g) Protest procedures shall be developed to provide bidders an opportunity to protest any formal, competitive acquisition conducted in accordance with this chapter. The procedures shall provide that protests must be filed no later than five working days after the issuance of an intent to award. Authority to protest may be limited to participating bidders. The Director of Technology, or a person designated by the director, may consider and decide on initial protests of bids for information technology projects conducted by the Department of Technology and telecommunications procurement made pursuant to Section 12120. The Director of the Department of General Services, or a person designated by the director, may consider and decide on initial protests of all other information technology acquisitions. A decision regarding an initial protest shall be final. If prior to the last day to protest, any bidder who has submitted an offer files a protest with the department against the awarding of the contract on the ground that his or her bid or proposal should have been selected in accordance with the selection criteria in the solicitation document, the contract shall not be awarded until either the protest has been withdrawn or the ~~California Victim Compensation and Government Claims Board~~ Department of General Services has made a final decision as to the action to be taken relating to the protest. Within 10 calendar days after filing a protest, the protesting bidder shall file with the ~~Victim Compensation and Government Claims Board~~ Department of General Services a full and complete written statement specifying in detail the grounds of the protest and the facts in support thereof.

(h) Consistent with the procedures established and administered by the Department of General Services, information technology goods that have been determined to be surplus to state needs shall be disposed of in a manner that will best serve the interests of the state. Procedures governing the disposal of surplus goods may include auction or transfer to local governmental entities.

(i) A supplier may be excluded from bid processes if the supplier's performance with respect to a previously awarded contract has been unsatisfactory, as determined by the state in accordance with established procedures that shall be maintained in the State Administrative Manual. This exclusion may not exceed 36 months for any one determination of unsatisfactory performance. Any supplier excluded in accordance with this section shall be reinstated as a qualified supplier at any time during this 36-month

period, upon demonstrating to the Department of General Services' satisfaction that the problems that resulted in the supplier's exclusion have been corrected.